

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

**STAFF REPORT FOR REGULAR MEETING OF May 3, 2012**  
Prepared on April 10, 2012

**ITEM NUMBER:** 16

**SUBJECT:** Revision of Waste Discharge Requirements, Reissuance of National Pollutant Discharge Elimination System Permit No. CA0049981 for the City of Salinas Municipal Storm Water Discharges, Monterey County, Order No. R3-2012-0005

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**KEY INFORMATION**

Location: Salinas, California  
Type of Discharge: Municipal stormwater  
Disposal Method: Surface water discharge at multiple locations to the Reclamation Ditch, Gabilan Creek, Natividad Creek, and Santa Rita Creek; and at one location to the Salinas River  
Existing Orders: Waste Discharge Requirements Order No. R3-2004-0135  
**This Action:** **Adopt Draft Municipal Stormwater Order (Draft Order) No. R3-2012-0005**

## I. SUMMARY

The City of Salinas (City) owns and operates a municipal separate storm sewer system (MS4). As such, the City is required by the federal Clean Water Act to obtain a National Pollutant Discharge Elimination System (NPDES) permit for discharges to Waters of the U.S. from its MS4. The Central Coast Regional Water Quality Control Board (Central Coast Water Board) initially issued municipal stormwater Order No. 99-087 (NPDES Permit No. CA0049981) to the City. The Central Coast Water Board renewed that Order with changes through adoption of existing Order No. R3-2004-0135 in March, 2005. Existing Order No. R3-2004-0135 was due for renewal in 2010.

On February 2, 2012, the Central Coast Water Board conducted a hearing to renew the existing Order with City of Salinas Municipal Stormwater Draft Order No. R3-2012-0005 (Draft Order). On February 2, 2012, the Central Coast Water Board voted to continue the hearing. The purpose of the continuance was to allow the City to submit proposed revisions to the Draft Order and provide clarification for previously submitted information. In response to the continuance, the City submitted proposed revisions to the Draft Order and cost information to Central Coast Water Board staff. Central Coast Water Board staff held several discussions with City staff on their submittals during February and March of 2012. As a result of these discussions, Central Coast Water Board staff made modifications to the Draft Order. Working together, Central Coast Water Board staff and City staff succeeded in resolving most of the City's comments. Central Coast Water Board staff also made changes to the Draft Order as a result of direction from the Central Coast Water Board during the February 2, 2012 hearing. Staff recommends that the Central Coast Water Board adopt this modified Draft Order No. R3-2012-0005.

The Attachments contain specific information and are referred to at various points throughout the Staff Report. The remainder of the Staff Report is organized as follows:

- II. PUBLIC COMMENT
- III. DISCUSSIONS WITH CITY OF SALINAS
- IV. KEY ISSUES
- V. CHANGES TO DRAFT ORDER NO. R3-2012-0005 SINCE FEBRUARY 2, 2012
- VI. RECOMMENDATION
- VII. ATTACHMENTS
  - 1. Central Coast Water Board Staff February 6, 2012 Letter to City of Salinas Outlining Next Steps
  - 2. Comments and Responses
    - a. Key Issues Raised by the City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response
    - b. Letter from City of Salinas Received February 20, 2012 on Draft Order No. R3-2012-0005
    - c. Proposed Modifications and Comments Received from City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response
    - d. City of Salinas Cost Information dated March 6, 2012 on Draft Order No. R3-2012-0005
  - 3. Draft Order No. R3-2012-0005 (the Draft Order dated April 10, 2012 in its entirety), including all proposed changes since February 2, 2012
  - 4. Fact Sheet for Draft Order No. R3-2012-0005 (provides background and rationale for the Draft Order Findings and Provisions – dated April 10, 2012)

The staff report, including supplemental sheets for the February 2, 2012 Central Coast Water Board hearing for the Draft Order can be found here:

[http://www.waterboards.ca.gov/centralcoast/board\\_info/agendas/2012/feb/Item\\_21/index.shtml](http://www.waterboards.ca.gov/centralcoast/board_info/agendas/2012/feb/Item_21/index.shtml)

## **II. PUBLIC COMMENT**

The Central Coast Water Board will provide an opportunity for oral comments at the hearing scheduled for May 3, 2012. Given that the Central Coast Water Board held a hearing on this matter on February 2, 2012, the Central Coast Water Board encourages oral comments that focus on the revisions to the Draft Order made since the February 2, 2012 Board Meeting. Revisions to the Draft Order since the February 2, 2012 Board Meeting are shown in the April 10, 2012 version in underline and strikeout format.

