

Regional MS4 Permit Reissuance

Focused Meeting 1: Proposed Language Changes to Provision E and Climate Change



March 9, 2023

Introductions

San Diego Water Board Staff Presenting Today:

- Laurie Walsh
- Erica Ryan
- Mireille Garcia
- Jessica Taylor
- James Smith

Regional MS4 Permit Reissuance Focused Meeting Agenda

- Focused Meeting Purpose and Format
- Regional MS4 Permit Overview
- Regional MS4 Permit Reissuance Process

Regional MS4 Permit Reissuance Focused Meeting Agenda

- Proposed Language Changes to Provision E
- Climate Change
- Questions

Regional MS4 Permit Reissuance Focused Meeting Purpose

- Obtain Input and Receive Feedback to inform Proposed Language Changes
- Listen to Comments and Questions
- Understand Key Concerns

Regional MS4 Permit Reissuance Focused Meeting Format

- Presentation of Proposed Changes to Provision E and Incorporation of Climate Change
- Question and Answer Breaks for Input
- Written Summary of Input or Comment During Meeting

Reissuance Overview – Drivers of Proposed Language Changes:

- California Stream Condition Index (CSCI) bioassessment status as of 2020

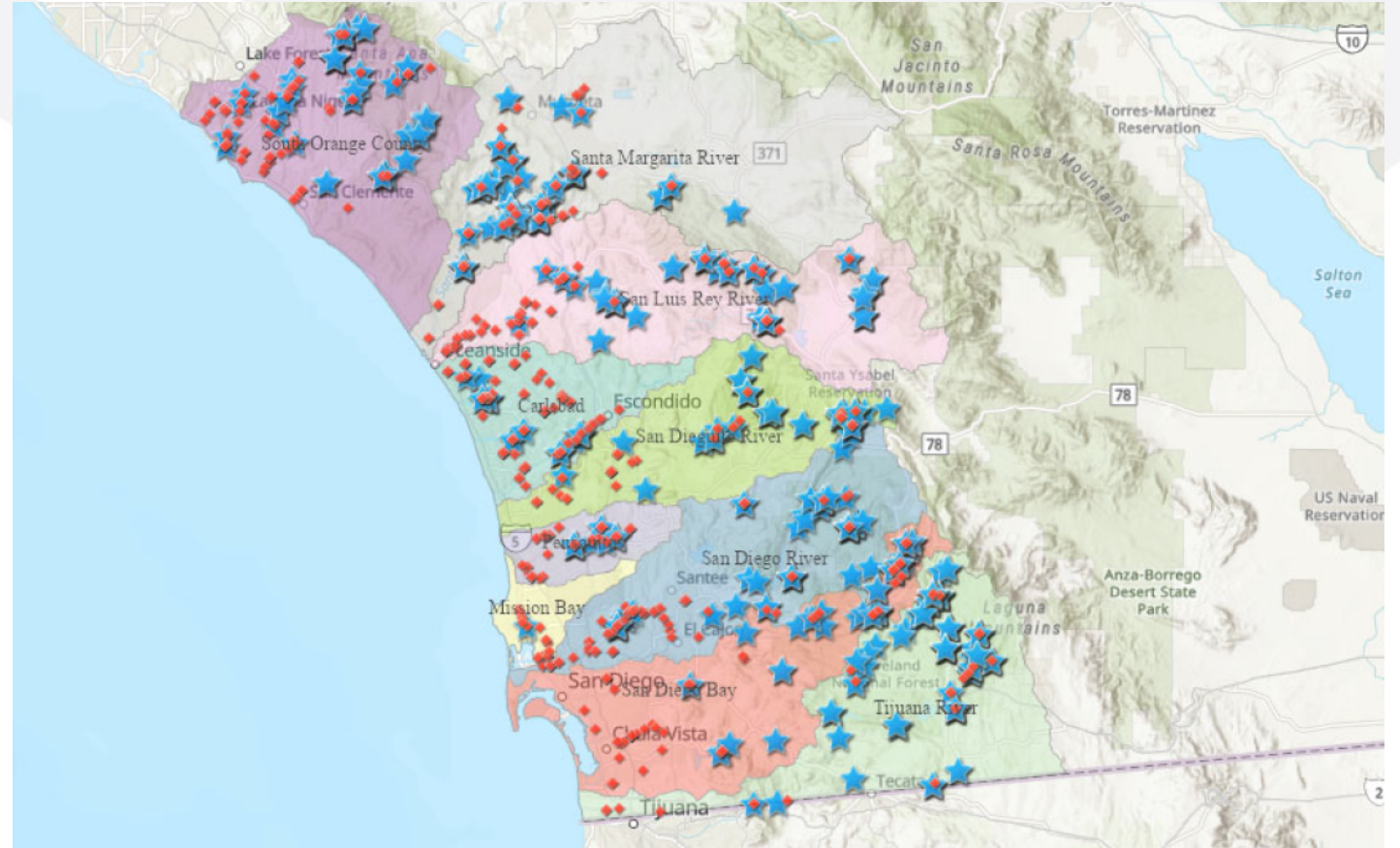


Image from San Diego Water Board Website

Regional MS4 Permit Reissuance: Primary Focus of Proposed Language Changes

- **Transparency:** Monitoring, Data, Reporting
- **Efficiency:** Monitoring, Reporting, WQIP Updates
- **Clarifications:** Permit Language, Monitoring
- **Updates:** New Rules or Policies Required to be Included

Reissuance Process – Timeline

- Kick Off Reissuance – March 2023
- Hold Series of Focused Meetings – 2023
- Update Copermittees and Stakeholders Regularly

Regional MS4 Permit Reissuance Process

- **Present Proposal:** Hold Public Focus Meeting on Specific Permit Provision / Topic
- **Receive Feedback:** Verbal or Written as Outcome of Focus Meeting
- **Create:** Staff Working Proposal of Permit Section
- **Circulate:** Staff Working Proposal
 - Not a draft permit as defined in 40 CFR 124.6
 - Not a Public Comment Period as defined in 40 CFR 124.17
- **Collect:** Written Comments on Staff Working Proposal
 - Responses to comment document will not be prepared

Regional MS4 Permit Reissuance Process

- **Conduct:** Public Workshop on Section Specific Staff Working Proposal
 - If needed
- **USEPA/DOF Review:** Send complete Staff Working Proposal to State Water Board Department of Finance and USEPA for review
 - Incorporate comments into Tentative Order
- **Prepare:** Tentative Order
- **Hold:** Public Workshop on Tentative Order
- **Hold:** San Diego Water Board Public Hearing Tentative Order

Provision E.2 – Illicit Discharge Detection and Elimination (IDDE)

- **CLARIFICATION:** IDDE investigation closure process through:
 - WQIP priorities
 - Technical documentation
