MEMORANDUM

SUBJECT: 2003 Storm Water Compliance and Enforcement Strategy

FROM: Walker B. Smith, Director
Office of Regulatory Enforcement

Michael M. Stahl, Director
Office of Compliance

TO: Water Management Division Directors
Regions I - X

Enforcement Division Directors
Regions II, VI, VIII

Regional Counsel
Regions I - X

This memorandum transmits the final *2003 Storm Water Compliance and Enforcement Strategy (Strategy)* developed by the Office of Regulatory Enforcement and the Office of Compliance. We want to thank all ten Regions and the Office of Water for their active participation in the development of this strategy. This effort could not have been accomplished without their experience, knowledge, and expertise.

The purpose of this national strategy is to improve compliance with storm water requirements and protect our nation's waters from the harmful effects of polluted storm water. The NPDES storm water requirements have been in effect for more than ten years. However, EPA and state storm water inspection data reveal that a majority of industrial facilities inspected

over the last ten years do not have an NPDES storm water permit. Moreover, there is significant non-compliance at permitted sites.

Storm water runoff is a major cause of water quality impairment. According to the *Report to Congress on The Phase I Storm Water Regulations* (U.S. EPA, 2000), urban storm water runoff contributes to 13 percent of impaired river and stream miles, 21 percent of impaired lake acres, 55 percent of impaired ocean shoreline miles, and 46 percent of impaired estuary square miles. Storm water runoff can carry high levels of pollutants such as sediment, oil and grease, suspended solids, nutrients, heavy metals, pathogens, toxins, and trash into sewer systems and ultimately into our streams, rivers, lakes, estuaries, wetlands, and oceans. This creates an unhealthy environment for aquatic organisms, wildlife and humans (U.S. EPA, 1992, *Environmental Impacts of Storm Water Discharges: A National Profile*).

The *Strategy* was developed for use by EPA Regions. In addition, the Regions are encouraged to work with their states in adopting similar approaches to storm water enforcement. The IG Audit, "State Enforcement of Clean Water Act Dischargers Can be More Effective," noted the need for states to have more effective risk-based enforcement strategies to better protect human health and the environment and to meet the goals of the CWA. The *Strategy* anticipates a strong EPA/state partnership to address non-compliance with storm water requirements.

The *Strategy* provides two model storm water compliance and enforcement approaches for Regions and states to use in developing and implementing their own strategies to address this non-compliance problem. The first is a sector-based enforcement model which focuses on particular industrial sectors with low compliance rates. The second provides a watershed-based enforcement model which identifies a vulnerable watershed with significant impacts due to a variety of industrial storm water sources. Both models rely on risk-based targeting to identify industrial storm water discharges causing significant environmental impacts. The *Strategy* also includes: (1) a storm water training program for inspectors and enforcement officers; (2) a storm water expedited settlement offer program; (3) guidance for application of the CWA Penalty Policy to storm water cases; (4) field tools, such as inspector check-off sheets and compliance assistance material; and, (5) enforcement tools, including a legal forms database for storm water, enforcement strategies, and non-compliance scoring criteria. Finally, the *Strategy* discusses compliance and enforcement priorities for the Phase II storm water requirements which became effective in March 2003 (small construction and regulated small MS4s).

The *Strategy* reflects continuing work in the area of storm water enforcement. This effort has enjoyed steady support and participation by the Regions which is greatly appreciated. If you have any questions regarding this document, please contact Mark Pollins, Director, Water Enforcement Division at (202) 564-4001 or Jim Edward, Director, Compliance Assistance and

Sector Programs Division at (202) 564-2462, or have your staff contact Lauren Kabler of the Water Enforcement Division at (202) 564-4052.

Attachment(s)

cc: Enforcement Coordinators, Regions I - X
Compliance Branch Chiefs, Regions I - X
NPDES Permits Branch Chiefs, Region I - X
Water Enforcement Branch Chiefs, ORC, Regions I - X
Storm Water Coordinators, Regions I - X