
Los Angeles Regional Water Quality Control Board

Public Notice No. 13-040

**NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT, NOTICE
OF WORKSHOP, AND NOTICE OF PUBLIC HEARING**

**DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
FOR MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) DISCHARGES FROM THE
CITY OF LONG BEACH (LONG BEACH MS4 PERMIT)
(NPDES PERMIT NO. CAS004003)**

NOTICE IS HEREBY GIVEN THAT the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) will hold a public hearing to receive comments and evidence, and consider adoption of, the Draft NPDES Permit for MS4 discharges originating from the City of Long Beach (Draft Tentative Order). The Los Angeles Water Board will also hold a public workshop on the Draft Tentative Order prior to the written comment deadline and hearing.

The City of Long Beach (Permittee) discharges pollutants from its MS4, also called storm drain systems. Storm water and non-storm water enter and are conveyed through the MS4 and discharge to surface water bodies with the Los Angeles Region. These discharges are currently regulated under waste discharge requirements contained in Order No. 99-060 adopted by this Board on June 30, 1999. Order No. 99-060, which serves as an NPDES permit, has expired but remains in effect until the Los Angeles Water Board adopts a new permit. The Los Angeles Water Board therefore proposes to reissue the Long Beach MS4 Permit and rescind Order No. 99-060.

The Draft Tentative Order differs significantly from Order No. 99-060 in several key respects, including:

- Incorporation of provisions consistent with 9 Total Maximum Daily Loads (TMDLs) and implementation requirements.
- Incorporation of an optional watershed management program/enhanced watershed management program implementation alternative
- New requirements for hydromodification and low impact development.
- New requirements for monitoring

This notice sets forth the procedures and processes the Los Angeles Water Board will use at the public hearing.

I. DATES AND LOCATIONS OF WORKSHOP AND HEARING

The public workshop to discuss the Draft Tentative Order will be held at the Los Angeles Water Board's regularly scheduled meeting on:

Date: December 5, 2013
Time: 9:00 a.m.
Place: Metropolitan Water District of Southern California (Board Room)
700 North Alameda Street
Los Angeles, CA 90012

The Los Angeles Water Board is scheduled to hold a public hearing to reissue the Long Beach MS4 Permit at its regularly scheduled meeting on:

Date: February 6, 2014
Time: 9:00 a.m.
Place: Metropolitan Water District of Southern California (Board Room)
700 North Alameda Street
Los Angeles, CA 90012

Please check the Board's website (<http://www.waterboards.ca.gov/losangeles/>) for the most up-to-date public hearing date and location as they are subject to change. If there is not a quorum on the scheduled date of the public hearing, all items will be automatically continued to the next scheduled meeting. A continuance of the hearing will not automatically extend any deadlines set forth herein.

Any person desiring to receive future public notices regarding this Draft Tentative Order must sign up for the Lyris e-mail list. To sign up for the Lyris list, access the E-mail List Subscription form, check the box for "Storm Water – Long Beach MS4", and fill in the required information. The subscription form is available at: http://www.waterboards.ca.gov/resources/email_subscriptions/reg4_subscribe.shtml

II. SCOPE OF HEARING

As this matter concerns reissuance of the Long Beach MS4 Permit, parties and interested persons may comment upon any portion of the Draft Tentative Order. However, please be advised that the majority of the requirements in the Draft Tentative Order are existing requirements, which the Permittee has been operating under since 1999.

Please also be advised that several new requirements in the Draft Tentative Order concern incorporation of provisions that implement TMDLs. These TMDLs are either duly adopted regulations of the Los Angeles Water Board or TMDLs established by the United States Environmental Protection Agency. The validity of these TMDLs are not an issue before the Los Angeles Water Board in this proceeding. As such, any evidence or argument attempting to challenge the validity of these TMDLs will not be considered or included in the administrative record for this matter. Comments and/or evidence concerning whether and how the Los Angeles Water Board incorporates the TMDL provisions into the Draft Tentative Order are appropriate and within the scope of this proceeding.

III. NATURE OF HEARING

This proceeding will be a formal adjudicatory proceeding pursuant to section 648 *et seq.* of Title 23 of the California Code of Regulations. Chapter 5 of the California Administrative Procedure Act (commencing with section 11500 of the Government Code) relating to formal adjudicative hearings does not apply to adjudicative hearings before the Los Angeles Water Board, except as otherwise specified in the above-referenced regulations.

