



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

May 20, 2016

Bryan Smith
NPDES MS4 permit, Supervisor
Central Valley Regional Water Quality Control Board
364 Knollcrest Drive, Suite 205
Redding, CA 96002

Re: Administrative Draft MS4 Permit for Central Valley Region-wide MS4 general permit (NPDES Permit No. CAG000000)

Dear Mr. Smith:

Thank you for the opportunity to review and comment on the tentative draft general permit (Order No. R5-2016-xxxx/NPDES Permit No. CAG000000) for discharges from the Phase I and possible Phase II municipal separate storm sewer system (MS4) permittees within jurisdiction of Central Valley Regional Water Quality Control Board (Regional Board). We commented on the working draft (dated December 23, 2015) and administrative draft (dated March 9, 2016) and appreciate that the tentative draft general permit incorporates most of our recommendations. Specifically we appreciate the inclusion of permit provisions that require at least one water quality-based milestone per pollutant per permit term, additional information regarding TMDL implementation requirements, and promoting the use of stormwater as a resource.

As discussed below, we have a few remaining concerns and recommendations about compliance schedules, monitoring requirements, best management practice (BMP) effectiveness, and authorization to use offsite LID projects.

A. Compliance Schedules associated with Total Maximum Daily Load (TMDL) Requirements

EPA understands that the Regional Board intends to provide compliance schedules to provide additional time beyond the date of permit issuance to comply with certain effluent limitations based on applicable TMDL wasteload allocations. If this understanding is correct, the permit itself must be modified to incorporate any compliance schedules and associated interim milestones as required by 40 CFR 122.2 and 122.47. Additionally, the fact sheet must be revised to demonstrate that any compliance schedule is necessary and is as short as possible pursuant to 40 CFR 122.47. The Regional Board may wish to consider compliance schedule provisions within the Los Angeles County MS4 permit order, Section VI.C.5.c. As we have previously discussed with staff, TMDL implementation schedules do not, by themselves, serve as NPDES

permit compliance schedules. Pursuant to 40 CFR 123.44, EPA reserves the right to object to issuance of this permit if our concerns about compliance schedule provisions are not addressed prior to permit issuance.

B. Monitoring and Reporting

Attachment E provides the base list of parameters, including toxicity and specified pollutants, required to be monitored by permittees. EPA notes that other commonly detected stormwater pollutants of concern are not included and therefore would not be regularly monitored by permittees, most notably bacterial indicators, heavy metals and currently used pesticides. The Board and permittees would benefit from reviewing updated SWAMP recommendations concerning monitoring for toxicity and current-use pesticides. (SWAMP 2015) The Agency strongly recommends the Regional Board include requirements to monitor for the following list of parameters in MS4 outfalls and receiving waters during the permit term. Our goal is to ensure the permit will require sufficient monitoring of commonly encountered stormwater pollutants of concern to assist in evaluating the permit's efficacy in controlling pollutant sources.

Bacterial indicators: E. coli and fecal coliform

Heavy metals: Copper, Lead, Mercury, Zinc

Current-use pesticides: Bifenthrin, Carbaryl, Cyhalothrin lambda, Cypermethrin, Fipronil
Imidichloprid, Permethrin

In addition, the monitoring provisions should be revised to specify required frequency of monitoring for each parameter within the Stormwater Management Plan (SWMP) monitoring program. Sampling frequency is critical to assess water quality results in receiving waters and assess evaluation of whether water quality objectives are being achieved. For example, bacteria samples in receiving waters should be collected and analyzed not less than five times for any 30-day period to yield a useful geometric mean. The Regional Board has discretion regarding the frequency of MS4 outfall sampling. Thus, the SWMP should also include description of monitoring frequency for performance-based requirements.

C. Effectiveness of Stormwater Structural BMPs

EPA supports the inclusion and thorough description of the Stormwater Management Plan (SWMP)-based alternative compliance pathway. Some specific requirements for SWMPs are noteworthy, namely the inclusion of clear, enforceable water quality-based milestones to help with accountability and potential enforcement with non-compliant SWMPs. This provision of the permit should be strengthened to require actions to ensure the continued efficacy of structural best management practices. The permit should include more specific requirements to inventory, inspect, evaluate, and report on BMP installation, maintenance, and effectiveness to ensure continuity of pollutant load reductions over several decades. We strongly recommend incorporating specific language in the permit requiring permittees to develop and implement ongoing asset management systems and associated long term financial plans to ensure that stormwater system elements are inventoried, tracked, inspected, and maintained in the long term.

D. Alternatives to Onsite LID

We understand that in some circumstances it makes sense to implement stormwater management practices at offsite locations due to local site constraints and/or the relative cost effectiveness of offsite stormwater controls. It is vitally important for the permit to provide sufficient structure in provisions authorizing use of offsite practices or facilities. We recommend the permit include specific requirements for use of offsite LID approaches to help ensure effective technical design and maintenance, appropriate legal mechanisms, and sound long term financial viability.

We appreciate the opportunity to provide our views on the tentative draft permit. If you have any questions regarding this matter, please contact either Peter Kozelka at (415) 972-3448 or me at (415) 972-3464.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Smith', written over a horizontal line.

David Smith, Manager
NPDES Permits Office (WTR 2-3)

Reference: SWAMP (2015) *Updated Recommendations for Monitoring Current-use Pesticide Toxicity in Water and Sediment for the Surface Water Ambient Monitoring Program.*