## **III. DISCUSSIONS WITH CITY OF SALINAS**

On February 2, 2012, the Central Coast Water Board directed Central Coast Water Board staff to continue discussions with City staff on the Draft Order. In a letter sent on February 6, 2012, Central Coast Water Board staff outlined next steps and invited City staff to identify proposed revisions to the Draft Order and language in the Draft Order that City staff found to be vague or potentially subject to differing interpretations. In addition, the letter invited the City to submit estimates of increased costs that would be incurred by the City under the Draft Order. This letter, Central Coast Water Board Staff February 6, 2012 Letter to City of Salinas Outlining Next Steps, is Attachment 1 to this Staff Report. City staff submitted comments on the Draft Order and cost information as well as additional information when requested by Central Coast Water Board staff. The City's comments and cost information as well as Central Coast Water Board staff responses are included in Comments and Responses (Attachment 2 to this Staff Report).

Central Coast Water Board staff initiated nine telephone discussions with City staff between February 23 and March 27 to discuss the City's comments. To guide these conversations, City and Central Coast Water Board staff jointly developed a list of priority issues for discussion based on the City's comments. Working together, Central Coast Water Board staff and City staff succeeded in resolving most of the City's comments.

## **IV. KEY ISSUES**

### **A. Key Issues Raised by Central Coast Water Board Members**

At both the February 2, 2012 and March 15, 2012 Board Meetings, Central Coast Water Board Members raised the issue of new development and redevelopment requirements having the potential to hinder infill and redevelopment projects. Central Coast Water Board staff is aware of this issue and acknowledges the multiple environmental benefits of infill and redevelopment as compared to greenfield development. Central Coast Water Board staff recognizes the direct nexus to water quality and watershed health from doing such things as focusing development in the urban core, which typically requires less supporting infrastructure (e.g., roads), and redeveloping areas that are already disturbed, instead of creating new impacts and expanding the urban footprint.

The primary vehicle for developing the specific long-term requirements for infill and redevelopment under the Draft Order is the Central Coast Water Board Joint Effort for Hydromodification Control (Joint Effort). The Joint Effort will take the environmental and watershed benefits of infill and redevelopment into consideration during its development of the long term infill and redevelopment requirements. The Joint Effort is currently undergoing a substantial public process that will provide

Central Coast Water Board Members and stakeholders ample opportunity to consider and address the issue of appropriate requirements for infill and redevelopment. The requirements developed by the Joint Effort are scheduled for consideration by the Central Coast Water Board on September 6, 2012.

Since a main purpose of the Joint Effort is the development of reasonable and effective requirements for new development and redevelopment, Central Coast Water Board staff finds that the Joint Effort process is the best process for addressing the issue of appropriate requirements for infill and redevelopment. Attempting to identify the appropriate long term infill and redevelopment requirements in the Draft Order would circumvent the Joint Effort. As such, the Draft Order itself does not resolve the issue of identifying the appropriate long term requirements for infill and redevelopment, but rather acknowledges the Joint Effort's central role in working on the issue and relies upon the Joint Effort process for its resolution. The Joint Effort's rigorous and focused process for identifying appropriate requirements for infill and redevelopment will dictate the long term infill and redevelopment requirements in Salinas.

In the interim, during the relatively short time period until January 30, 2013 when Central Coast Water Board staff expects the Joint Effort's requirements to be in place, the Draft Order includes multiple mechanisms to ensure its short term requirements do not deter infill and redevelopment. These include: (1) an alternative compliance option for projects where the density or nature of a project would create significant difficulty for compliance; (2) an alternative compliance option that allows compliance to be achieved at a nearby offsite location when the nearby offsite location will result in greater pollutant load or runoff control; and (3) an option allowing the City to take over the responsibility for funding implementation of alternative compliance options for infill and redevelopment projects if it so chooses. These options provide substantial flexibility to infill and redevelopment projects while also ensuring protection of water quality and watershed processes.

## **B. Key Issues Raised by the City of Salinas Since February 2, 2012**

### *Explanation of Comments and Responses*

Central Coast Water Board staff received the following comment submittals from the City since February 2, 2012:

- Comment cover letter, received on February 20, 2012 (included as Attachment 2.b to this Staff Report);
- Included with the City's cover letter, specific proposed modifications and comments on Draft Order language in track-changes (underline and strikeout) format with City comments inserted throughout the Draft Order text, received February 20, 2012. The City revised the specific proposed modifications and resubmitted them on February 21, 2012 (included as Attachment 2.c to this Staff Report); and
- Estimated costs of implementing Draft Order requirements, received March 6, 2012 (included as Attachment 2.d to this Staff Report).