IV. AVAILABILITY OF DOCUMENTS

The Draft Tentative Order, which includes the Tentative Monitoring and Reporting Program and Fact Sheet, the Administrative Record Index, and other information and documents relied upon are posted on the Los Angeles Water Board's website at: http://www.waterboards.ca.gov/losangeles/water_issues/programs/stormwater/municipal/index.shtml. These documents are also available for inspection and copying between the hours of 8:00 a.m. and 4:30 p.m. at the following address:

California Regional Water Quality Control Board
Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, CA 90013

Arrangements for file review and/or obtaining copies of documents in the Administrative Record may be made by calling the Los Angeles Water Board at (213) 576-6600. Appointments are encouraged so the documents can be readily available upon arrival. Comments and responses to comments and other subsequent relevant documents will be available online as they are generated.

All the materials identified in the Administrative Record Index will be included in the Administrative Record of this proceeding, irrespective of whether individual documents are specifically referenced during the hearing or contained in the agenda packet. However, the entire Administrative Record may not be present at the hearing. Should any parties or interested persons desire Los Angeles Water Board staff to bring to the hearing any particular documents in the Administrative Record they must submit a written or electronic request to the Los Angeles Water Board staff member(s) identified in Section X. below no later than **5:00 pm on January 17, 2014**. The request must identify the documents with enough specificity for Los Angeles Water Board staff to locate them.

V. PARTICIPANTS TO THIS HEARING

Participants in this proceeding are identified as either "Parties" or "Interested Persons." Designation as a Party is not necessary to participate in this proceeding. Both Interested Persons and Parties will have the opportunity to present written and/or oral comments about the reissuance of the Long Beach MS4 Permit. Both Interested Persons and Parties may be asked to respond to clarifying questions from the Los Angeles Water Board, staff or others, at the discretion of the Los Angeles Water Board.

A. Interested Persons

Interested persons include any person or organization that is interested in the outcome of the hearing, but who has not been designated as a party. Interested persons may present written and/or oral comments, as provided in Section VI. below, but they may not present evidence. Comments include policy statements and/or arguments about the appropriateness, wisdom, or utility of the proposal before the Los Angeles Water Board. Interested persons are not subject to cross-examination and may not cross-examine witnesses.

B. Parties

Parties are those persons or organizations anticipated to have the greatest interest in the outcome of the hearing. They are generally expected to take a leadership role in presenting any evidence or argument about the nature of the matter under consideration. Parties to the hearing may submit written evidence, summarize their evidence orally at the hearing, or cross-examine other parties' witnesses (if any are called). "Evidence" includes witness testimony, documents, and tangible objects that tend to prove or disprove the existence of an alleged fact. "Relevant evidence" is evidence that relates to any fact in dispute in the proceeding. Parties are subject to cross-examination about any evidence they present.

At this time, the Permittee (City of Long Beach) is the only party to this proceeding.

Any other persons or organizations who wish to participate in the hearing as a party shall request party status by submitting a written or electronic request to the Los Angeles Water Board (as provided in Section X. below) no later than **5:00 pm on January 17, 2014**. All requests for designation as a party shall include the name, phone number, and email address of the person who is designated to receive notices about this proceeding. The request shall also include a statement explaining the reasons for their request (e.g., how the issues to be addressed in the hearing and the potential actions by the Los Angeles Water Board affect the person), and a statement explaining why the parties designated above do not adequately represent the person's interest. Determinations will be based on whether their participation as a party will further the development of the issues before the Los Angeles Water Board. Those submitting requests for party status will be notified before the hearing whether the request is granted or denied. All parties will be notified if other parties are designated.

C. Los Angeles Water Board Staff

Los Angeles Water Board staff is not a party to this proceeding. This is a proceeding to consider adoption of a permit, which does not involve investigative, prosecutorial, or advocacy functions. Staff's proposals, recommendations, and their participation in this proceeding exist for the purpose of advising and assisting the Los Angeles Water Board. Likewise, attorneys for the Los Angeles Water Board will advise and assist the Los Angeles Water Board, which includes the board members and its entire staff. Given the nature of this proceeding and the limited facts in dispute, assigning a separate staff to "advocate" on behalf of a particular position would not further the development of the issues before the Los Angeles Water Board.

VI. PUBLIC COMMENTS AND SUBMITTAL OF EVIDENCE

Persons wishing to comment on the Draft Tentative Order, or submit evidence for the Los Angeles Water Board to consider, are invited to submit them in writing. To be evaluated and responded to by Los Angeles Water Board staff, included in the Los Angeles Water Board's agenda binder,

and fully considered by the Los Angeles Water Board members in advance of the hearing, all written comments and evidence must be submitted to the Los Angeles Water Board, as provided in Section X. below, and received at the Los Angeles Water Board office by **5:00 pm on January 3, 2014**. Written comments submitted through email are requested to be transmitted in Microsoft Word format.