 - Monitoring required demonstrate naturally occurring source

Provision E.3 – Development Planning Priority Development Project (PDP) Definitions

- **ADDED:** PDP definition of a project to include CEQA
Definition of “whole of the action”
- **CLARIFICATION:** PDP Implementation for private projects
that trigger PDP categories without local permits
- **CLARIFICATION: DRIVEWAY PDP** - A driveway itself
must create and/or replace 5,000 square feet of impervious
surface for the project to be PDP

Provision E.3 - Development Planning Priority Development Project (PDP) Definitions

- **ADDED:** PDP Category Solar Farms
 - 5,000 square feet or more of collective permanent solar arrays
 - Commercial use facilities
 - Residential installations exempted

Provision E.3 - Development Planning Priority Development Project (PDP) Definitions

- **ADDED:** PDPs may use green streets for frontage and internal road improvements:
 - Green Streets treatment applied after the project is designated as a PDP
 - Public OR Private Projects
 - Copermittee to submit a list of PDP projects using category with JRMP Annual Report

Provision E.3 - Development Planning Priority Development Project (PDP) Definitions

- **CLARIFICATION:** Environmentally Sensitive Area (ESA)
PDP category location within 200 feet:
 - High Water Mark of ESA
 - References to existing agency definitions
 - USACOE, CDFW, SWBD

Provision E.3 - Development Planning Priority Development Project (PDP) Exemptions

- **ADDED:** PDP Green Streets Exemption Categories for:
 - Commercial Solar Farms
 - Public and Private Driveways
 - Public and Private Parking Lots

Provision E.3 - Development Planning Priority Development Project (PDP) Exemptions

- **ADDED:** Additional Categories of PDPs that may be designated as routine maintenance
 - Maintenance of existing facilities for compliance with the Americans with Disabilities Act (ADA)
 - Driveway apron replacement projects
 - Curb ramp replacement projects
 - Full depth pavement projects

Provision E.3 - Development Planning Priority Development Project (PDP) Exemptions

- Public or Private PDPs
- PDP does not trigger CEQA
- PDP not part of a development project application or condition of approval

Provision E.3 - Development Planning Priority Development Project (PDP) Exemptions

- Implemented through Copermitttee submittal of updated BMP Design Manual
- PDP projects Copermitttee exempts as maintenance tracked and reported in JRMP Annual Report

Provision E.3 - Development Planning Design Criteria

- **ADDED:** HMP exemptions reconfirmed Once Every 5 Years

Provision E.3 - Development Planning Design Criteria

- **ADDED:** Design storm for PDP TCBMPs reconfirmed Once Every 5 Years
- **ADDED:** Models used to size PDP TCBMPs must use site specific data

