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CLIENT BRIEFING
July 2, 2008

NEW FEDERAL REGULATORY DEVELOPMENT

RE: Final 2008 Construction General Permit (CGP)

On June 30, 2008, EPA issued a final 2008 Construction General Permit (2008 CGP) for stormwater discharges from certain construction activities. According to EPA, this permit contains substantially the same limits and conditions as the Agency's 2003 CGP. The 2008 CGP permit has been issued for a period not to exceed two (2) years and will only subject discharges from new construction activities and otherwise regulated, but unpermitted, ongoing activities. Specifically, the new permit would only apply to "new" construction sites that have started construction on or after June 30, 2008, or those that started previously but did not obtain permit coverage under the 2003 CGP. For instance, construction site operators covered under the 2003 CGP may continue to operate under the terms of the 2003 CGP and need not file a new notice of intent (NOI).

According to EPA, at the present, permit coverage under the 2008 CGP is not available for all areas previously covered by the 2003 CGP due to delays in the state certification process. In fact, the foregoing permit coverage is not yet applicable to construction sites in Puerto Rico. As a result, operators of "new" construction sites in Puerto Rico must comply with the 2003 CGP, including installing and maintaining stormwater controls at their site and developing a SWPPP in accordance with the 2003 CGP until permit coverage is available under the new 2008 CGP.

The 2008 CGP shall be effective on June 30, 2008.

If you need additional information on the foregoing, or wish to assess its potential impact on your plans and operations, you may contact any of the attorneys at the O'Neill & Borges Environmental Law and Litigation Practice Group.

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