Pursuant to section 648.4, Title 23 of the California Code of Regulations, untimely submittal of written comments or evidence will not be allowed or accepted into the Administrative Record without a showing of good cause for the delay, and in no event if any party or the Board would be unduly prejudiced by the late submittal or if staff or the Los Angeles Water Board would not have an adequate opportunity to review, consider, and respond to the comments or evidence.

VII. EX PARTE COMMUNICATIONS PROHIBITED

Parties and interested persons are forbidden from engaging in *ex parte* communications regarding this matter with members of the Los Angeles Water Board. An *ex parte* communication is a communication not authorized in the California Government Code, to a Los Angeles Water Board member from any person, about a pending matter, that occurs in the absence of other parties and without notice and opportunity for the parties to respond. The California Government Code generally prohibits the board members from engaging in *ex parte* communications during permitting, enforcement, or other “quasi-adjudicatory” matters. As a permitting proceeding, Los Angeles Water Board members may not discuss the Long Beach MS4 Permit with any person, except during the public workshop and hearing described in this notice.

VIII. HEARING PROCEDURES

Adjudicative proceedings before the Los Angeles Water Board generally will be conducted in the following order:

- Administration of oath to persons who intend to testify
- Los Angeles Water Board staff presentation
- Designated parties’ presentation
- Interested persons’ comments
- Questions from the Los Angeles Water Board to parties
- Questions from the Los Angeles Water Board to Staff
- Deliberations
- Los Angeles Water Board decision

While this is a formal administrative proceeding, the Los Angeles Water Board does not generally require the cross examination of witnesses, or other procedures not specified in this notice, that might typically be expected of parties in a courtroom. The parties must contact the Los Angeles Water Board staff, as provided in Section X. below, no later than **5:00 pm on January 17, 2014** to state how much time they believe is necessary for their presentations. It is the Los Angeles Water Board’s intent that reasonable requests be accommodated. Each party will be advised after the receipt of public comments, but prior to the date of the hearing, of the amount of time the party will be allocated for its presentations. That decision will be based upon the complexity and the number of issues under consideration, the extent to which the parties have coordinated, the number of parties and interested persons anticipated, and the time available for the hearing. Generally, parties may use their allocated time in any way they see fit, which could, for example, include witness testimony and/or cross examination.

Interested persons are invited to attend the hearing and present oral comments. Oral comments are generally limited to 3 minutes each for their comments, but can vary at the discretion of the Chair, depending on the number of persons wishing to be heard. Interested persons seeking more than 3 minutes to present oral comments at the hearing must contact the Los Angeles Water Board staff, as provided in Section X. below, no later than **5:00 pm on January 17, 2014** to request additional time.

Parties and interested persons with similar concerns or opinions are encouraged to choose one representative to speak, and are encouraged to coordinate their presentations with each other, and to summarize their written comments. Repetitive comments will not be allowed. The Los Angeles Water Board will include in the Administrative Record written transcriptions of oral testimony or comments that are made at the hearing.

IX. OBJECTIONS TO MANNER OF HEARING

Parties or interested persons with procedural requests different from or outside of the scope of this notice should contact the Los Angeles Water Board staff member identified in Section X. below no later than **5:00 pm on January 17, 2014**. The Los Angeles Water Board will endeavor to accommodate reasonable requests.

Objections to: (a) any procedure to be used or not used during the hearing, (b) any document or evidence in the administrative record, or (c) any other matter set forth in this notice, must be submitted in writing and received by the Los Angeles Water Board staff member identified in Section X. below no later than **5:00 pm on January 17, 2014**. Any objections related to the amount of time allocated for parties' presentations must be submitted within two business days of notice thereof.

Untimely objections will be deemed waived. Procedural objections about the matters contained in this notice will be addressed prior to, and will not be entertained at, the hearing. Further, except as otherwise stipulated, any procedure not specified in this hearing notice will be deemed waived pursuant to section 648(d) of Title 23 of the California Code of Regulations, unless a timely objection is filed.

X. LOS ANGELES WATER BOARD STAFF CONTACTS

Any communications with the Los Angeles Water Board prior to the hearing should be directed to:

Mr. Ivar Ridgeway
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, Suite 200
Los Angeles, CA 90013
(213) 620-2150
Ivar.Ridgeway@waterboards.ca.gov

Please email written comments in Microsoft Word format to:
RB4-LBMS4February2014@waterboards.ca.gov

Date: November 22, 2013