

Regional Board Meeting  
June 21, 2006

Item 3

Supporting Document # 3

**Summary of Public Process for Reissuance of the  
San Diego County Municipal Storm Water Permit  
(Tentative Order No. R9-2006-0011)**

**Summary of the Public Process  
for  
Reissuance of the San Diego County Municipal Storm Water Permit  
(Tentative Order No. R9-2006-0011)**

**June 7, 2006**

The Regional Board has undertaken an extensive public process for reissuance of the San Diego County Municipal Storm Water Permit (Tentative Order No. R9-2006-0011). This process has included planning efforts, development of supporting documents, meetings with Copermittees and other interested parties, and several public workshops. This document describes the process followed for reissuance of the Tentative Order and summarizes the current state of discussions on the key issues that have been identified as a result of the ongoing public process.

The public process followed by the Regional Board has afforded the Copermittees and interested parties ample opportunities to provide information on all issues they have identified. In addition, the Copermittees and other interested parties have been provided occasion to express their concerns and limitations in meeting the Tentative Order's requirements. Just as importantly, the process has provided Regional Board staff the opportunity to explain the basis for the new requirements to the Copermittees and other interested parties.

**Summary of Public Process**

The following is a timeline of public participation efforts conducted by the Regional Board during the reissuance of the Tentative Order:

- May-July 2004 – The *San Diego County Municipal Storm Water Permit Reissuance Analysis Summary* is developed. This document identifies various options for permitting approaches that can be used in the Tentative Order. A preferred permitting approach utilizing expanded watershed requirements is identified in the document. Public comments on the document were solicited.
- October 22, 2004 – Meeting with the Copermittees to discuss Report of Waste Discharge contents and reissuance process.
- October 29, 2004 – Letter to the Copermittees identifying information requested to be included in the Report of Waste Discharge.
- December 10, 2004 – Meeting with the Copermittees to discuss anticipated watershed requirements of the Tentative Order.

- February 16, 2005 – Meeting with the Copermittees to discuss anticipated industrial, commercial, municipal, and residential requirements of the Tentative Order.
- May 5, 2005 – Meeting with the Copermittees to discuss anticipated construction, land use planning, illicit discharge, and fiscal analysis requirements of the Tentative Order.
- June 23, 2005 – Meeting with the Copermittees to discuss anticipated monitoring, reporting, and assessment requirements of the Tentative Order.
- July 28, 2005 – Meeting with the Copermittees to discuss anticipated reporting, assessment, education, and public participation requirements of the Tentative Order.
- September 14, 2005 – Public Workshop before the Regional Board on the key topics concerning reissuance of the Tentative Order and the contents of the Copermittees' Report of Waste Discharge.
- December 14, 2005 – Public Workshop before the Regional Board on the fiscal analysis requirements in Order No. 2001-01 and the anticipated fiscal analysis requirements in the Tentative Order.
- March 10, 2006 – Tentative Order released to the Copermittees.
- March 13, 2006 – Tentative Order released to the public.
- March 15, 2006 – Tentative Order provided to the Regional Board members.
- March 16, 2006 – Brief presentation on the Tentative Order reissuance process at the San Diego Regional Storm Water Management Committee meeting.
- March 20, 2006 – *Summary of Modifications to the Directives of Order No. 2001-01 Found in Tentative Order No. R9-2006-0011* released to the Copermittees and public.
- March 21, 2006 – Presentation to the City of San Diego Wetlands Advisory Board on the new requirements of the Tentative Order.
- April 26, 2006 – Public Workshop held on the new requirements of the Tentative Order. This workshop included presentations by Regional Board staff and the Copermittees. Regional Board staff discussed the new requirements of the Tentative Order, while the Copermittees

discussed their initial concerns with the Tentative Order's requirements. Regional Board staff also responded to questions from interested parties.

- May 15, 2006 – Preliminary responses to early comments by the Copermittees are developed and distributed to interested parties.
- May 22, 2006 – Preliminary responses to early questions by the Building Industry Association of San Diego County are developed and distributed to interested parties.
- May 24, 2006 – Public Workshop on the key issues concerning the Tentative Order. This public workshop was conducted in a roundtable format which facilitated discussion between interested parties. Key issues identified during the previous workshop, as well as Regional Board staff preliminary responses to Copermittee comments, served as the focus for discussion during this workshop.

### **Summary of Discussion on Key Issues**

During the public process described above, several key issues have emerged and been refined. These key issues were initially raised by the Copermittees at the April 26, 2006 public workshop and in their corresponding *Regional Copermittee Comments on Tentative Order No. R9-2006-0011: 4/25/2006 – Priority Issues for April 26, 2006 Workshop* document (Executive Officer Summary Report Supporting Document # 7). In acknowledgement of the issues raised by the Copermittees, Regional Board staff provided preliminary responses to the issues in a May 15, 2006 letter (Executive Officer Summary Report Supporting Document # 5). The Regional Board staff responses in this letter clarified staff's positions and provided guidance to the Copermittees regarding their proposals for resolving the issues. As a follow-up to this correspondence, an additional public workshop was conducted to facilitate further discussion on the issues. The workshop was conducted in a roundtable format, with Regional Board staff and the Copermittees exchanging information on their positions on each of the key issues. Other interested parties also participated.