To address these comments, Central Coast Water Board staff has structured comment responses in this Staff Report in the following ways:

- City and Central Coast Water Board staff jointly developed a priority list of key issues for discussion. These key issues are listed briefly below (Key Issues and Comments Discussion in Section IV.B) and discussed in more detail in Attachment 2.a to this Staff Report.
- In a telephone conversation with Central Coast Water Board staff, City staff indicated that only one issue in the City's February 20, 2012 cover letter (the City's suggestion that

Central Coast Water Board staff provide more frequent review and input on of the City's program) required a separate response. The remaining issues in the cover letter are included in the specific proposed modifications and comments. Central Coast Water Board staff's response to the City's comment on Central Coast Water Board staff review and input is included in Key Issues Raised by the City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response (Attachment 2.a to this Staff Report).

- Central Coast Water Board staff responded to the City's specific proposed modifications by inserting responses immediately following the City's comments as they appear within the text of the Draft Order. These comments and responses are included in the Proposed Modifications and Comments Received from City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response (Attachment 2.c to this Staff Report).
- Central Coast Water Board staff identified cost as a key issue and included a comprehensive response in Key Issues Raised by the City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response (Attachment 2.a to this Staff Report).

### *Key Issues and Comments Discussion*

Key Issues Raised by the City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response (Attachment 2.a to this Staff Report) provides 1) a summary of the comments that raise each key issue, 2) comprehensive Central Coast Water Board staff responses to each key issue raised, and 3) a summary of what is still unresolved with respect to each key issue. The key issues raised by the City include:

- Development requirements will deter development because of the differences in development requirements for Salinas and smaller Phase II Central Coast municipalities;
- Stormwater Development Standards (SWDS) updates should coincide with the Joint Effort schedule so the City does not have to revise its SWDS twice;
- Applicability thresholds for new development and redevelopment final treatment criteria should not include the replacement of impervious surfaces because this will make development in greenfield areas more desirable;
- Applicability thresholds for new development and redevelopment final treatment criteria should not include turf surfaces because turf replacement projects have many existing constraints;
- Alternative compliance project scenarios in the Draft Order should be expanded to include more types of technical infeasibility;
- Specific Plan and code/ordinance requirements should be modified to identify what types of designs are allowed instead of prohibited;
- The relationship of the General Industrial Permit to the Draft Order is not clear and the City should not be responsible for implementing the General Industrial Permit;
- The relevance of Receiving Water Monitoring in the Reclamation Ditch is unclear;
- Receiving Water Monitoring costs should be shared by all dischargers;
- Responsibility for water quality conditions in the Reclamation Ditch is unclear, so that the City may be held responsible for water quality conditions to which it does not contribute;
- Street and parking lot sweeping requirements should be modified to provide more flexibility, parking lots should be treated separately, and the Draft Order's sweeping requirements constitute an increase over current requirements;
- Requirements to conduct trash assessments in the Reclamation Ditch should be eliminated because the Reclamation Ditch is not part of the City's MS4 and is outside the City's jurisdiction;

- The cost to implement Draft Order requirements could be significantly higher than current program costs; and
- More frequent Central Coast Water Board review and input on the City's program is requested so the City can use this information to improve their program.

#### *Unresolved Issues*

Extensive discussions between Central Coast Water Board staff and City staff succeeded in resolving most of the City's comments. The remaining unresolved key issues involve the monitoring program and the overall cost to implement the Draft Order. The discussions have addressed many of the City's monitoring and cost concerns by increasing the City's understanding of the Draft Order requirements. Modifications to the Draft Order language have also resolved some cost and monitoring comments. However, City staff continues to have concerns about the uncertainty of increased overall program costs as well as the relevance, fairness, and cost of the monitoring requirements. These issues are discussed in more detail in Key Issues Raised by the City of Salinas Since February 2, 2012 (Attachment 2.a of this Staff Report). Even with these remaining concerns, the City has expressed willingness to move forward with the implementation of the modified Draft Order.

