

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF OCTOBER 19, 2007

Prepared September 21, 2007

ITEM NUMBER: 14

**SUBJECT: Municipal Storm Water Regulation and Program Management-
Consideration of a New Approach with Stakeholder Involvement**

SUMMARY

The Central Coast Regional Water Board has within its jurisdiction 116 municipal separate storm sewer systems (MS4) subject to the Phase II General Permit for Municipal Stormwater (General Permit). The General Permit requires MS4s to prepare and submit Storm Water Management Programs (SWMPs). The SWMPs are reviewed and approved by Board staff, may be reviewed by the public, and may require approval by the Water Board at a public meeting. Consequently, staff, the Board, and the public spend considerable time reviewing and discussing each SWMP on an individual basis.

The Water Board received 110 SWMPs covering the 116 MS4s in the Region. After four years, the Water Board has approved eight SWMPs and 102 await approval. While discussions about SWMP adequacy continue four years into the General Permit cycle, few MS4s in the region are required to implement storm water programs because they lack permit coverage. To adequately protect surface waters on the Central Coast, it is critical to enroll all designated MS4s in a storm water permit because improved water quality depends on their implementation of programs that are effective at managing urban runoff.

Staff is seeking Board concurrence with a plan to involve stakeholders in the development of a more efficient way to regulate MS4s. Municipal storm water regulations and implementation of municipal storm water management plans impact numerous stakeholders in the Central Coast Region. All stakeholders will be invited to contribute to developing a solution.

Staff anticipates the following schedule:

- planning stakeholder involvement process- three months (October 20, 2007-January 20, 2008)
- executing stakeholder involvement process- nine to twelve months (February 2008- October 2008/January 2009)
- Board approval process- three to six months (November 2008- January 2009 or February 2009 to April 2009).

This approach is intended to result in the establishment of municipal storm water programs protective of water quality with permit coverage for all MS4s in the region.

DISCUSSION

Background

The Central Coast Region is unique not only because of the number of MS4s, but also because of the heightened interest in storm water issues by various stakeholders. The Central Coast Water Board office has more Attachment 1¹ and 2² Phase II MS4s in its jurisdiction than any other Water Board office in the state. In addition, the heightened public interest in municipal storm water issues in this region has had a significant influence on the SWMP approval process. Of the eight Water Board offices³ that have Phase II MS4s, only the Central Coast Water Board has had requests for and held hearings to approve SWMPs.

From 1999 to 2003, the Central Coast Region had one municipal Phase I permit holder. However, with the advent of Phase II of the storm water program in 2003, we received 110 General Permit applications. The Central Coast Region did not receive any additional resources when Phase II began. To review the General permit applications and approve SWMPs for Phase II MS4s, staff has been using a portion of the resources allocated for all functions of the storm water program (such as industrial and construction permit enrollment and compliance, annual report reviews, enforcement). In 2006, we received one additional person year of resources which allowed us to increase our resource allocation for SWMP approvals. There are no plans by State Board to increase staff resources.

Current Program

The current municipal storm water approval process involves reviewing SWMPs, providing comments to the MS4 operators, posting SWMPs for public review and comment, Board approval, and, in some cases, holding a public hearing. Two of the three SWMPs approved in Board hearings were subsequently petitioned to State Board, creating a need for staff and attorney time to respond.

Using our current approach, staff and the Board approved eight storm water management programs in the first four years of the permit term (Table 1). There are twenty four traditional (city and county) SWMPs that still need approval and seventy eight non-traditional (prisons, universities, military bases, school districts) SWMPs awaiting approval.

¹ Attachment 1 – MS4s that were automatically designated by US EPA pursuant to 40 CFR section 122.32(a)(1) because they are located within an urbanized area.

² Attachment 2 – Traditional small MS4s that serve cities, counties, and unincorporated areas that are designated by the Regional Water Quality Control Board.

³ The Central Valley Water Board has three offices, and the Lahontan Water Board has two. The other seven regions have a single office. The Los Angeles, Lahontan, Santa Ana and San Diego Regions do not have any Phase II MS4s.

Table 1 – MS4s Currently Enrolled in the General Permit

MS4	Permit Coverage Started	General Permit Attachment
Soledad	Sept 2004	Attach 2
Paso Robles	Jan 2005	Attach 1
Morgan Hill	Mar 2005	Attach 1
Hollister	Feb 2006	Attach 2
Santa Barbara Co ⁴	Jul 2006	Attach 1
Monterey Regional	Sep 2006	Attach 1
San Luis Obispo Co ⁵	Mar 2007	Attach 1
Carpinteria USD	Aug 2005	Attach 3 ⁶

The General Permit is a National Pollutant Discharge Elimination System (NPDES) Permit. NPDES Permits expire five years from the date of adoption. The General Permit was adopted in 2003 and expires in 2008 unless administratively extended. The State Water Board has not indicated whether the reissued General Permit will require permit applicants to amend and resubmit their SWMPs for approval every five years, or whether the reissued General Permit will include more stringent or more specific SWMP requirements.

