

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

**Staff Report for Regular Meeting of
September 19-20, 2019**

Prepared on August 29, 2019

ITEM NUMBER: 11

SUBJECT: Revision of Waste Discharge Requirements, Reissuance of National Pollutant Discharge Elimination System Permit No. CA0049981 for the City of Salinas Municipal Stormwater Discharges, Monterey County, Order No. R3-2019-0073

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ACTION: Adopt Proposed City of Salinas Municipal Stormwater Permit No. R3-2019-0073 (Draft Order)

KEY INFORMATION

Location: Salinas, California
Type of Discharge: Municipal stormwater
Disposal Method: Surface water discharge to the Reclamation Ditch, Gabilan Creek, Natividad Creek, Santa Rita Creek, and the Salinas River
Type of Discharge: Municipal stormwater

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 from its MS4 to Waters of the United States. The City has been enrolled under a municipal stormwater permit for two decades and is currently on its third municipal stormwater permit (2012 Order), which expired in 2017. Central Coast Water Board staff worked collaboratively with City staff and conducted public outreach to draft the next permit, which is focused on making quantifiable progress towards achieving water quality standards. Central Coast Water Board staff recommends the Central Coast Water Board adopt Draft Order No. R3-2019-0073 (see Attachment 3). The Draft Order Fact Sheet (Attachment H of the Draft Order) includes detailed factual information supporting the proposed Order.

This Staff Report summarizes the Draft Order priorities, public process, public comments and responses, and compliance status and program accomplishments; and recommends adoption of the Draft Order.

DRAFT ORDER PRIORITIES

Since 1999, the City's municipal stormwater permits have employed the iterative approach to program implementation whereby compliance with the maximum extent practicable standard is achieved over time through improving management measures. However, water quality data indicates that the iterative approach alone is not working – the City is not realizing water quality improvements in its discharges. To deliver the next step in municipal stormwater management, the Draft Order incorporates the following:¹

- Requires water quality standard achievement – Provide pathway to achieve effluent and receiving water limitations through a Pollutant Load Reduction Plan. Provide long-range time horizons to allow the necessary planning to achieve effective solutions and secure funding.
- Implements core program elements – Continue to provide pollutant source control and manage stormwater throughout the City, while incorporating greater flexibility for the City to structure a cost-effective program.
- Targets water quality stressors and key priorities – Incorporate requirements to target water quality stressors, including water quality conditions related to homelessness and disadvantaged communities; and, climate change adaptation.
- Uses streamlined and simplified requirements – Decrease reporting efforts relative to the 2012 Order and require enhancements to the City's information management systems to support program implementation and provide the Central Coast Water Board ongoing access to assess compliance.
- Supports fiscal planning – Improve the framework from which the City pursues program funding through asset management planning.
- Considers economics – Incorporate requirements that do not exceed federal law or represent a higher level of service relative to the 2012 Order to avoid unfunded mandate claims. Additionally, incorporate Central Coast Water Board staff's economic considerations as an attachment to the Draft Order.

PUBLIC PROCESS

Over the past year, Central Coast Water Board staff coordinated extensively with City staff while preparing the Draft Order. City staff reviewed in detail the components of the 2012 Order that worked and did not work for the City and suggested modifications; Central Coast Water Board staff and City staff communicated through meetings and

¹ Note to reader: For detailed discussion of the Draft Order approach and evolution from the 2012 Order, see Sections I-III in the Draft Order Fact Sheet (Attachment H of the Draft Order). Additionally, Section IV in the Draft Order Fact Sheet provides justifications for each Draft Order provision.

phone calls; and Central Coast Water Board staff transmitted draft language to City staff to seek early feedback and inform modifications.

Additionally, Central Coast Water Board staff hosted two public workshops at the City to discuss proposed content for the Draft Order. At the March 2019 Central Coast Water Board meeting, Central Coast Water Board staff presented an informational item to summarize Central Coast Water Board staff's work to revise and reissue the 2012 Order. Prior to the public comment period for the Draft Order, Central Coast Water Board staff distributed the Draft Order to USEPA, Monterey Bay National Marine Sanctuary, and California Department of Finance to solicit early input and provide an extended review time to these stakeholders. In June 2019, Central Coast Water Board staff released the June 2019 version of the Draft Order for public comment.

