

Final Meeting Notes

Second Stakeholder Discussion for a Possible Region-wide Phase I MS4 Permit

**Central Valley Regional Water Quality Control Board
11020 Sun Center Drive, Suite 200, Rancho Cordova, CA
Board Room**

17 September 2013, 1 p.m. - 2:30 p.m.

Attendees:

Pamela Creedon, Executive Officer
Ken Landau, Assistant Executive Officer, Rancho Cordova Office
Clint Snyder, Assistant Executive Officer, Redding Office
Brian Smith, Program Manager, MS4 Program
Elizabeth Lee, Senior, Rancho Cordova Office, MS4 Program
Gen Sparks, Rancho Cordova Office, MS4 Program
Lonnie Wass, Supervising WRCE, Fresno Office
Matt Scroggins, Senior, Fresno Office, MS4 Program
Robert Lira, Fresno Office, MS4 Program
Debra Mahnke, Fresno Office, MS4 Program
Greg Gearheart, SWRCB

Ba Than, City of Stockton
Brent Jorgensen, RBI, for Port of Stockton
Chris Fallbeck, City of Citrus Heights
Christina Walter, City of Stockton
Dana Booth, County of Sacramento
Daniel Rourke, Fresno Metropolitan Flood Control District
Darren Wilson, City of Elk Grove
Donna Snider, County of San Joaquin
Gary DeJesus, City of Modesto
Gerardo Dominguez, County of San Joaquin
Karen Ashby, LWA, for City of Stockton and County of San Joaquin
Lisa Koehn, City of Clovis
Michael Bryan, RBI, for Port of Stockton
Melissa Thorme, Downey Brand, for Port of Stockton
Sarah Staley, City of Folsom
SherillHuun, City of Sacramento
Tom Sinclair, City of Modesto

Welcome/Introductions

Central Valley Water Board staff welcomed meeting attendees. Introductions were made and the meeting purpose was described to all participants. There were no changes to the meeting notes from the 2 July 2013 Regional MS4 Permit meeting.

Draft Schedule and Update for Development of Preliminary Draft MS4 Permit and MRP

Central Valley Water Board staff requested feedback on potential Storm Water Program Element language contained in the draft State Water Resources Control Board's (State Board) permit template.

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Stakeholders provided input on a variety of key points:

1. The purpose of moving forward with future MS4 permits was to get away from “checking boxes”. The Table of Contents provided in the permit template appears to be a “check boxes” style.
2. Reduce redundancy and repetitiveness in requirements and language throughout the permit.
3. For municipalities that use wells (i.e., dry wells) to capture storm water runoff or pump treated groundwater, permit language should be clear.
4. Permit language should reflect current federal regulations.

Storm Water Program Elements

Stakeholders identified the New Development Program Element as the highest concern and suggested that programmatic elements be focused on activities that address water quality in particular (i.e., program elements which tend to have higher water quality issues). Stakeholders provided the following suggestions for each program element (discussed in order presented in Table of Contents):

Legal Authority and Enforcement

1. Consolidate requirements in a table for municipalities.
2. Public outreach should be pulled from each separate program element and created as a distinct program element cross referenced with the other program elements (i.e., construction, illicit discharge, etc...). This will prevent fragmentation of the public outreach component across several different program elements. However, some municipalities have assigned public outreach to different departments and consolidating public outreach under one department could be problematic.
3. “At a minimum” language is more appropriate for Los Angeles region stakeholders. Permit language stems from input provided by Southern California Water Boards who provided input on the State Board's permit template. Rather, the envisioned Regional MS4 Permit will concentrate instead on less specificity since the Phase I MS4 programs have been developed over several permit terms.
4. This section should reflect emerging Legal Authority issues municipalities are encountering, which may require further discussion (i.e., interagency agreements, ordinances, etc...)

Illicit Discharge and Illegal Connections

1. Updating a storm drain GIS –compatible map each year is typically not a beneficial investment by Permittees since changes do not occur that often.

2. Stakeholders indicate that it is difficult to prevent everything from entering the municipal storm water system, but water quality risks have decreased over several permit terms of implementing the Storm Water Management Program.
3. To eliminate double reporting (i.e., redundancy between different State Board and Central Valley Water Board NPDES permits) on sanitary sewer overflows. Reporting sanitary sewer overflows is time sensitive (24-hours), but municipalities would like more time to report to improve accuracy of reported conditions. Municipalities would report under the State Board's Sanitary Sewer Overflow permit and report any overflows into the MS4 under that permit.
4. It would be helpful to provide clarity and clarification of permit language to prevent third party lawsuits (i.e., containment). In particular, prohibition discharge language contained within a permit for discharges to waters of the United States should be clear to prevent third party lawsuits.
5. Goals and objectives of annual reporting requirements should be clearly identified in the permit language. Questions to ask include "What is best for a municipality's program?", "What are the pollutants of concern?", What best management practices are applicable, effective, and feasible?"
6. Illicit discharge and illegal connection training document should be comprehensive from the municipality's municipal storm water program, not just focused on illicit discharges.