SWMP re-approval is required every five years; therefore, to ensure all MS4s have permit coverage, 110 SWMPs must be reviewed and approved every five years; staff or the Board must approve 22 SWMPs each year ($110/5=22$). Based on projected scenarios explained and depicted in Attachment A, staff estimates that it would take four times the current staffing level just to review and approve SWMPs for all MS4s in the region at the current rate with the current approach. Even if re-approval is not required, similar resources are necessary to complete the enrollment process for the 102 pending SWMPs.

In light of these challenges, staff recognizes that the current strategy for managing the Phase II Municipal Storm Water Program is ineffective and, with current resources, will never result in a successful program. A successful municipal storm water program is one with all designated MS4s enrolled in a current permit with approved SWMPs that are protective of water quality.

A successful storm water program must meet the requirements of the federal Phase II MS4 regulations and will have to be as stringent as the current permit requirements. For example, the

⁴ Regional Board SWMP approval petitioned to State Water Board

⁵ Regional Board SWMP approval petitioned to State Water Board

⁶ Attachment 3 – These are non-traditional MS4s including school districts, military bases, universities, and prisons.

resulting strategy will still require municipal stormwater programs to address both stormwater quality and quantity.

In the past four years staff has considered several approaches to move the municipal program forward more efficiently. Examples of approaches considered include drafting a regional municipal permit (with all MS4s named as co-permittees), drafting a regionwide general municipal permit (that all MS4s must enroll in), drafting several watershed or areawide permits, developing consensus with interested parties regarding SWMP content, or providing more specific information about acceptable SWMP components (i.e., specific information about what is required to meet the "maximum extent practicable" standard) early in the SWMP review process. Ultimately, staff recognized the importance of involving stakeholders directly in developing a solution to the issues associated with the municipal program. The solution could be one of these approaches, an approach not already considered by staff, or a combination of various approaches.

Proposed Approach

Staff proposes to develop a more efficient and performance-based approach to regulating MS4s. Staff intends to do this by engaging stakeholders in a process that includes MS4 owners, the public, and other agencies. The stakeholder engagement process will provide an opportunity for all stakeholders and staff to identify issues impacting the municipal program and develop solutions.

The stakeholder process will involve deliberate steps to prepare, plan, design, and engage stakeholders. Attachment B illustrates the steps staff will follow in constructing the stakeholder engagement process. Stakeholder relations can span between "Ignore" and "Monitor" to "Collaborate" and "Partner" (Attachment C). Staff will design this process for stakeholder partnership in identifying municipal stormwater permitting issues and developing/providing solutions.

If the Board concurs with this approach, staff will develop a detailed stakeholder engagement process and begin implementing it as soon as possible. Staff is committed to conducting the stakeholder engagement process in a transparent fashion, in full partnership with stakeholders. As a result, the details will evolve with the efforts of the group. Consequently, staff will provide the Board with quarterly status reports detailing the progress of the stakeholder process. Staff's goal is to develop a workable strategy for municipal storm water program regulation and implementation within fifteen months.

Staff's first actions would be to: a) create a web page to house information about the stakeholder engagement process so that consistent, reliable information is available to all stakeholders and members of the public, and b) invite all stakeholders by phone or email to participate in the process, explaining how and why it will be beneficial for them to participate and informing them about the web page.

During the stakeholder process, staff will not review or present additional SWMPS to the Board. However, staff will notify all MS4s that storm water pollution discharges must be minimized or eliminated for compliance with the Clean Water Act and the California Water Code and consequently, they should be controlling their storm water discharges as effectively as possible.

By supporting a municipal storm water stakeholder process, the Board will allow staff and stakeholders to work towards a solution that will result in all MS4s effectively reducing pollutant discharges from storm sewer systems within the Central Coast Region.

Additional Information

Any questions or comments regarding this staff report and the proposed stakeholder process should be directed to staff member Ryan Lodge at the Central Coast Regional Water Quality Control Board office, at 895 Aerovista Place, Suite 101, San Luis Obispo, CA 93401, attention Ryan Lodge, or (805) 549-3506, or rlodge@waterboards.ca.gov.

RECOMMENDATION

Water Board staff recommend the Board support staff in development of a more efficient, performance-based municipal storm water program through implementation of a municipal stakeholder engagement process that will produce a more efficient and effective municipal storm water program.

ATTACHMENTS

- A. Current Program's History of SWMP Adoption and Projections for Future SWMP Adoptions
- B. Stakeholder Engagement Planning Process
- C. Stakeholder Relations Continuum

REFERENCES

Stakeholder Engagement Planning Overview (2004) Retrieved September 7, 2007, from <http://www.altria.com/responsibility/pdfs/Overview.pdf>