#### **V. CHANGES TO DRAFT ORDER NO. R3-2012-0005 SINCE FEBRUARY 2, 2012**

Central Coast Water Board staff modified the Draft Order as a result of direction from the Central Coast Water Board during the February 2, 2012 hearing as well as a result of discussions with City staff. Following is a summary list of significant modifications made to the Draft Order. Draft Order R3-2012-0005 (Attachment 3 to this Staff Report) shows all changes made to the Draft Order since February 2, 2012 in underline and strikeout format. The Fact Sheet for Draft Order No. R3-2012-0005 (Attachment 4 to this Staff Report) also shows all changes made to the Fact Sheet since February 2, 2012 in underline and strikeout format. Footnotes in the Draft Order and Fact Sheet were renumbered to be sequential throughout each document. The renumbered footnotes are not shown in underline and strikeout format.

##### **A. Modifications to the Draft Order as a Result of Direction from the Central Coast Water Board during the February 2, 2012 Hearing**

The following changes were made to the Draft Order as a result of direction from the Central Coast Water Board during the February 2, 2012 hearing:

- Provision L - Modified language to specify the City must make planning and building document updates to "control" impacts, instead of "maintaining and restoring" impacts, to watershed processes impacted by stormwater management to protect water quality and beneficial uses within the Permit coverage area. This language change provides clarification to the City of Draft Order requirements.
- Provision J - Modified criteria for offsite alternative compliance in-lieu fees to allow for a sliding scale. This modification provides the City with additional flexibility in their alternative compliance options. The City can choose to have a different fee structure for projects that provide additional environmental or social benefit (e.g., infill, redevelopment, low income housing, senior housing, historic buildings).

## **B. Modifications to the Draft Order as a Result of Discussions with City Staff**

The following changes were made to the Draft Order as a result of discussions with City staff during February and March of 2012:

### *Draft Order as a Whole*

- Minor edits and clarifications.

### *Provision D – General Provisions*

- Clarified the version of the Stormwater Management Plan (SWMP) the City will continue to implement is the City's May 20, 2008 SWMP with additions approved by the City's Council on August 16, 2011.

### *Provision E – Municipal Maintenance*

- Provided flexibility for the City to propose an alternative to catch basin cleaning.
- Extended the timeline for developing and implementing a strategy to increase the percentage of curb miles actually swept during sweeping operations to provide consistency within the street sweeping program.
- Clarified that the City is not required to increase sweeping for parking lots beyond current levels.
- Revised the monitoring plan requirement for the Salinas River Outfall to provide the City with more flexibility in how they demonstrate the reduction of pollutant loads.

### *Provision F – Commercial and Industrial*

- Clarified trash is only required to be eliminated to the Maximum Extent Practicable.

### *Provision J – New Development and Redevelopment*

- Clarified that the City shall inform applicable project applicants of the requirements of Provision J at the pre-application meeting or first meeting with the applicant.
- Modified deadlines and requirements so all of the SWDS updates coincide with the Joint Effort schedule so the City does not have to revise its SWDS twice. The following modifications include 1) changes to initial SWDS updates so the City will accomplish the same objectives without making initial SWDS updates, and 2) changes to deadlines to align with the Joint Effort schedule:
  - Added a requirement that the City, within 45 days of adoption of the Draft Order, shall develop a guidance document identifying which sections of the SWDS are requirements and which sections of the SWDS are only information for the applicant.
  - Extended the deadline for the initial SWDS modifications from within 18 weeks of adoption of the Draft Order to 21 weeks after the Central Coast Water Board's adoption of the numeric criteria for stormwater management identified by the Joint Effort. Central Coast Water Board staff plans to recommend the Central Coast Water Board adopt the numeric criteria for stormwater management identified by the Joint Effort at the September 6, 2012 Central Coast Water Board Meeting.
  - Modified the deadline for the long-term SWDS modifications from 12 months of adoption of the Draft Order to 21 weeks after Central Coast Water Board's adoption of the numeric criteria for stormwater management identified by the Joint Effort.
  - Modified language to require the City, within 45 days of adoption of the Draft Order, to require all applicable projects in Future Growth Areas to adhere to the interim SWDS modifications.

- Modified language to more clearly specify the point in the project planning process when the City must apply the most current version of the SWDS to projects.
- Added flexibility for the City to propose additional stormwater control feature options for Non-Priority Development Projects.
- Clarified onsite and offsite compliance options for Non-Priority Development Projects.
- Clarified that continuous simulation hydrologic modeling should be based on a rainfall record of at least 30 years, if those records are available.
- Modified the applicability thresholds for the final treatment criteria to only include creation of turf surfaces, instead of creation and replacement of turf surfaces.
- Provided flexibility in the alternative compliance project scenario example for smart growth and infill or redevelopment to allow offsite stormwater management features, in the near vicinity of the subject project, when offsite features can perform more effectively than implementing onsite features.
- Added flexibility for the City to propose alternate options for the alternative compliance program based on the Joint Effort.

