

**Proposed Basin Plan Language
For The
Revisions to the Existing Storm Water Action Plan**

(clean version)

Storm water runoff is part of the natural hydrologic cycle; however, human activities, particularly industrialization and urbanization, can result in significant and problematic changes to the natural hydrology of an area. As a result, when rain falls, without treatment or control, pollutants may become dissolved in or eroded into, and carried by runoff, into surface waters. These pollutants, unless controlled, may degrade the beneficial uses of surface waters. In addition to having direct effects on water quality, industrialization and urbanization of watersheds often alter natural runoff patterns. Storm water that would infiltrate into soils or get captured by vegetation and natural topography can be intercepted by impervious surfaces or compacted soils. Storm drain systems collect this runoff and discharge it directly into waterways. Increased runoff amounts and alteration of peak discharge rates can result in stream bank erosion, modification of natural habitat conditions and increased downstream flooding.

To address the recognized storm water problems, the U.S. Congress added Section 402(p) to the federal Clean Water Act in 1987. This section and the federal regulations which implement it (40 CFR 122, 123, 124, November 1990) require NPDES permits for storm water discharges from municipalities and industries, including construction. The 1987 Clean Water Act amendments require municipalities to reduce pollutant discharges to the maximum extent practicable, and industries, including construction, to implement best available technology and best conventional pollutant control technology to reduce pollutants.

As a result of Section 402(p), the State of California developed a program for the implementation of four types of storm water permits:

- Phase I municipal storm water permits for municipalities serving greater than 100,000 people,
- Phase II municipal storm water permits for urbanized areas serving less than 100,000 people,
- Industrial storm water permits for facilities that discharge storm water associated with industrial activities, as set forth in section 122.26(b)(14) of title 40 of the Code of Federal Regulations, and required by federal regulations to obtain a federal permit; and
- Construction storm water permits for sites that create land disturbance of one (1) acre or more.

Within the storm water permitting program, the State Water Resources Control Board (State Water Board) has issued statewide general permits for the regulation of storm water from Phase II municipalities, and industrial and construction activities. In addition, the State Water Board has issued a statewide storm water permit to the California Department of Transportation (Caltrans) in order to regulate municipal and construction storm water discharges from the state highway system and associated facilities. Enforcement of all categories of storm water permits is the responsibility of the Regional Water Board. The Regional Water Board is also responsible for adopting Phase I

municipal permits and may elect to adopt site-specific or region-wide municipal, industrial, and construction site permits. In addition, provisions of the Clean Water Act allow the Regional Water Board to issue NPDES storm water permits to other construction, industrial, or municipal sources based on a finding that these discharges are significant sources of pollutants to surface waters.

The regional Phase I municipal permit and the statewide general Phase II municipal permit require storm water dischargers to implement a Storm Water Management Program (SWMP). The goal of the SWMP is to prevent non-authorized non-storm water discharges and to minimize pollutant loads in storm water discharges and in authorized non-storm water discharges to the maximum extent practicable. The SWMP must include the following elements:

- public education and outreach;
- public involvement in development and implementation of the SWMP;
- inspections of commercial and industrial sites;
- inspections of storm water infrastructure and facilities, including construction sites, that may discharge storm water or non-storm water flows to the storm water infrastructure;
- monitoring of the storm water infrastructure (visual, water quality samples, other environmental indicators), including a program to detect and eliminate illicit discharges;
- pollution prevention and good housekeeping program for municipal operations; and
- complaint response, and enforcement of violations.

The Phase I and II municipal permits also require implementation of special programs at construction sites, including the development and implementation of construction site storm water runoff control programs and post-construction storm water management programs. The post-construction storm water management program shall include measures to implement low-impact design features on an individual site and area-wide basis. The goal of the program is to minimize the impact of new development on storm water quality and quantity. The statewide general industrial and construction storm water permits (statewide general storm water permits) also require the implementation of best management practices (BMPs), including structural and non-structural controls to prevent and minimize pollutants in storm water and authorized non-storm water discharges.

