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From: lyris@swrcb18.waterboards.ca.gov
Sent: Thursday, May 14, 2015 1:44 PM
To: Chiu, Wayne@Waterboards
Subject: San Diego Water Board May 21, 2015 Public Workshop on Prior Lawful Approval and Alternative Compliance Option for Receiving Water Limitations
Attachments: 2015-0514_Revised_Draft_PLA.pdf; 2015-0514_Revised_Draft_RWL.pdf; 2015-0521_PLA_RWL_Workshop_Agenda.pdf; 2015-0428_PLA_Workshop_Summary.pdf; 2015-0428_RWL_Workshop_Summary.pdf



This is a message from the California Regional Water Quality Control Board, San Diego Region (9).

Copermittees and Stakeholders,

Our **next workshop** to discuss draft permit language pertaining to Prior Lawful Approval and an Alternative Compliance Pathway for Receiving Water Limitations is next week **Thursday, May 21, 2015 at the San Diego Water Board office in our Regional Board Room**. The meeting begins at 9:30 a.m.

San Diego Water Board staff listened to all of the feedback during the April workshop and met again with several stakeholders and Copermittees individually to hear more specific issues on each topic before crafting revised draft language. Attached is a copy of the revised draft permit language for both Prior Lawful Approval and the Alternative Compliance Pathway for Receiving Water Limitations. Please come prepared to give us feedback on the revised draft language.

Also, attached to this email is the May 21, 2015 Workshop Agenda, and notes summarizing the discussions on Prior Lawful Approval and Alternative Compliance Pathway for Receiving Water Limitations that occurred during the April 28, 2015 workshop.

All of these documents are also on the San Diego Water Board's website at http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/index.shtml

See you next week.

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Draft Definition of Prior Lawful Approval for Priority Development Projects
Revised May 14, 2015

~~Insert the following as Provision E.3.e.(1)(b) and renumber the following provisions appropriately:~~

~~(b) For private development projects, prior lawful approval under this Order is a development approval or construction permit that either: 1) complies with the Priority Development Project requirements of the Fourth Term MS4 permits¹ and includes the design of the storm water drainage system for the project in its entirety as accepted by the Copermittee, or 2) confers a vested right to proceed under prior storm water requirements. For public projects, approval means that the design of the storm water drainage system for the project in its entirety has been stamped by the City or County Engineer. For any applicable portion(s) of the project, approvals may be extended to any subsequent discretionary or ministerial approvals necessary to implement the initial project approval with the following conditions:~~

~~(i) All subsequent permits must be issued within 5 years of the effective date of the BMP Design Manual pursuant to Provision E.3.d; and~~

~~(ii) BMP installation under subsequent approvals must remain in substantial conformity with the design of the storm water drainage system included in the initial approval.~~

Revise Provision E.3.e.(1)(a) as follows:

e. PRIORITY DEVELOPMENT PROJECT BMP IMPLEMENTATION AND OVERSIGHT

Each Copermittee must implement a program that requires and confirms structural BMPs on all Priority Development Projects are designed, constructed, and maintained to remove pollutants in storm water to the MEP.

(1) Structural BMP Approval and Verification Process

(a) Each Copermittee must require and confirm that ~~for~~ all Priority Development Projects ~~applications that have not received prior lawful approval by the Copermittee by the effective date of the BMP Design Manual pursuant to Provision E.3.d, implement~~ the requirements of Provision E.3 ~~must be implemented. For project applications that have received prior lawful approval before the effective date of the BMP Design Manual pursuant to Provision E.3.d, except that~~ the Copermittee may allow previous land development requirements to apply to a Priority Development Project if all of the following conditions are met:-

¹ Order Nos. R9-2007-0001, R9-2009-0002, and R9-2010-0016 for San Diego, Orange, and Riverside Counties, respectively.

- (i) The Copermittee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, approved a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs; AND
- (ii) The Copermittee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, issued a building permit, or functional equivalent that authorizes the Priority Development Project applicant to commence construction activities, based on a design that incorporates the approved storm water drainage system for the Priority Development Project in its entirety; AND
- (iii) The Copermittee confirms that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, OR the Copermittee confirms that construction activities will commence on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, where construction activities are undertaken in reliance on the building permit, or functional equivalent, issued by the Copermittee in conformance with Provision E.3.e.(1)(a)(ii).

Draft Alternative Compliance Pathway for Receiving Water Limitations
Revised May 14, 2015

Insert the following as Provision B.3.c:

c. DISCHARGE PROHIBITIONS AND RECEIVING WATER LIMITATIONS COMPLIANCE OPTION

Each Copermittee has the option to utilize the implementation of the Water Quality Improvement Plan to demonstrate compliance with the requirements of Provisions A.1.a, A.1.c and A.2.a within a Watershed Management Area. A Copermittee will be deemed to be in compliance with Provisions A.1.a, A.1.c and A.2.a within a Watershed Management Area when the following conditions are met:

~~(1) The Copermittees may utilize implementation of the water quality improvement strategies in the Water Quality Improvement Plan to demonstrate compliance with the requirements of Provisions A.1.a, A.1.c and A.2.a. For each Copermittee in t~~The Water Quality Improvement Plan for a Watershed Management Area that chooses to utilize this option, the Copermittee will be in compliance with Provisions A.1.a, A.1.c and A.2.a if must incorporate the following:

