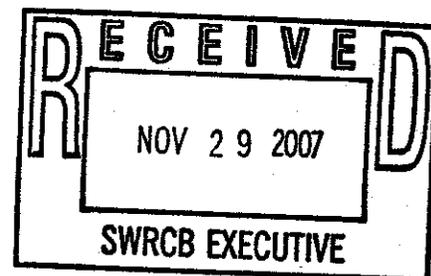


Public Comment
Caltrans SWMP
Deadline: 11/30/07 by Noon

From: <Bromley.Eugene@epamail.epa.gov>
To: <commentletters@waterboards.ca.gov>
Date: Thu, Nov 29, 2007 4:33 PM
Subject: Comments on Caltrans Proposed SWMP

EPA, Region 9's Water Division and Waste Management Division have reviewed the Stormwater Management Program (SWMP) proposed by Caltrans which the State Water Board made available for public comment in September 2007. Following below are our comments on the proposed SWMP (by section).

The comments from the Waste Management Division (WMD) pertain primarily to the use of compost as a BMP in the SWMP. Caltrans and the California Integrated Waste Management Board have been working for the past few years developing a suite of compost specifications for managing stormwater, controlling erosion, and improving roadside vegetation through compost-based BMPs. A series of ten workshops have been held throughout the state to introduce these specifications to Caltrans designers and contractors, compost producers and other interested parties in city, county, or regional governmental agencies. Therefore, WMD believes that the use of compost for stormwater controls should be listed as a BMP in the SWMP. Specific comments related to the use of compost are found below in the relevant sections of the SWMP.



Section 1 (Overview)

Section 1.1.4 indicates that Caltrans policies, manuals and related guidance documents are not enforceable due to Section 13360 of the California Water Code (which prohibits the State from specifying the particular manner in which compliance with a permit is to be achieved). We disagree with this statement and believe it should not be in the SWMP. Many of Caltrans guidance documents (such as the various guides related to construction and maintenance) provide additional more detailed information concerning the BMPs which Caltrans proposes to implement. The enforceability of the permit would be undermined if these guides were themselves not considered enforceable.

Section 13360 of the Water Code would seem more intended for traditional NPDES permits with numeric end-of-pipe effluent limits for the discharges. For stormwater permits, BMPs such as those set forth in the manuals are the effluent limits and they should be as detailed as possible to clearly specify what is required. BMPs are authorized by NPDES regulations at 40 CFR 122.44(k) when traditional numeric effluent limits are not feasible and this is often the case for stormwater permits.

Caltrans acknowledges that the SWMP itself is enforceable even though it provides considerable information on the manner in which compliance with the permit would be achieved. We do not see that enforcement of the more detailed descriptions in the guides is different with respect to the Section 13360 issue. The Maintenance Staff Guide (see page 1.4) even considers itself to be part of the SWMP. MS4 permits throughout California are becoming more detailed in their requirements to clarify MEP and improve the enforceability of the permit, and we believe the next Caltrans MS4 permit should do likewise.

Section 2 (Management and Organization)

No comments

Section 3 (Monitoring)

Section 3.1 (Page 3-2) of the SWMP indicates that the main discharge characterization effort during the next five years will be the long-term discharge characterization study. However, little information is provided concerning the details of this study. It appears that it would be a continuation of the types of monitoring previously described in Section 3.1 of the SWMP; this is not clear. Measurable Objective C.12 also notes that a new monitoring plan will be submitted to the State Board in year 1 of the permit. We recommend that the SWMP include additional information about the long-term discharge characterization study prior to the issuance of the next permit so that the public will have an opportunity to comment on the study at the time of permit issuance.

Additional information (beyond what is in the SWMP) concerning some of Caltrans' other monitoring efforts (e.g., ASBS monitoring, herbicide monitoring and source identification) can be found in Caltrans' March 2007 Status Report on Stormwater Monitoring and BMP Development. This additional information should be incorporated by reference into the SWMP.

The SWMP provides a minimum list of constituents to be monitored in Table F-7; the SWMP indicates that the list was derived from an analysis in the 2003 Discharge Characterization Study Report. However, it is not entirely clear how the list in Table F-7 was developed and this should be explained in the SWMP. For example, diazinon and chlorpyrifos are not recommended for further monitoring in the 2003 report, but they appear in Table F-7. Fecal and total coliform receive a "medium" ranking in the 2003 report but are not present in Table F-7. Another pollutant which seems to be missing is bis (2-ethylhexyl) phthalate which was reported in concentrations of concern in Caltrans 1998 Compliance Assessment Report for District 7.

From the data reported in recent monitoring reports (such as the 2007 Annual Report), it appears that Caltrans has been primarily monitoring a limited set of pollutants which Caltrans believes most likely to be present in highway (and other Caltrans property) runoff at concentrations of concern. However, this leaves unanswered the question of full compliance with the California Toxics Rule (CTR) and its many constituents. Table 15.2 of the SWMP indicates that the CTR Characterization Study results are expected in year 2 of the SWMP. The ultimate list of pollutants to be monitored should be revisited at the conclusion of the CTR Characterization Study.