The statewide general storm water permits, Caltrans permit and the Regional Water Board's Phase I permit all acknowledge that municipal and industrial storm water conveyance systems may receive certain de minimis categories of non-storm water discharges, including, but not limited to; flows from water line flushing, irrigation, air conditioning condensate, dechlorinated swimming pool discharges, and fire hydrant flow testing, that are not expected to be sources of pollutants. The storm water permits do not prohibit certain types of low-threat non-storm water discharges from entering the storm drain system, provided that they are not significant contributors of pollutants to the municipal storm water conveyance system and do not result in exceedance of water quality objectives. Although these discharges may individually pose little threat to water quality, the storm water permittee is required to implement control measures, as

described in their SWMP, to ensure that these discharges, individually and cumulatively, do not adversely impact water quality.

Low-threat non-storm water discharges fall into two categories:

1. Intentional discharges that are planned, routine and occur on an on-going basis.
2. Incidental discharges that are unanticipated, accidental, and infrequent.

Examples of intentional low-threat non-storm water discharge categories, include, but are not limited to:

- Discharges from utility vaults, foundations, footing and crawl space drains,
- Swimming pool drainage,
- Air-conditioning condensate, and
- Residential car washing.

Examples of incidental low-threat non-storm water discharge categories include, but are not limited to:

- Accidental discharges from potable water sources due to unexpected line breaks, and
- Incidental runoff of potable or recycled water from landscape irrigation due to an unexpected break in irrigation line or sprinkler head, or unintended, minimal over-spray from sprinklers that escapes the use area.

Intentional discharges, by nature, are expected to have a lower risk of containing pollutants or causing other water quality problems such as erosion because they are subject to planning to minimize pollutants and to control the rate, volume and timing of the discharge. Although the intentional discharge categories may cause nuisance if not managed properly, they require BMPs appropriate to the nature of discharge, which includes a longer-term focus, and a more active education and outreach component than a program to prevent impacts from incidental discharge events. Due to the unplanned nature of incidental discharges, this category of non-storm water discharges poses a slightly greater risk to water quality due to the potential for higher levels of pollutants and less opportunity to control the rate, volume, and timing of the discharge. The SWMP shall describe the additional BMP measures that will be applied in the event of incidental discharges.

Discharges of storm water and certain categories of low-threat non-storm water flows (identified in individual and general storm water permits) from regulated storm water conveyance systems shall not be subject to the Basin Plan's point source waste discharge prohibitions provided that all the following criteria are met:

1. The discharge and the activities which affect the discharge are managed in conformance with the provisions of the applicable NPDES permit.
2. The discharge does not cause adverse effects on the beneficial uses of surface water or cause a condition of nuisance. Discharges of storm water from regulated Municipal Separate Storm Sewer Systems (MS4) MS4s by municipalities whose NPDES storm water permits do not contain numeric effluent limitations are considered in compliance with this requirement as long

as they are implementing the iterative BMP process set forth in their approved storm water management plan.

3. For low-threat non-storm water discharges, in addition to no. 1 and no. 2 above, the permittee shall submit, gain approval of, and implement a non-storm water management program. The permittee shall develop a specific management program, to be included in their overall storm water management plan, to eliminate unauthorized non-storm water discharges and reduce pollutant loads in identified authorized non-storm water discharges to the maximum extent practicable, by minimizing the remaining increment of discharge, and mitigating impacts associated with discharge of non-storm water, where necessary. The permittee shall include programs for specific BMP installation, public education and outreach, inspections, monitoring and compliance assurance. The management program shall be submitted to the Regional Water Board Executive Officer or Regional Board, as defined in the applicable permit, for review and approval following a duly noticed 30-day public comment period.

In addition, incidental discharges of low threat non-storm water flows from permitted storm water conveyance systems shall not be subject to the Basin Plan's point source waste discharge prohibitions provided that the following additional conditions are met:

1. The incidental discharge event is not due to negligent maintenance or poor design of infrastructure, or failure to oversee the activity that resulted in incidental runoff.
2. There were no feasible alternatives to the incidental discharge event, such as retention of the incidental runoff. This condition is not satisfied if measures for capturing the incidental discharge, as specified in the approved SWMP, should have been installed to prevent incidental runoff, in the exercise of reasonable engineering judgment.
3. The permittee has a SWMP, approved by the Regional Water Board Executive Officer, that identifies BMPs designed to avoid, minimize, and where appropriate mitigate incidental runoff incidents.

Discharges to municipal storm water systems from flows associated with emergency fire fighting activities shall not be subject to the point source prohibitions. Municipal storm water entities and Regional Water Board staff will encourage fire fighting agencies to control runoff discharges where feasible, particularly where runoff originates from industrial facilities or locations where hazardous materials are located.