(a) Numeric goals and schedules developed pursuant to Provision B.3.a that include the following ~~numeric goals:~~

- (i) ~~Water quality based effluent limitations (WQBELs) expressed as concentration based or load based effluent limitations applicable to the Watershed Management Area~~ established by the TMDLs in Attachment E to this Order applicable to the Copermittee's jurisdiction within the Watershed Management Area; and
- (ii) Numeric goals applicable to the Copermittee's MS4 discharges within the Watershed Management Area expressed as numeric concentration-based or load-based goals ~~effluent limitations~~ for all other pollutants listed on the Clean Water Act Section 303(d) List of Water Quality Impaired Segments¹ for the receiving waters in the Watershed Management Area that do not have a TMDL developed and incorporated into Attachment E to this Order; and
- (iii) Numeric goals for receiving waters that will ~~protect~~ result in chemical, physical, and/or biological conditions of the receiving waters that will be protective of the beneficial uses within the Watershed Management Area under the Copermittee's jurisdiction. ~~and attain water quality standards.~~

(b) An analysis utilizing a watershed model or other watershed analytical tools ~~is performed. The results must be included in the Water Quality Improvement Plan~~ that meets the following conditions:

¹ ~~2002-2010~~ and subsequent 303(d) Lists

- (i) The analysis must ~~to~~ quantitatively demonstrate that the implementation of the water quality improvement strategies required under Provision B.3.b will achieve the numeric goals within the established schedules required ~~under to be developed pursuant to~~ Provisions B.3.a and B.3.c.(1)(a).
- (ii) The development of the analysis must include a public participation process which allows the public to review and provide comments on the analysis methodology utilized and the assumptions included in the analysis. Public comments and responses must be included as part of the analysis documentation included in the Water Quality Improvement Plan.
- (iii) The analysis may be performed by an ~~individually~~ Copermittee only for its jurisdiction within the Watershed Management Area, or jointly by two or more of any of the Copermittees choosing to utilize this option for their jurisdictions within the same Watershed Management Area.
- (iv) ~~, and~~ The analysis must be updated as part of the iterative approach and adaptive management process required under Provisions B.5.a-b.
- (c) ~~The Water Quality Improvement Plan s~~ Specifices the monitoring and assessments included in the monitoring and assessment program required pursuant to Provision B.4 (i.e. MS4 outfall discharge, receiving water, and/or special studies) that will be performed by the Copermittee to ~~confirm the 1)~~ demonstrate that the implementation of the water quality improvement strategies within its jurisdiction is making progress toward achieving the numeric goals in accordance with the established schedules developed pursuant to Provisions B.3.a and B.3.c.(1)(a), and 2) determine whether interim and final numeric goals have been achieved. ~~The monitoring and assessments must be incorporated into the monitoring and assessment program required pursuant to Provision B.4.~~ The specific monitoring and assessments must be updated as part of the iterative approach and adaptive management process required under Provision B.5.c.
- (d) Documentation that ~~T~~ the numeric goals proposed pursuant to Provision B.3.c.(1)(a), the analysis performed pursuant to Provision B.3.c.(1)(b), and the specific monitoring and assessments proposed pursuant to Provision B.3.c.(1)(c) have been reviewed by the Water Quality Improvement Consultation Panel (see Provision F.1.a.(1)(b)) for any recommendations. Updates must be reviewed by the Water Quality Improvement Consultation Panel for any recommendations.
- (2) Each Copermittee that chooses to utilize this option will, for the pollutant/water body combinations ~~covered by~~ included in the analysis performed pursuant to Provision B.3.c.(1)(b), be deemed in compliance with Provisions A.1.a, A.1.c and A.2.a when the Water Quality Improvement Plan, incorporating the requirements of Provision B.3.c.(1), is accepted by the San Diego Water Board.

- (3) The Copermittee will, for the pollutant/water body combinations ~~covered by~~ included in the analysis performed pursuant to Provision B.3.c.(1)(b), remain in compliance with Provisions A.1.a, A.1.c and A.2.a during the term of this Order as long as:
- (a) The results of the analysis performed pursuant to Provision B.3.c.(1)(~~b~~) is accepted by the San Diego Water Board Executive Officer as part of the Water Quality Improvement Plan and as part of subsequent updates to the Water Quality Improvement Plan; AND
 - (b) The Copermittee continues to implement the water quality improvement strategies within its jurisdiction developed pursuant to Provision B.3.b.(1) in accordance with the schedules for implementing the strategies established pursuant to Provision B.3.b.(3)(a); AND
 - (c) The Copermittee continues to perform the monitoring and assessments specified in the Water Quality Improvement Plan, developed and implemented pursuant to Provision B.3.c.(1)(c), to demonstrate its progress toward achieving the numeric goals applicable to its MS4 discharges in accordance with the interim and final dates for achieving the numeric goals established pursuant to Provision B.3.a.(2); AND
 - (d) The Copermittee continues to implement the requirements of Provision A.4.a.