It should also be noted that the 2007 Annual Report and the SWMP have conflicting information concerning the status of the CTR Characterization Study; the Annual Report indicates the Study is complete; the SWMP indicates it is not.

Section 4 (BMP Development)

No comments

Section 5 (Project Design and Planning)

This Section provides a description of the structural BMPs which Caltrans intends to include in the design of future projects. We recommend that SWMP also provide a description of the extent to which such BMPs already exist in the highway drainage system. This would allow a better understanding of the extent to which runoff from existing highways is (or is not) subject to structural BMPs before discharge. A January 2004 Caltrans report discussed the results of a structural BMP retrofit program in Caltrans Districts 7 (Los Angeles) and 11 (San Diego), and found that retrofits were technically feasible and could reduce pollutant loadings in many circumstances. Understanding the degree to which structural BMPs are (or are not) already present would allow a better understanding of the potential benefits of additional retrofits.

Section 5.4.3 indicates that for future construction projects, the pre-construction hydrograph will be maintained "as closely as is feasible." The discussion also refers to Measurable Objectives A.8 and C.14 for more information. Objective A.8 mentions incorporation of a hydromodification study into project design in year 3. However, there seems to be a step missing here - preparation of the hydromodification study itself; we would suggest that this be required in year 2. Further, given the vague commitment to maintain the hydrograph "as closely as is feasible" we recommend that the hydromodification study be submitted to the State Board for review and approval before incorporation into Caltrans design manuals.

Section 6 (Construction)

The existing Caltrans MS4 permit requires that Caltrans comply with the existing Statewide construction general stormwater permit. Given that the Statewide permit is currently being reissued and that significant changes are being proposed, we suggest that the construction requirements in the SWMP be revisited once the requirements of next statewide construction permit are closer to finalization.

Section 11.6 of the SWMP indicates that Caltrans does not provide training for its construction contractors ("gifting of public funds" issue is cited as the concern). The SWMP does note that a contractor must have a qualified Water Pollution Control Manager, but this leaves questions about the adequacy of the training for contractor staff. Section 6.4.1 of the SWMP indicates that Caltrans relies heavily on its contractors for conducting construction site inspections, and this highlights the importance of training for contractors. NPDES regulations at 40 CFR 122.26(d)(2)(iv)(D)(4) require that MS4s provide educational and training opportunities for construction site operators. From the 2007 Annual Report, it appears that contractors do at least receive some informal training from Caltrans (see Section 2.2.1). Still, with the limitation described in Section 11.6 of the SWMP, it is unclear that Caltrans has adequately responded to the requirement of 40 CFR 122.26(d)(2)(iv)(D)(4) regarding training for contractors. As such, we recommend that the SWMP be revised to either add such training, or

explain how existing procedures adequately address this issue.

In Table 6-1 (Construction Site BMPs for Typical Highway Construction Activities), compost blankets, filters (filter socks) and berms should be listed under Temporary Soil Stabilization and Temporary Sediment Control.

Section 7 (Roadway Maintenance Activities)

Section 7.4 refers a "stormwater maintenance guidance" (Caltrans, 2003a). However, this document is not listed in the references section. We did find a document on the Caltrans website entitled "Stormwater Quality Handbook, Maintenance Staff Guide" dated May 2003, revised October 2007. This is apparently the guidance in question and should be listed in the references section. It should also be considered an enforceable part of the SWMP since it provides more details on Caltrans maintenance procedures and would greatly enhance the enforceability of the permit. There is also another maintenance manual on the Caltrans website dated July 2006. However, Chapter F of this manual refers to the other manual (the Maintenance Staff Guide) for more details about the maintenance program as it pertains to stormwater quality.

As the State Board is probably aware, the City of Austin has recently found that coal-tar based seal coats for parking lots is a significant source of PAHs - see for example:
<http://pubs.acs.org/cgi-bin/sample.cgi/esthag/2005/39/i15/html/es0501565.html>

Caltrans maintenance guide indicates that its operations include the use of seal coats for some of its maintenance operations. Although it is believed that on the West Coast asphalt-based seal coats are more commonly used (and have substantially lower concentrations of PAHs), we would confirm with Caltrans that it does not use coal-tar based seal coats (or otherwise prohibit the use of such seal coats in the next MS4 permit).

In Table 7-2 (Maintenance BMPs), compost blankets, filters (filter socks) and berms should be listed under Sediment Control and Soil Stabilization BMPs.

