

**Item 7. Municipal Regional Stormwater NPDES Permit –  
Municipalities and Flood Management Agencies in Alameda County,  
Contra Costa County, San Mateo County, Santa Clara County, and the  
Cities of Fairfield, Suisun City, and Vallejo in Solano County**

## **Appendix C**

### **Summary of Changes to Final Tentative Order**

# Summary of Changes in the Final Tentative Order for the Municipal Regional Stormwater Permit

September 24, 2009

## General Changes

- Adjusted some implementation dates to take into account the time lapse since the second Tentative Order was proposed
- Delete references to the Fairfield-Suisun Sewer District. It administers the stormwater management program for the cities of Fairfield and Suisun City but has no stormwater discharge responsibilities and should not be listed as a Permittee.

## Provision C.1 – Compliance with Discharge Prohibitions and Receiving Water Limitations

- No changes

## Provision C.2 – Municipal Operations

- Clarify that use of the California Stormwater Quality Association's Handbook for Municipal Operations is optional.
- Clarify pump station monitoring requirements such as no need to monitor discharges to dry creeks, when a receiving water is at risk, and define wet season.
- Clarify that erosion and sediment controls are needed during and after construction or maintenance on rural roads, not "post-construction controls" for stormwater.
- Clarify that out-sloping and water bars necessary only on *unpaved* rural roads.

## Provision C.3 – New Development and Redevelopment (and Low Impact Development)

### C.3.b Grandfathering of private projects subject to new C.3 requirements

- Clarify that a private development project with an application "deemed complete" by a Permittee on or before the Permit effective date shall not be subject to new C.3 requirements as long as the project applicant is diligently pursuing the project. Describe "diligent pursuance" actions.
- Clarify that if a project applicant has not taken any action to obtain necessary approvals from the Permittee, the project will then be subject to the new C.3 requirement.
- Specify that a private development project with an application "deemed complete" after the Permit effective date, a new C.3 requirement does not apply if the applicant has received final discretionary approval for the project before the required implementation date for the new C.3 requirement.

### C.3.b.iii Green Streets Pilot Projects

- Replace requirement for projects to contain all the key elements listed in C.3.b.iii.(2) with a requirement that as a whole, the 10 projects should contain the listed elements instead of each project containing all the elements. Add additional key element that the pilot project be in a Priority Development Area as defined by the Metropolitan Transportation Commission.
- Clarify what may be considered a green streets pilot project such as parking lot projects to that are sized in accordance with C.3.d that treat street runoff and that projects otherwise regulated under C.3 do not qualify.
- Specify that there should be at least two projects in each countywide program's jurisdiction.

- Extend deadline to 2014, allowing for full 5-year permit term to complete the 10 projects, but with additional reporting after year 4 to inform the development of requirements for the next permit term.

### **C.3.c Low Impact Development (LID)**

- State that every Regulated Project must treat 100% of the amount of runoff identified in Provision C.3.d with LID treatment measures onsite or at a joint treatment system.
- Clarify which treatment measures are LID measures, and that biotreatment may be considered an LID measure where other LID treatment measures are infeasible. Permittees to report how they will determine feasibility/infeasibility within 18 months. Permittees are also required to report, within 4 years, on their experiences in, and barriers to, implementing LID measures.
- Clarify minimum specifications for biotreatment systems, and that green roofs may be considered biotreatment systems that treat roof runoff. Within 18 months, Permittees are to submit a proposal of minimum specifications for designing green roofs.

### **C.3.e Alternative Compliance**

- Clarify that Alternative Compliance is available to all Regulated Projects, and that up to 100% of runoff may be treated offsite.
- Provide two options for alternative compliance. Option 1: Treat a portion of runoff with LID measures onsite or at a joint treatment system, *and* treat the remaining runoff with LID measures at an offsite project in the same watershed. Option 2: Treat a portion of runoff with LID measures onsite or at a joint treatment system, *and* provide in-lieu fees to treat the remaining runoff at a Regional Project in the same watershed.
- Clarify that offsite and Regional Projects must provide comparable environmental benefit.

### **C.3.e Special Projects**

- Provide opportunity for LID treatment reduction credits for smart growth, high density, and transit-oriented development projects that reduce existing impervious surfaces or create less “accessory” impervious areas and automobile-related pollutant impacts. Requires Permittees to submit a proposal for LID treatment reduction credits.

### **Provision C.4 – Industrial and Commercial Site Controls**

- Add completion date for Enforcement Response Plan.

### **Provision C.5 – Illicit Discharge Detection and Elimination**

- Add completion date for development of an Enforcement Response Plan.
- Clarify that voicemail and response for non-emergency illicit discharge reporting only conducted during business hours.

### **Provision C.6 – Construction Site Controls**

- Clarify when construction is completed (and requirements no longer apply to the site)
- Clarify that Permittees determine whether a Notice of Intent was filed, not whether Construction General Permit coverage was obtained.

- Require Permittees to determine whether there been rainfall with runoff since the last inspection, rather than the inches of rain since the last inspection.

#### **Provision C.7 – Public Information and Outreach**

- Extend media relation options to include local-level media pitches (along with regional and county-wide). Clarify that reporting may be done at the countywide program level in certain cases.

