

Los Angeles Regional Water Quality Control Board

TO: Los Angeles County MS4 Permittees

FROM: Samuel Unger, P.E. *SU*
Executive Officer

DATE: January 24, 2014

SUBJECT: **LOS ANGELES COUNTY MS4 PERMIT (ORDER NO. R4-2012-0175) EARLY ACTION REQUIREMENTS FOR PERMITTEES PURSUING AN ENHANCED WATERSHED MANAGEMENT PROGRAM OR 18-MONTH WATERSHED MANAGEMENT PROGRAM -- LOW IMPACT DEVELOPMENT ORDINANCES AND GREEN STREETS POLICIES**

The purpose of this memorandum is to clarify requirements for Permittees to undertake certain "early actions," including development and adoption of low impact development (LID) ordinances and green streets policies, where Permittees elect to develop an Enhanced Watershed Management Program (EWMP), or request an 18-month submittal date for a draft Watershed Management Program (WMP). These early action requirements were included in the permit in order to balance Permittees' request for additional planning time to develop EWMPs (30-month planning horizon) and WMPs (option of 18-month planning horizon) with the need for meaningful implementation actions in the early years of the new permit term. In order to be granted the additional planning time to develop an EWMP or a WMP, Permittees were required to undertake certain early actions. Specifically, pursuant to Part VI.C.4.c, Permittees requesting this additional planning time were required to:

1. (a) Demonstrate that there is a Low Impact Development (LID) ordinance(s) in place for their jurisdiction(s) **and/or** (b) commence development of a LID ordinance(s) for their jurisdiction(s) meeting all the requirements of the Los Angeles County MS4 Permit's Planning and Land Development Program by February 26, 2013, **and**
2. Where a LID ordinance(s) was not in place, Permittees were required to have a draft LID ordinance(s) developed for their jurisdiction(s) by June 28, 2013;
3. (a) Demonstrate that there was a green streets policy(ies)¹ in place for their jurisdiction(s) **and/or** (b) commence development of a policy(ies) that specifies the use of green street strategies for transportation corridors within their jurisdiction(s) by February 26, 2013, **and**

¹ The permit specifies development of a green street policy; however, a Permittee may opt to instead incorporate the necessary green street requirements into its LID ordinance such that the ordinance will ensure that green streets BMPs will be required of street and road construction projects within the Permittee's jurisdiction.

4. (a) Where a green streets policy(ies) was not in place, Permittees were required to have a draft green streets policy(ies) developed for their jurisdiction by June 28, 2013.

Where multiple Permittees chose to collaborate on an EWMP or a group WMP, the permit requirements reiterated in 1-4 above must be met in greater than 50% of the watershed area covered by the EWMP or WMP.

Where a Permittee chose to develop an individual WMP, the permit requirements reiterated in 1-4 above must be met in the Permittee's entire jurisdictional area.

Documentation demonstrating that these requirements were met had to be provided to the Regional Board as part of all Permittees' notifications of intent to develop an EWMP and had to be provided to the Regional Board as part of Permittees' notifications of intent to develop a WMP, where Permittees were requesting an 18-month submittal date for the draft WMP.

Unlike other "minimum control measures" that comprise a Permittee's baseline storm water management program, per Parts VI.C.5.b.iv.(1)(a) and (c), the provisions of the Planning and Land Development Program (Part VI.D.7) are not eligible for customization or elimination under an EWMP or a WMP. Therefore, when developing LID ordinances and green streets policies, Permittees should anticipate the requirements of Part VI.D.7. All Permittees participating in an EWMP or WMP must comply with all requirements of Part VI.D.7, Planning and Land Development Program, by the time the draft plan is submitted in order to have an approvable EWMP/WMP. In other words, by the time of draft EWMP/WMP submittal, all Permittees participating in the EWMP/WMP must have LID ordinances and green streets policies in place and must be conditioning projects, including street and road construction, per the requirements of Part VI.D.7.

Regarding Permittees' green streets policies and their relationship to the provisions of Part VI.D.7, it should be noted that while the early action requirements pertaining to green streets policies in Part VI.C.4.c emphasize implementation of green streets strategies in "transportation corridors," the Planning and Land Development Program requires that new street and road construction of 10,000 square feet or more of impervious surface area (and street and road redevelopment that results in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site) employ green street strategies per USEPA's guidance manual "Managing Wet Weather with Green Infrastructure: Green Streets" (EPA-833-F-08-009, December 2008) to the maximum extent practicable (see Part VI.D.7.b). The permit provisions state, "[s]treet and road construction applies to standalone streets, roads, highways, and freeway projects, and also applies to streets within larger projects" (Part VI.D.7.b.i.(1)(g)). In other words, ultimately, Permittees must condition road and street projects falling within the abovementioned project size thresholds to implement green street strategies, not just projects in "transportation corridors." Permittees should anticipate this broader applicability requirement as they develop and finalize their green streets policies per the early action requirements for an EWMP or 18-month WMP.

Further, final green streets policies (or accompanying design manuals that are developed and adopted by the Permittee as a companion document to a policy) must specify Best Management Practices (BMPs) included in the USEPA guidance manual for street and road projects falling within the abovementioned project size thresholds. Permittees may elect to tier green streets BMP implementation based on project size, complexity, cost, or other factors. An example of this tiering would be a Permittee requiring the implementation of planter/tree boxes and tree canopy rain interception for small scale projects and requiring the implementation of alternative

street widths, permeable pavers, bioswales, and vegetated curb extensions for larger, more costly street projects. Final green streets policies that do not prescribe a menu of specific BMPs for street and road projects within the project size thresholds specified in the permit will not comply with the requirements of Part VI.D.7.

Board staff strongly encourages Permittees to carefully evaluate their LID ordinances and green streets policies on this basis. Further, Board staff encourages Permittees to seek input from Board staff on revised drafts of their LID ordinances and green streets policies as early as possible and prior to City Council adoption to ensure that they are compliant with Part VI.D.7. Again, all Permittees participating in an EWMP/WMP must have LID ordinances and green streets policies in place and must be conditioning projects, including street and road construction, per the requirements of Part VI.D.7 by the time of draft EWMP/WMP submittal.

Regarding concerns over the loss of provisions of the 2002 Standard Urban Storm Water Mitigation Plan (SUSMP), particularly those in Section 2, Part 10.B-10.F related to individual priority project categories, the new permit has not eliminated requirements for source control. Many of the requirements for source control are found in Part VI.A as well as in other parts of the permit. (See, for example, Part VI.D.6.f, VI.D.9.e.vi, VI.D.9.f, VI.D.9.h.vi, among others.) In addition, several of the original SUSMP requirements were adopted in lieu of numeric criteria. For example, in 2002, retail gas outlets (RGOs) were allowed to implement BMPs rather than be subject to numeric criteria. The current permit requires RGOs to also comply with numeric criteria resulting in provisions more stringent than the 2002 SUSMP requirements. The requirements in the current Planning and Development section, in combination with other permit provisions (some of which are listed above), are more stringent and an evolution and enhancement of the 2002 SUSMP requirements.

If you have any questions or would like to arrange a meeting with Board staff, please contact Ivar Ridgeway via email at Ivar.Ridgeway@waterboards.ca.gov or by phone at (213) 620-2150.