KEY ISSUES AND STAFF RESPONSES

The following stakeholders submitted comments on the June 10, 2019 Draft Order: City, California Coastkeeper Alliance, California Stormwater Quality Association (CASQA), California Water Service, and Fred Krieger, a private citizen. Commenters raised a variety of issues; however, none challenged the options for alternative compliance pathways, aside from concerns for groundwater quality, and; several comments commended Central Coast Water Board staff for various elements (e.g., spatially based information management system requirements, trash provisions). Additionally, on August 27, 2019, the United States Environmental Protection Agency (USEPA) submitted a comment letter (see Attachment 4) supporting the watershed asset management planning requirements in Provision I of the Draft Order. The following summarizes the more contentious issues raised by commenters and Central Coast Water Board staff responses to those issues:

Watershed Asset Management Planning (Provision I) –

Summary of Comments: Asset management planning for stormwater will benefit the City; however, the Draft Order should not require asset management planning because the federal regulations do not explicitly require it. The City requested extended timeframes for completing asset management planning components.

Staff Response: Because effective asset management planning provides long-term benefits for program planning and supports compliance with the Draft Order requirements to protect beneficial uses, Central Coast Water Board staff recommends retaining these requirements. Central Coast Water Board staff finds the federal regulations support all the asset management planning components. To address the City's comments, Central Coast Water Board staff amended the Draft Order to provide additional time for the City to complete asset management planning requirements, while still requiring completion of the main planning documents during the five-year permit term.

Homelessness and Transient Camp Assessments (Provisions G, L, N) –

Summary of Comments: It is outside of the City's stormwater program scope to manage homelessness and transient camps.

Staff Response: Homelessness and transient camps threaten water quality in the City. The Draft Order requires the City to better characterize the water quality challenges associated with these conditions and to take actions within the City's authorities to reduce pollutant loading from them. The Draft Order does not require the City to address the full suite of issues and challenges associated with homelessness and transient camps.

Pesticide Management (Provision N) –

Comment Summary: Remove requirements to investigate incidents of pesticide and fertilizer misuse because this is outside the City's authority.

Staff Response: The City's outfall monitoring data indicates pesticides and nutrients are present at levels exceeding pesticide and nutrient numeric targets. Central Coast Water Board staff finds it reasonable that the City improve its understanding of how these potential pollutants are applied and discharged within the Order coverage area and take measures, within its authorities, to reduce this loading and educate applicators.

Trash Abatement (Provision L) –

Comment Summary: Remove requirements that are not explicitly from the statewide trash requirements and strengthen monitoring requirements.

Staff Response: Central Coast Water Board staff amended the requirements to improve monitoring accountability. The statewide trash requirements set a minimum standard, but do not preclude the Central Coast Water Board from including additional requirements. For example, the Draft Order requires the City to continue implementing certain 2012 Order trash management activities until the new management activities come into effect. Additionally, the Draft Order includes numeric interim milestones, proposed by the City, that are not directly from the statewide trash requirements.

Drinking Water System Discharges (Provisions A, B) –

Comment Summary: Discharges associated with the operation and maintenance of wells supplying the principal drinking water system in the City may contain nitrate. The City, which is subject to a nutrient TMDL, should not be held liable for discharges to its MS4 from the drinking water system.

Staff Response: The water purveyor operating within the City must comply with a separate NPDES Permit for drinking water systems. The NPDES Permit does not authorize discharges that result in exceedances of water quality objectives or standards in receiving waters, including parameters for nitrates. However, because the purveyor's discharges are permitted under an NPDES permit, the Draft Order does not prohibit them.

Water Quality Standard Compliance Determination (Provisions B, C, F) –

Comment Summary: It is infeasible to achieve final compliance with effluent and receiving water limitations.

Staff Response: The Draft Order requires compliance with receiving water limitations pursuant to authorities granted the Water Boards through state and federal statute. The Draft Order requires the City to outline and implement an approach to effectively address receiving water limitation and effluent limitation exceedances and provides two compliance options for addressing these exceedances: 1) Option 1 – Volume Reduction; and 2) Option 2 – Iterative Approach.

