



Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments on the Tentative Order for the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit

Dear Mr. Wolfe:

The City of Belmont wishes to submit the following comments for consideration regarding the Tentative Order for the Municipal Regional Stormwater NPDES permit.

It is important that new initiatives in the permit be practical, understandable, and flexible. This will enhance municipalities ability to solve water quality.

There is a new requirements that require, for example, that the City perform stenciling of inlets on private property. What if the property owner says no? The permit requires that jurisdictions report and abate spills or illegal discharges within 48 hours. As a small City with limited staffing, we do not have staff at work on weekends to respond to non emergency events. The new permit also provides inadequate time to implement new requirements and regulations, not recognizing the public process that needs to occur in order to implement theses measures. This is especially true given budget constrains and uncertainty with ability to raise revenues given constraints of Proposition 218 and many other competing infrastructure and funding needs. Some of these requirements will be impractical, and in some cases infeasible to implement.

Overall, the City is concerned that the draft permit requires burdensome record keeping and a prescriptive approach to stormwater regulation, that don't appear to clearly benefit our mutual goals of improving water quality.

More specifically, the following issues raised by the Tentative Order are of greatest concern to our municipality.

1. The draft permit's Provision C.10 proposes capture devices for specified percentage of litter catchment areas for a set percentage of urbanized area within each jurisdiction. There should be flexibility in addressing trash and litter controls problems so that cost-effective solutions may be implemented that are tailored to solving particular problems. For example, communities should be allowed to partner with neighboring communities or through the regional program and select watersheds for installation of improvements that have more significant trash problems, rather than looking at on a City by City and watershed by watershed basis.

2. The specific design of catchment devices meeting the specified requirements is unclear. There is concern that the lower portion of the watersheds where the devices are suggested may be environmentally sensitive. There is also concern installation of the devices may cause flooding. The City of Belmont is heavily wooded and much of what would be captured in the creek is natural material such as tree branches. This doesn't seem to further goals of trash reduction
3. The draft permit proposes to make the stormwater requirements for rehabilitating and reconstructing roads more stringent than required by the current permit. The proposed permit (Provision C.3.b.i.(1)(b)) would only allow "pavement resurfacing within the existing footprint" to be excluded from the stormwater treatment requirements imposed on "Regulated Projects" (which include arterial streets and roads). Current permit language describing the exclusion of "...pavement resurfacing, repaving and road pavement structural section rehabilitation, within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed" (current permit Provision C.3.c.i.3) continue to be used in the new permit. This language is more inclusive than the proposed permit's language, and continuing the flexibility allowed by the existing permit is essential to being able to maintain existing roads without the additional expense and right of way and utility expense associated with retrofitting stormwater treatment controls.
4. Section C.4, C.5 and C6 require implementation of new procedures, ordinances and development of Legal Authority. Timelines for implementation are too short. Completion of these tasks will require development and research of appropriate code language, coordination with other agencies, training of staff, and public outreach. Timelines for implementation need to be extended.
5. The draft permit's Exempted and Conditionally Exempted Discharges section (Provision 15) would require Permittees to meet very detailed requirements on discharges of conditionally exempted discharges to storm drain systems and watercourses within their respective jurisdictions. These requirements would apply regardless of whether the discharge flows through the municipal separate storm sewer system or whether the discharges are under the control of local municipalities. Section C.15.b – Conditionally Exempted Non-Stormwater Discharges includes number of discharges of air conditioning condensate to be reported to the Regional Water Board. The draft permit would require that municipalities be responsible for every discharge of pumped groundwater, foundation drain, water from crawl space pumps, and footing drains meeting "water quality standards consistent with the existing effluent limitations in the Water Board's NPDES General Permits..."(Provision C.15.b.i.(1)(c)). This would include the municipality being responsible for expensive water quality testing of suspended solids, total petroleum hydrocarbons, volatile organic compounds, and metals. Further, the municipalities would be required to "maintain records that these discharges, BMPs implemented, and any monitoring data collected demonstrate that the discharges meet the unprohibited criteria" (Provision C.15.b.i.(2)).

The draft permit's proposed level of regulation represents an approach to managing minor types of non-stormwater discharges that pose a limited threat to water quality. The fact sheet does not describe the basis for the proposed requirements. It is infeasible to monitor these discharges. The Water Board adopted a reasonable way to regulate these minor types of non-stormwater discharges in its amendment to SMCWPPP's permit in July 2004. This 2004 permit amendment provides a simple list of BMPs that would need to be implemented to address minor non-stormwater discharges. We recommend that this provision of the permit be totally rewritten and include a simplified table of BMPs similar to what was done in the 2004 permit amendment.

In addition, the draft permit also includes detailed requirements for planned, unplanned, and emergency discharges of potable water (Provision C.15.b.iii). The City should not be responsible for water purveyors.

Language should be added to the permit to provide municipalities flexibility to choose whether they want to take responsibility for ensuring water utilities comply with the requirements proposed for potable water discharges. For municipalities that choose not to assume responsibility for water utility discharges, the Water Board should adopt a General Permit for these types of discharges.

6. The Water Board should recognize that municipalities need a way to fund significant, new, Permit requirements. This is particularly important given the current difficult financial times and lack of available funds that could be diverted from existing stormwater tasks to new stormwater tasks or from other existing municipal budget priorities to stormwater. The Water Board should recognize that municipalities need an opportunity to successfully achieve permit compliance by allowing an adequate phase in period for municipalities to attempt to secure additional sources of revenue.

Municipalities need time to develop financial plans, educate property owners and/or voters on the need for additional funding, attempt to secure voter approval of bonds and/or additional taxes and assessments, and, if successful, start to collect sufficient funds to undertake the projects needed to comply with the permit. The permit's compliance dates should be adjusted to provide at least a five year period to attempt to secure and accrue the necessary revenue to meet significant new permit requirements.

We appreciate your consideration of our comments.

Sincerely,



Karen Borrmann
Assistant Director of Public Works

c. Raymond E. Davis, Public Works Director