*Provision L – Development Planning and Stormwater Retrofits*

- Modified Future Growth Area Specific Plan language and building requirement language to identify allowances for implementing low impact development instead of requiring the City to remove impediments to implementing low impact development.

*Provision M – Public Education and Public Involvement*

- Modified the public involvement requirements to require a public involvement process instead of a public advisory group in order to provide flexibility to the City. Added the requirement to maintain an interested parties list with representation from multiple interests and to hold public involvement opportunities in a setting conducive to public participation.

*Provision P – Monitoring, Effectiveness Assessment, and Program Improvement and Attachment D – Monitoring and Reporting Program*

- Replaced the Stormwater Discharge Action Level for nitrate/nitrite with one for orthophosphate to make action levels more relevant to City discharges.
- Provided flexibility for the City to include some types of trash collection with trash capture as a means of meeting the trash reduction target in Section P.3.b.vii.
- Moved requirements for analysis of monitoring data from Attachment D to Section P to collect all program effectiveness assessment requirements in Section P.
- Added Background Receiving Water Monitoring requirements for a few important pollutants to increase the usefulness of the City's monitoring efforts by allowing water quality comparisons between upstream and downstream locations. Added a requirement to determine the change in pollutant load between upstream and downstream monitoring sites for these pollutants.
- Reduced the frequency of some toxicity monitoring to increase consistency with Cooperative Monitoring Program for Agriculture monitoring, and reduce monitoring costs.

*Attachment K – Monitoring and Reporting Program*

- Revised milestones and deadlines to reflect modifications made to the Provisions.



## VI. RECOMMENDATION

Draft Order No. R3-2012-0005 requires the City reduce the discharge of pollutants in stormwater discharges to the Maximum Extent Practicable and to protect water quality and beneficial uses, including achievement of water quality standards. The Draft Order addresses the City's contribution to water quality problems in the Salinas Valley by establishing provisions designed to reduce pollutants, achieve water quality standards, protect and restore watershed processes, and demonstrate tangible results in water quality improvement. The Draft Order contains stormwater management requirements related to municipal facilities and operations, residential areas, construction activities, commercial and industrial facilities and operations, and new development. The Draft Order also requires the first steps of watershed-based stormwater management.

The Draft Order represents the next iterative step in stormwater requirements for the City to achieve the Maximum Extent Practicable standard and receiving water quality standards. Much of the Draft Order is not new, since the City has been implementing a stormwater program since 1999. Changes in the Draft Order constitute incremental development of the City's stormwater program intended to achieve the next step in pollutant reduction and water quality and beneficial use protection.

Staff recommends that the Central Coast Water Board adopt Draft Order No. R3-2012-0005.

## VII. ATTACHMENTS

1. Central Coast Water Board Staff February 6, 2012 Letter to City of Salinas Outlining Next Steps
2. Comments and Responses
  - a. Key Issues Raised by the City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response
  - b. Letter from City of Salinas Received February 20, 2012 on Draft Order No. R3-2012-0005
  - c. Proposed Modifications and Comments Received from City of Salinas Since February 2, 2012 on Draft Order No. R3-2012-0005 and Staff Response
  - d. City of Salinas Cost Information dated March 6, 2012 on Draft Order No. R3-2012-0005
3. Draft Order No. R3-2012-0005 (dated April 10<sup>th</sup>, 2012, including all proposed changes since February 2, 2012), including the following attachments:
  - Attachment A - Acronyms
  - Attachment B - Definitions
  - Attachment C - Trash Generation Rates
  - Attachment D - Monitoring and Reporting Program
  - Attachment E - Steps for a Successful LID Design
  - Attachment F - Salinas Existing Urban Subwatersheds
  - Attachment G - Inspection Ratings
  - Attachment H - Qualifying Retrofit Projects
  - Attachment I - Standard Provisions
  - Attachment J - Modifications to Stormwater Development Standards: Initial Flow Control Criteria
  - Attachment K - Summary of Milestones and Deadlines
4. Fact Sheet for Draft Order No. R3-2012-0005 dated April 10<sup>th</sup> 2012