Section 8 (Facilities Operation)

This section describes BMPs to be implemented at Caltrans facilities such as maintenance and equipment storage yards, rest areas and warehouses. First, it would be helpful if the SWMP were to describe how many of these facilities there are in the State in order to better appreciate the potential significance of the runoff from the facilities. Section 8.3 also refers to a Facility Pollution Prevention Plan (FPPP) template which Caltrans has developed. Although the basic outline of the template is described in the SWMP, the full template should also be available for review (we were unable to find the template on Caltrans website).

Table 8.1 lists the BMPs typically found in a FPPP. One BMP which seems to be missing from Table 8.1 is vehicle and equipment cleaning. The Caltrans Maintenance Staff Guide notes this is a BMP which Caltrans implements. Further, facility inspection is a BMP mentioned in Section 8.3 as a basic component of a FPPP but is not listed in Table 8.1.

Section 9 (Non-Department Activities)

The SWMP indicates that the Caltrans ROW includes a number of activities including commercial and industrial activities which are operated by third parties. The SWMP (or an appendix) should include a list of the industrial facilities, at a minimum, for compliance with 40 CFR 122.26(d)(2)(ii). We would further recommend identification of significant commercial facilities (e.g. restaurants, automotive fueling/repair) as is commonly required by other California MS4 permits. Further, the SWMP should include a detailed inspection and pollution control program for such facilities similar to what is required for other MS4s (e.g., the 2007 San Diego County MS4 permit). The proposed Caltrans SWMP only indicates that industrial facilities are "routinely" inspected; more specific information would be appropriate for the SWMP, or the next MS4 permit.

Section 10 (Non-Stormwater Activities/Discharges)

With regards to illicit discharges/illegal dumping the SWMP mentions a number of activities such as spill response and tracking. One component which seems to be missing is a provision to specifically facilitate the reporting of illegal dumping by the public - such as providing and advertising an 800 number which the public could call to report illegal dumping. This is a common component of MS4 stormwater management programs and is a requirement of 40 CFR 122.26(d)(2)(iv)(B). Another component which seems to be missing is an active program to search for illegal connections, rather than just reporting them when they are discovered by chance. Such connections may be rare for Caltrans given the nature of its MS4, but it should be addressed by the SWMP.

Section 11 (Training)

Section 11.1 notes that Caltrans provides "regular" training sessions, but does not elaborate on the frequency of the sessions. We recommend that the SWMP provide more details on the frequency of the training. EPA's Phase II stormwater menu of BMPs notes that annual training would be typical of MS4 programs.

Section 12 (Public Education)

The proposed public education program should be more specific in what it proposes to accomplish. For example, the SWMP lists a number of community events which may be targeted, and a list of types of printed materials which may be used. Further, a list of mass media options is provided which may be considered. The SWMP needs to be more specific concerning what will be done so that the public and the State can better evaluate its adequacy, and for it to be enforceable.

Section 13 (Location Specific Activities)

BMP programs for ensuring consistency with applicable TMDLs is one of the critical components of the SWMP and the next MS4 permit for Caltrans. Section 13 of the SWMP indicates that activities to comply with TMDLs are found in the District Work Plans (DWPs). We would

recommend that the SWMP at least provide a list of all the TMDLs statewide for which Caltrans has been assigned a wasteload allocation (we understand there are about 30 of these). Further, the DWPs which include Caltrans activities to comply with TMDLs should be considered part of the overall SWMP, and be directly enforceable.

One of the principal Caltrans Districts subject to TMDL requirements is District 7 (Los Angeles). Here, for several TMDLs, the latest DWP indicates that Caltrans is investigating compliance alternatives, but no further information is provided. We recommend that the DWP provide the implementation schedule for the various TMDLs so that at least the time frame for development of the compliance alternatives is clarified. For any TMDLs with a compliance deadline within the next 5-year permit term, the DWP should also explain how Caltrans intends to comply with the TMDL by the deadline.

Section 14 (Program Evaluation)

The 2007 Annual Report notes that Caltrans is adopting the program effectiveness framework developed by CASQA (which includes 6 levels of effectiveness). However, Section 14 of the SWMP seems to be limited to the programmatic measures of effectiveness (levels 1 to 3), such as construction site field compliance. We recommend that the program evaluation also include the water quality measures in the CASQA effectiveness framework (levels 4 to 6). We also recognize the difficulties in demonstrating results at levels 4 to 6, but we believe that the SWMP should at least commit to address this matter to the extent possible.

Appendix C (Summary Descriptions of Best Management Practices)

In Section 1.4, the definitions of compost blankets, filters (filter socks) and berms should be included.

Appendix C (Summary Descriptions of Best Management Practices)

In Table C-1, compost blankets, filters (filter socks), and berms should be listed under Treatment BMPs and Sediment/Erosion Control.

Thank you for the opportunity to comment on the SWMP proposed by Caltrans. Should you have any questions, please call Eugene Bromley of the Water Division at (415) 972-3510, Cara Peck of the Waste Management Division at (415) 972-3382.

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