



Thursday, December 1, 2011
Marriott Waterside, Tampa, FL
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Association of Clean Water Administrators

NCSL Fall Forum

Regulating Regulations: Clean Water Act Priorities

National CWA Priorities

- ▶ 316(b) Water Intake Rule
- ▶ CWA Jurisdiction Rule
- ▶ Stormwater Rule
- ▶ NPDES Program Updates Rule
- ▶ Water Quality Standards Rule
- ▶ eReporting Rule
- ▶ CAFO 308 Inventory Rule
- ▶ Manure Transfer Rule
- ▶ CSO Program Updates Rule
- ▶ CWA Jurisdiction Guidance
- ▶ Integrated Planning
- ▶ SSO/Peak Flow
- ▶ NPDES Program Expansion
(pesticides, logging roads, water transfers)
- ▶ Residual Designation Authority
- ▶ EPA's CWA Action Plan
- ▶ MOA/MOU Updates
- ▶ Numeric Nutrient Criteria
- ▶ EPA Oversight of State Programs
- ▶ 319 Program Updates
- ▶ "Reasonable Assurance"
- ▶ Increased, Sustainable Funding
- ▶ Prioritization, risk analysis, cost-benefit

Rules

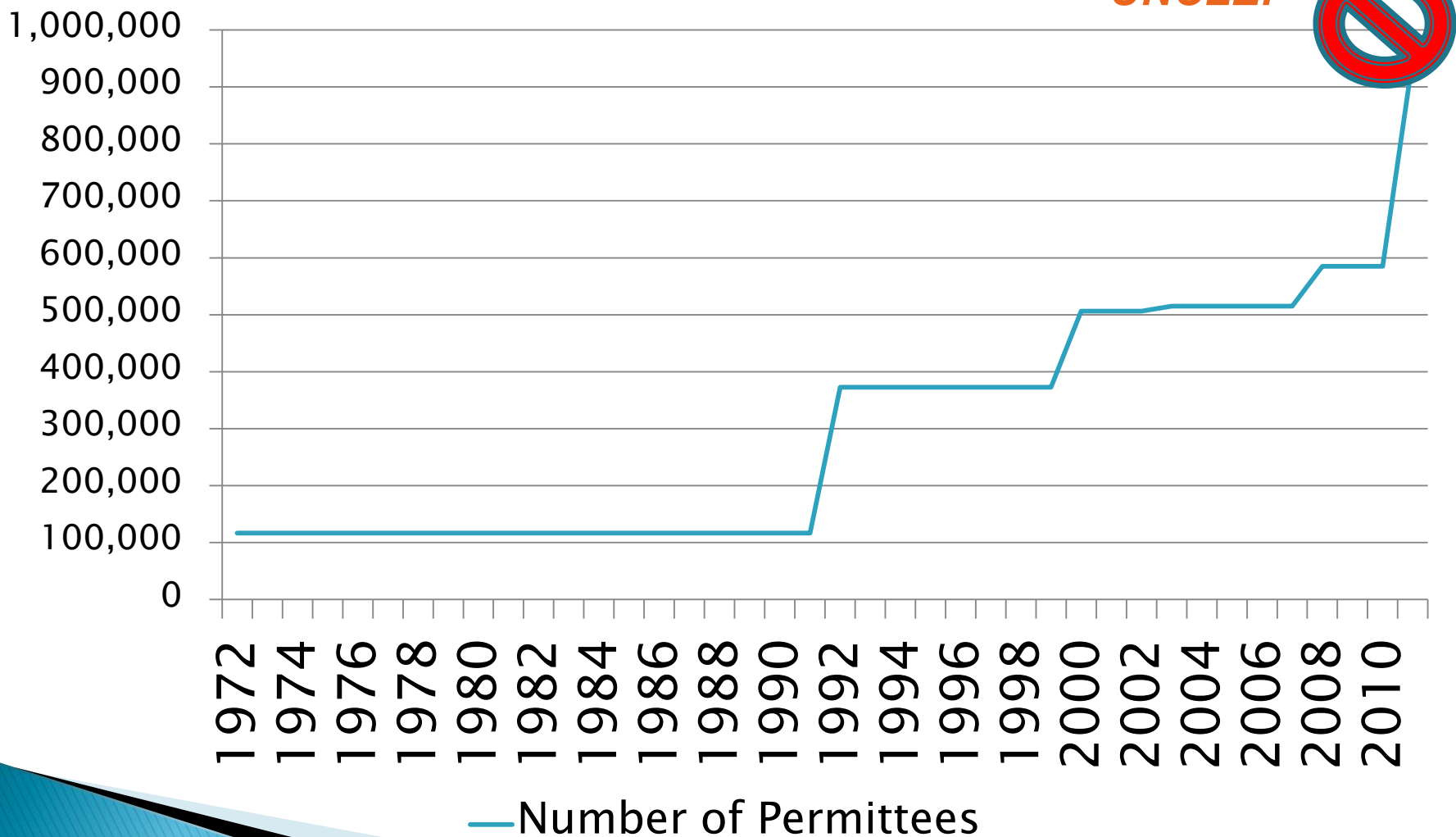
Other Initiatives

CWA Jurisdiction Rule/Guidance

- ▶ Support rulemaking over guidance
- ▶ Support state consultation and collaboration in advance of proposal
- ▶ Support greater certainty and predictability
- ▶ Support open and robust discussion of the “significant nexus” test
- ▶ Support recognition of geographic difference re: impacts of ephemera and intermittent streams
- ▶ Support one definition for jurisdictional reach
- ▶ Support a role for states in the JD process

NPDES Program Expansion

NPDES Permit Universe



Stormwater: Traditional Process Wastewater vs. Precipitation Driven Discharges

- | | |
|---|-------|
| 1. Predictable and manageable flows | 1. No |
| 2. Identifiable end-of-pipe controls | 2. No |
| 3. Extensive effluent monitoring | 3. No |
| 4. Significant federal and state funding for treatment facilities | 4. No |
| 5. Operator maintains control over influent & effluent | 5. No |

Traditional

Precipitation
Driven

eReporting Rule

- ▶ In recognition that data quality coming from the state programs nationally is not adequate to accurately report out on the status of the NPDES
- ▶ IG and GAO reports
- ▶ States have limited resources to collect, enter, manage, transmit/upload, correct, re-correct
- ▶ Some universes will be expected to report directly to EPA
- ▶ What data and how?
- ▶ Looking at a TurboTax-like model

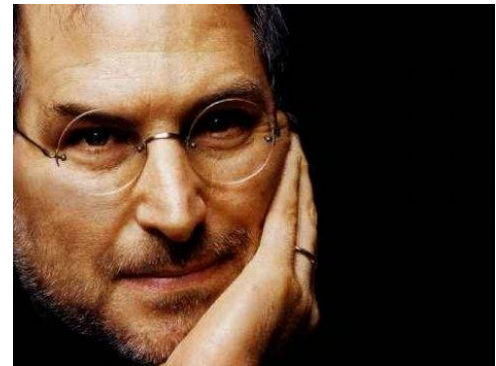
“Reasonable Assurance”

- ▶ RA is a part of the TMDL analysis
- ▶ EPA considers whether the TMDL reasonably assures the point and nonpoint source reduction will achieve water quality standards
- ▶ Particular focus when mixed source TMDL and nonpoint source reductions are articulated
- ▶ What tools exist within in the state to address nonpoint – insufficiency leads to increased requirements for point sources
- ▶ *Friends of Pinto Creek* took this further and said no new permit without a plan

Looking Ahead

“Everyone here has the sense that right now is one of those moments when we are influencing the future.”

-- Steve Jobs



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