#### **Provision C.8 – Water Quality Monitoring**

- Allow more flexibility on certain types of monitoring and fix error in implementation dates.
- Update the questions that Estuary monitoring is intended to answer, to be consistent with the San Francisco Estuary Regional Monitoring Program.

##### **Status Monitoring Table 8.1**

- Reduce sampling requirements for nutrients, general water quality parameters (dissolved oxygen, temperature, conductivity, and pH), diazinon & chlorpyrifos, and toxicity.
- Provide an option to simplify pathogen sampling. Allow recent stream surveys to fulfill stream survey requirements. Clarify method for macroinvertebrate classification.
- Add the species *Hyaella azteca* to the toxicity analyses because it is sensitive to pyrethroids.

##### **Long-Term Monitoring and Monitoring Projects**

- Move and combine Long-term monitoring with Pollutants of Concern monitoring.
- Allow flexibility by reducing the number of Stressor/Source Identification Projects that must be toxicity follow-ups. The total number of Stressor/Source ID Projects remains unchanged.

##### **Pollutants of Concern (POC) Monitoring**

- Clarify the priority management questions that POC monitoring is intended to answer, allowing for an alternative approach that answers these same questions.
- Make language on water quality exceedance reporting consistent with Provision C.1.

#### **Provision C.9 – Pesticide Toxicity Control**

- Allow one additional year to hire IPM-certified contractor.
- Clarify that Permittees need not work with *all* listed groups to conduct outreach to pest control operators.

#### **Provision C.10 – Trash Load Reduction**

The Trash Load Reduction Provision has been completed revised to simplify and clarify requirements, and to achieve accountable trash load reductions. The Provision includes the following key elements:

- 40% trash load reduction by 2014, 70% reduction by 2017 and no trash impact to receiving waters by 2022.
- Require submittal of a Short-Term Trash Load Reduction Plan that includes implementation of a mandatory minimum level of trash capture; cleanup and abatement progress on a

mandatory minimum number of Trash Hot Spots; and implementation of other actions, such as trash reduction ordinances to attain a 40% reduction in trash loads.

- Require submittal of a Baseline Trash Loading for each Permittee, and a Trash Load Reduction Tracking Method. Allows Permittees to exclude “clean areas” or catchments from the trash load reduction by documenting achievement of no trash discharge.
- Minimum trash capture requirement that is the same as the February 2009 Revised TO (address runoff from 30% of retail/wholesale commercial land area).
- Annual cleanup of a minimum number of Trash Hot Spots. Allows flexibility in the selection and assessment of Trash Hot Spots. Trash removed from Trash Hot Spots counts toward the Trash Load Reduction requirements.
- Require submittal of a Long-Term Trash Load Reduction Plan to attain a 70% reduction in trash loads by 2017 and no trash impact to receiving waters by 2022.

### **Provisions C.11 & C.12 – Mercury Controls and PCB Controls**

- Provide an additional year to develop training program for industrial inspections.
- Provide an additional year to report on current regulations and to prepare the final report on PCBs containing materials and waste associated with building demolition and renovation.
- Provide an additional year to identify candidate drainages with on-land locations of elevated levels of PCBs or mercury for pilot projects to abate sources, and an additional year to complete the surveys for these drainages.
- Provide flexibility in the early components for projects to enhance operation & maintenance practices that remove or manage sediment.
- Provide an additional year to identify candidate locations and treatment types for treating stormwater to remove mercury and PCBs. Allow two of the 10 treatment systems to be evaluated to be systems that are already in place.
- Provide an option for CalTrans to implement mercury load reduction actions in lieu of sharing a portion of an urban runoff management agencies’ mercury allocation.

### **Provision C.13 – Copper Controls**

- Allow an additional year for Permittees to prohibit discharge to storm drains of wastewater generated during installing, cleaning, treating, and washing of copper architectural features.

### **Provision C.14 – PCBE, Legacy, Pesticides and Selenium**

- Clarify that the requirements apply in the Permittees’ jurisdictions, not the entire Bay Area.

### **Provision C.15 – Exempted and Conditionally Exempted Discharge**

- Exempt single family home’s pumped groundwater, foundation drains, and water from crawl space pumps and footing drains.
- Condition exemption of pumped groundwater from drinking water aquifers.
- Simplify air conditioning condensate language.
- Delete requirements for Permittees to oversee third parties for planned and unplanned discharges. Clarify that planned potable discharge requirements apply only to Permittees who are water purveyors.
- Reduce chlorine residual benchmark from 0.08 mg/L to 0.05 mg/L, in consideration that 0.08 mg/L is toxic to salmonids.

- Reduce frequency of reporting for potable water discharges.
- Restore “Individual Car Washing” as a conditionally exempt discharge; restore the language from the December 2007 Tentative Order.
- Clarify that a connection for a pool/hot tub/spa/fountain could be a drain to the sanitary sewer in the pool or a sanitary sewer clean-out located close to the pool. Clarify that only authorized discharges to the storm drain must be tracked.

**Provision C.16 – Annual Reports**

- Clarify that Permittees shall retain documentation as necessary to support Annual Reports.