Construction

1. Due to the downfall of the economy, this program element is less of a concern to municipalities at this time.
2. The procedure for enforcement should be integrated under Legal Authority to reduce duplicity across program elements and allow efficient use of municipality resources.
3. Due to the different NPDES permits a project proponent going into construction must obtain coverage under, it would be helpful if a one page pullout was provided in the permit to summarize permits for that audience.

Industrial

1. Stakeholders described this as an example of duplicative regulating effort, with the Water Board implementing the Industrial General Permit, then the municipalities implementing inspections at the local level too.
2. In terms of the legal authority, public participation, and enforcement components, the Industrial, Commercial, and Residential Program Elements contains similar or duplicative actions by the municipalities. Some municipalities were unsure on how combining these program elements under one Program Element (i.e., referred to as Existing Development) would be implemented due to the current structure.
3. The State Board plans an interface with the SMARTS database for industrial sites which would require vicinity map information on the database. The next generation of the SMARTS database will enable more sharing with various entities.

4. Central Valley Water Board staff clarified that enforcement should be implemented by whatever program element is consistent with local requirements. Enforcement is meant to be a synergistic relationship with both local/state authority.

Planned Development

1. Stakeholders stated that their current Phase I MS4 permits were very detailed, repetitive and inconsistent under this program element. Current requirements do not appear to have considered what each municipality has completed over the past 20 years. Instead, municipalities have had to spend significant time revising new development criteria rather than implementing existing good best management practices.
2. Municipalities know what they need to focus on, such as retrofitting existing infrastructure and/or best management practices. Some Water Boards are micro-managing best management practices (i.e., curbs, size of best management practices). Specificity of permit language does not provide the municipalities the flexibility to change to new management practices and controls.
3. With some low impact development measures that integrate groundwater, some municipalities have to consider groundwater contamination.
4. The failing economy halted some communities from developing this program element.

Public Outreach and Education

1. (As previously stated under the Legal Authority discussion.) Public outreach should be pulled from each separate program element and created as a distinct program element cross referenced with the other program elements (i.e., construction, illicit discharge, etc...). This will prevent fragmentation of the public outreach component across several different program elements. However, some municipalities have assigned public outreach to different departments and consolidating public outreach under one department could be problematic.

Ideas and Suggestions

Permitting Approach

- The term “watershed” approach was interpreted differently by the municipalities and their respective stakeholders. “Watershed” approach inferred a scale for municipalities to implement their programs in (i.e., one development may be proposed over several subwatersheds or within a watershed that encompassed their jurisdiction). The Central Valley Watershed was considered to be too big to address, although integration of the municipality’s programs with the IRWMP groups was being achieved.
- Central Valley Water Board staff indicated that a watershed approach which addressed water quality was an approach to consider for the Regional MS4 Permit, rather than bean counting (i.e., how many times street sweeping occurred). Stakeholders discussed how to move Storm Water Management Programs to water quality based focus, which program elements should be considered first.
- Stakeholders discussed water quality based approaches instead, including the City of Modesto’s risk based approach, San Diego Water Board’s Region-wide Permit framework, and State Board’s suggested outcome-based approach. Stakeholders requested clarification on what an alternative outcome-based program would look like.

While this approach was offered up as an alternative for the statewide process under the State Board, it was not clearly defined. This approach may not be applicable to the Central Valley region stakeholders.

Permit Language – General versus Specific

- Permit language should be general and specifics could be captured in a program element guideline section. In this way, less developed Storm Water Management Programs will have the specific guidance language to help guide them to the right and best management practices.

Region-wide Permit Length and Reporting

- Stakeholders asked what the permit length would be for the Region-wide Phase I MS4 Permit. Central Valley Water Board staff indicated that NPDES permit are five (5) years in length. Re-enrollment may be more of a “roll-over” process and less of an “enrollment” process depending on the success of a municipality’s Storm Water Management Program and implementation of permit language. Further discussion is needed to address this issue, including the steps on how re-enrollment would occur and planning for concepts lasting longer than five (5) years to facilitate renewals.
- Stakeholders asked where the State Board was on the statewide database for MS4 permits, similar to GeoTracker. State Board staff explained that the SMARTS database is used for MS4 permits. The SMARTS database is transitioning to be the statewide database where all municipalities will report. Small municipalities enrolled under the 2013 Phase II MS4 Permit are already enrolling and reporting in the SMARTS database using prescribed templates for statewide consistency.

Closing/Next Steps

Central Valley Water Board staff closed the meeting with a discussion gaining group consensus to continue moving forth with the proposed region-wide Phase I MS4 permit.

In reviewing the list of issues to address developed in the 2 July 2013 meeting, stakeholders reached general consensus that the following issues had begun to be addressed:

3. Identify common elements between current Phase I MS4 Permittee programs
4. Eliminate prescriptiveness and focus on water quality based programs
7. Maintain adaptive management approach
8. Length of region-wide permit term

Preliminarily, the next meeting will be scheduled for mid to late January 2014. A Doodle poll will be distributed. Once the next meeting is scheduled, a tentative meeting agenda and draft meeting notes will be distributed to participants prior to the meeting date. If feedback is requested from the stakeholders prior to the next meeting, information for review will be distributed well in advance of the meeting date.

Central Valley Water Board and State Board staff will work together to secure presenters from the City of Modesto and San Diego Water Board (among others) for the next meeting.