

MDEQ STORM WATER ENFORCEMENT

A little over two years ago, the Mississippi Department of Environmental Quality (“MDEQ”) began a focused effort to identify and bring into compliance construction stormwater activities throughout Mississippi. This enforcement effort has identified numerous projects throughout the state that are either unpermitted or are not in compliance with current stormwater regulations. Several years the maximum proposed penalty wouldn’t exceed \$20,000. Now MDEQ pre-settlement penalties for noncompliance range from fifty thousand dollars to hundreds of thousands of dollars. Watkins Ludlam Winter & Stennis, P.A. (“WLWS”) has been working with various developers, contractors, counties, and industries to help them identify stormwater noncompliance issues. The most common noncompliance appears to be poor maintenance of silt fences and sediment ponds (storm water controls), along with poor records management. Although there are certain factors that can be utilized to mitigate all or part of a penalty, most noncompliance conditions are preventable and as such when there are clear violations the MDEQ will require some amount of penalty. WLWS recommends that if you are planning any construction project that will impact an area greater than one acre, be sure that (1) the project is covered under the general permit prior to starting work; (2) a stormwater pollution prevention plan is developed and (3) retain an experienced stormwater contractor. Under the current federal administration, we expect to see an increased focus on all areas of environmental enforcement and compliance in the coming years. Routine inspections and first time offense penalties will become more commonplace. Don’t wait until MDEQ is at your door.

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