



Community Services Department / Environmental Services
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July 10, 2015

Via Email (MRP.reissuance@waterboards.ca.gov)

Dr. Tom Mumley, Assistant Executive Officer
California Regional Water Quality Control Board,
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

SUBJECT: Municipal Regional Stormwater Permit Tentative Order Comments

Dear Dr. Mumley,

Consistent with your email dated May 11, 2015, the City of Fremont is transmitting these written comments on the 2.0 Municipal Regional Permit (MRP) Tentative Order via email to MRP.reissuance@waterboards.ca.gov. The City appreciates the time Water Board staff members have spent meeting with Permittee representatives in order to reach agreement on the complex next phase of the permit. The City acknowledges that some desirable changes have been incorporated into the draft tentative order, however Fremont staff believe it is essential that additional changes be made to the Tentative Order in order to eliminate requirements that are either costly without providing a commensurate improvement in water quality, or that are impractical or infeasible to implement.

Our comments are provided below.

1. **Provision C.12 Polychlorinated Biphenyls (PCBs) Control** - The City is concerned about the feasibility of meeting the PCB load reduction performance criteria with best management practices (BMPs) and believes the default allocation scheme is unreasonable. Furthermore, we agree with the detailed comments submitted by the Alameda Countywide Clean Water Program on this provision but will not repeat them in this letter.
2. **Provision C.10.a Trash Reduction Requirements Schedule** - Caltrans and the Permittees have similar permit requirements to reduce trash loads but with different target reduction dates. Since many of the highest trash problem areas are along Caltrans roadways, in order to meet the trash reduction targets, it will be essential that Permittees partner and coordinate with Caltrans for the installation and maintenance of full trash capture devices. Caltrans has until 2025 to meet the reduction targets specified under its stormwater permit. We request aligning the schedule for Permittees to meet the 70% and 100% trash reduction targets with the Caltrans permit dates in order to facilitate the coordination that must occur between the agencies.

3. **Provision C.10.a.ii.b Trash Capture Devices on Private Lands** - Expanding trash capture requirements to retrofit private lands will be extremely burdensome on local agencies. Fremont estimates it will be over \$100,000 per year to first create the storm drain maps and then allocate the staffing resources needed to ensure compliance. It is also unclear whether local agencies have the legal authority to compel private land owners to retrofit properties with trash-capture devices, and demonstrate an ongoing acceptable level of inspection and maintenance, in the absence of seeking a development permit from the City or having to abate a nuisance. Furthermore, recent field reconnaissance efforts have revealed a wide disparity of drain shape, size, and depth. Staff has concluded that some of the drains may support a trash-capture device while others would not.

As an alternative to the proposed language, the City is requesting that expanding trash-capture devices to private lands be included only on a going-forward basis as part of C.3 new development and redevelopment requirements. Such an approach for regulated projects would allow a structured method of updating private storm drain maps, increasing trash-capture coverage, and reducing the chance of flooding and trash bypass due to private infrastructure constraints. We feel that this strategy would achieve the desired effect without causing an unreasonable staffing and fiscal burden on Permittees.

4. **C.10.b.i.a. (i-iv) Maintenance Interval Requirements** - Fremont has had a positive experience with the approximately 500+ devices currently in the ground and plans to install another 1,000 devices. Thus far there have been no instances of flooding, evidence of trash bypass, or device damage. We attribute this good experience to two factors:
 - Careful device siting: we make sure that the drain inlet vault size is adequate for a trash-capture device and that the MS4 conveyances within the drain inlet are appropriate for effective and sustainable trash capture.
 - A supplemental inspection and maintenance program for inlets with full-trash capture devices that supplements routine drain inlet maintenance and includes:
 - pre-rainy season inspection to determine the amount of material (organic matter+ trash) in each trash-capture device drain inlet vault
 - priority cleaning for trash-capture device inlet vaults containing 10% or more of materials.

We believe that using the approach of targeted maintenance (pre-rainy season inspection and priority cleaning) is a more effective way to prevent plugging, flooding, or bypassing of trash rather than prescribing a maintenance schedule based upon trash generation area. We ask that the Board remove the prescribed maintenance frequency requirements and leave it to the discretion of the Permittees based upon field assessments and experience.

5. **C.10.b.iv Source Control Trash Reduction Credit** - The proposed five-percent cap on source control measures does not fully recognize the benefit of removing certain

products, e.g., plastic bags and polystyrene food service ware, from the trash cycle. In the City's view, reduced access to litter-producing products equates to a reduced amount of trash that can enter the MS4. Jurisdictions are required to enact and enforce source controls and should thereby receive a commensurate amount of trash reduction credit. We are requesting the Water Board to remove the five percent trash reduction credit cap on source control measures.

6. **C.3.J.i Green Infrastructure Program Plan Development** - Developing the Green Infrastructure framework will require significant time, resources and coordination among multiple City departments as well as outside agencies. It will not be feasible to develop this plan within 12 months of permit adoption. The City is requesting the deadline be extended to 24 months from Permit adoption.

The City believes it is essential that the Revised Tentative Order be further revised as outlined in this comment letter in order to effectively implement the expanded requirements and achieve improved water quality with available resources. Thank you for considering these comments.

Sincerely,



Kathy Cote
Environmental Services Manager