Provision E.3 - Development Planning Design Criteria

- **CLARIFICATION:** PDP technical feasibility for retention, biofiltration, flow through TCBMPs
- **ADDED:** PDP use of Proprietary BMPs WITH onsite LID demonstrated to meet calculated Design Capture Volume

Provision E.3- Development Planning Design Criteria Alternative Compliance Projects (ACP)

- **CLARIFICATION:** PDPs can use ACP without demonstrating TCBMP infeasibility
- **CLARIFICATION:** PDPs that use ACP must implement flow through BMPs onsite

Provision E.3 - Development Planning Design Criteria - Alternative Compliance Projects (ACP)

- **CLARIFICATION:** Copermittee ACP submittal process:
 - BMP Design Manual Update
 - JRMP Annual Report
 - Greater Overall Water Quality Benefit Demonstration
 - Project List

Provision E.3 - Development Planning Design Criteria - Alternative Compliance Projects (ACP)

- **CLARIFICATION:** Copermittee tracking and reporting for PDP use of ACPs:
 - HMP or Water Quality
 - Location of PDP, ACP
 - DCV mitigated
 - Flow through TCBMP location onsite
 - JRMP Annual Report submittal

Provision E.3 - Development Planning Design Criteria – BMP Design Manual

- **CLARIFICATION:** BMP Design Manual update and acceptance process
- **CLARIFICATION:** Regional Water Quality Equivalency update and acceptance process

Provision E.4 – Construction Management

- **ADDED:** Copermittee minimum BMPs for unfinished project landscaping prior to release of lots for occupancy
- **ADDED:** Copermittee minimum BMPs for street sweeping disposal

Provision E.5 – Existing Development

- **ADDED:** Trash Discharge Prohibitions for Priority Land Uses
- **ADDED:** Inventory tracking and inspection for CAFOs, Commercial Equestrian Facilities

Provision E.5 – Existing Development

- **ADDED:** 401 Permit Compliance prior to Channel Maintenance Work
- **ADDED:** JRMP Annual Reporting of 401 Water Quality Certification Number

Provision E.6 - Enforcement

- **ADDED:** Reporting of Agricultural Order and Cannabis Farm Non-filers
- **CLARIFICATION:** Documentation of verbal warnings
- **CLARIFICATION:** Non-filer information submitted to San Diego Water Board for IGP, CGP, Cannabis, and Agricultural Non-filers

Provision E.7 - Public Education and Outreach

- **ADDED:** San Diego Water Board determination of adequate implementation of public outreach activities to achieve water quality standards and TMDLs

Provision E.8 - Fiscal Analysis

- **ADDED:** Fiscal Analysis of MS4 System to Reduce Pollutants in Stormwater
 - Hard asset fiscal management (i.e. MS4 System)
 - Performance levels
 - Condition assessment
 - Effectiveness - design, capacity, quality, and intended function
 - Consequence and likelihood of failure
 - MS4 system modifications
 - Long Term Plan to meet performance levels

Climate Change

- Pressures, Impacts and Actions Model
- Management Actions
- MS4 Permit Additions
 - High level conversation
 - Not a new program

Climate Change

- Water Chemistry
 - Management Actions: Nutrients, Restoration, Monitoring, WQOs for pH, DO, N
- Sea Level Rise
 - Management Actions: Wetland migration, Sediment, Armoring, Retreat, Restoration
- Hydrography
 - Management Actions: Flow BMPs, Floods, Wildfire, Armoring, Water Reuse, Storm Water Capture
- Water Temperature
 - Management Actions: Biological Index, Harmful Algal Bloom Monitoring

Climate Change

- II.B.2.(a) Assessment of Receiving Water Conditions
- The Copermittees must consider the following, at a minimum, to identify water quality priorities based on impacts of MS4 discharges on receiving water beneficial uses: (5) Available evidence of adverse impacts to the chemical, physical, and biological integrity of receiving waters, including current and anticipated impacts from climate change. This includes, but is not limited to, changes to hydrologic conditions, water and air temperature, harmful algal blooms and sea level rise;

Climate Change

- E.3.(c)(2)(d) Exemptions
- Each Copermitttee has the discretion to exempt a Priority Development Project from the hydromodification management BMP performance requirements of Provisions E.3.c.(2) where the project discharges stormwater runoff to: (ii) Conveyance channels whose bed and bank are concrete lined all the way from the point of discharge to water storage reservoirs, lakes, enclosed embayments, or the Pacific Ocean and have sufficient capacity to handle ((how big of a storm???); or

Climate Change

- Pressures, Impacts and Actions Model
- Management Actions
- Regional MS4 Permit Additions
 - High level conversation
 - Not a new program
 - What do Copermittees need to succeed?