As a result of this process, the key issues concerning the Tentative Order have been refined. Copermittee and Regional Board staff positions have been clarified, resulting in resolution of some issues, while other issues have become better understood between parties. As the public process continues, Regional Board staff seeks to resolve each issue to best meet the needs of both the Regional Board and the Copermittees.

A summary of the current state of discussion on each of the key issues is as follows:<sup>1</sup>

---

<sup>1</sup> More detailed information on the discussions of these issues can be found in Executive Officer Summary Report Supporting Documents # 5 and 7.

- The Tentative Order requires the Copermitees to develop a Hydromodification Management Plan (HMP), which will include criteria to control downstream erosion (hydromodification) caused by increases in urban runoff flow rates and durations resulting from new development.* This requirement can be found at section D.1.g of the Tentative Order and is discussed starting on page 57 of the Fact Sheet/Technical Report. The Copermitees have requested flexibility in choosing an HMP strategy which best fits the number and large size of the region's watersheds. They also have requested more time to develop the HMP, in line with timelines provided in other parts of the state where HMPs have been developed. Regional Board staff has clarified that the HMP method included in the Tentative Order allows for its application in different areas with varying climatic and geologic conditions. However, Regional Board staff has also stated that it does not intend to preclude use of other methods for HMP development, provided any other HMP methods ensure that appropriate storm event criteria for controlling flow rates and durations are developed. Regional Board staff has also reiterated that the time frame for development of the HMP is appropriate, since the Copermitees can build upon HMPs already developed in other areas of California.
- The Tentative Order requires the Copermitees to track and inspect maintenance of treatment control best management practices implemented at new development projects at specified frequencies.* This requirement can be found at section D.1.e of the Tentative Order and is discussed starting on page 61 of the Fact Sheet/Technical Report. The Copermitees have stated that inspections should be allowed year round and not limited to the dry season. The Copermitees have also proposed an alternative reduced rate of inspections of treatment control BMPs. Regional Board staff has agreed that inspections can be conducted year-round, provided that high priority treatment control BMPs are inspected prior to the rainy season. Regional Board staff believes the inspection frequencies included in the Tentative Order are appropriate, but will review the Copermitees' final proposal for treatment control BMP inspections upon receipt of the Copermitees' final comments on the Tentative Order.
- The Tentative Order requires the Copermitees to inspect and clean the MS4 and conduct street sweeping at specified frequencies.* These requirements can be found at sections D.3.a.(3) and D.3.a.(5) of the Tentative Order and are discussed starting on page 66 of the Fact Sheet/Technical Report. The Copermitees have proposed a prioritized system for inspection of the MS4 and street sweeping. They have also proposed criteria to be used for triggering when MS4s must be cleaned. Regional Board staff has requested the Copermitees to specify a minimum amount of the MS4 and street systems that will be categorized as high priority, in order to ensure that a minimum level of MS4 inspection

and cleaning and street sweeping will be conducted. Regional Board staff has also requested the Copermittees to revisit their criteria for triggering cleaning of the MS4, so that all significant waste will promptly be removed from the MS4.

- *The Tentative Order requires the Copermittees to annually conduct inspections of 40% of their inventoried industrial and commercial sites.* This requirement can be found at section D.3.b.(3)(c) of the Tentative Order and is discussed starting on page 69 of the Fact Sheet/Technical Report. The Copermittees have proposed reduced inspection frequencies, to be augmented by other options such as self-certifications and third party inspections. Regional Board staff has expressed concern with the magnitude of the reduced inspection frequencies proposed by the Copermittees, as well as the effectiveness of self-certifications. However, Regional Board staff will review the Copermittees' final proposal upon receipt of the Copermittees' final comments on the Tentative Order.
- *The Tentative Order includes specific requirements for implementation of watershed-based activities which directly reduce the discharge of pollutants.* This requirement can be found at section E of the Tentative Order and is discussed starting on page 74 of the Fact Sheet/Technical Report. The Copermittees have requested less specific language defining what constitutes a Watershed Water Quality Activity, thereby increasing their flexibility in implementing the activities. Regional Board staff has stated its position that a detailed definition of what constitutes a Watershed Water Quality Activity is needed in order to ensure that adequate activities are implemented which will directly reduce the discharge of pollutants.
- *The Tentative Order requires the Copermittees to assess the effectiveness of their programs in terms of impacts to water quality and modify their programs accordingly.* These requirements can be found at section I of the Tentative Order and are discussed starting on page 82 of the Fact Sheet/Technical Report. The Copermittees have asserted that conducting assessments of their programs' impacts on water quality on an annual basis is impractical and should only be required where "applicable and feasible." They have also stated that annual modification of programs based on assessment results is too short of a time frame, and that more time is needed to implement, assess, and modify programs. Regional Board staff has stated that some level of water quality assessment should be done annually in relation to the Copermittees' watershed programs, since decisions regarding the watershed programs should continually be informed by water quality conditions. Regarding modification of programs based on assessment results, Regional Board staff has requested that the Copermittees propose an appropriate time frame for implementation, assessment, and modification of programs.

While other issues certainly have been raised regarding the Tentative Order's requirements, the above issues have generated the most interest. Regional Board staff plan to fully address all issues by responding to each final written comment received. Final responses to all comments and questions on all issues will be provided prior to consideration of adoption of the Tentative Order by the Regional Board.