For the Volume Reduction option, the City would retain runoff from the entire design storm; therefore, all pollutants in those flows would be prevented from reaching receiving waters and causing exceedances of receiving water limitations. The City is already pursuing volume reduction options that may address the entire design storm runoff volume from some catchments. For the Iterative Approach option, the City would implement an approach for comprehensively identifying and abating all sources of pollutants of concern. Because Central Coast Water Board staff acknowledges the complexities of making quantifiable water quality improvements, the Draft Order provides extended timeframes (i.e., 20 years) for fully addressing receiving water limitation and effluent limitation exceedances.

See Attachment 1 for complete public comments and Central Coast Water Board staff responses. See Attachment 2 (i.e., hyperlinks to track changes documents) showing changes Central Coast Water Board staff made to the June 10, 2019 Draft Order based on comments received.

STATUS OF COMPLIANCE AND PROGRAM ACCOMPLISHMENTS

The City has made improvements to its stormwater program and demonstrated positive compliance trends under the 2012 Order. Since the City's enrollment under an NPDES stormwater permit in 1999, USEPA and Central Coast Water Board staff have conducted multiple inspections of the City's stormwater program and identified deficiencies and violations relating to program management, construction and industrial site oversight, application of new and redevelopment requirements, record keeping, and staff training. Under the 2012 Order, the City continues to have some compliance issues; however, the City has made significant positive strides in its stormwater program. The City has updated its stormwater management program to integrate the prescriptive requirements of the 2012 Order. Following are some examples of the City's accomplishments during the 2012 Order term:

- Increased staff resources – The City brought on a full-time stormwater program manager. Historically, multiple department leads shared the responsibilities of program oversight.

- Information management systems – The City integrated its stormwater program implementation into a spatially-based information management software system accessible to Central Coast Water Board staff. The City used this online platform to delineate catchments and map its storm sewer system; track structural stormwater control measure performance; track trash management efforts; and quantify pollutant load and runoff volume. The City uses electronic devices to input information real-time, during field work, into the online platform.
- Structural stormwater control measure inventory and assessments – City staff inventoried private and public structural stormwater control measures then implemented rapid assessment methods for assessing their effectiveness.
- Trash reductions – The City’s trash reduction actions are working. The City implemented: source controls, visual inspections, trash clean-ups on-land (e.g., parks, homeless encampments) and in receiving waters, installed signage, improved its street sweeping program, and inventoried existing trash capture devices for retrofit opportunities. The City has conducted field-based assessments and load reduction modeling and developed a comprehensive trash reduction implementation plan.
- Commercial, industrial, and construction site oversight – The City has refined its commercial, industrial, and construction site inspections and implemented an effective enforcement process to address non-compliance.
- Monitoring program – The City proposed and is now implementing an innovative urban outfall sampling program to efficiently collect data with limited staff resources.

These accomplishments, as well as others not mentioned, provide the City a strong foundation for implementing the Draft Order.

RECOMMENDATION

Draft Order No. R3-2019-0073 requires the City to 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 represents the next iterative step in stormwater requirements and much of the Draft Order is not new, since the City has been implementing a stormwater program since 1999. Evolving from the 2012 Order, the Draft Order requires asset management planning; planning and implementation to achieve effluent and receiving water limitations; and compliance with the statewide trash requirements, while providing extended timeframes for achieving key milestones. Additionally, the Draft Order provides greater emphasis on water quality conditions related to homelessness and disadvantaged communities; climate change and adaptation; and pesticide controls.

Due to postponements in the reissuance process because of uncertainties related to unfunded mandates and other legal issues, the 2012 Order is more than two years past the expiration date. Central Coast Water Board staff engaged in a public process and worked closely with City staff to develop the Draft Order. The City has indicated

willingness to commence the Draft Order because of increased flexibilities and simplified requirements.

Central Coast Water Board staff recommends that the Central Coast Water Board adopt Draft Order No. R9-2019-0073.

ATTACHMENTS

1. Comments Received on Draft Order No. R3-2019-0073 and Staff Responses
2. Changes to June 2019 Draft Order No. R3-2019-0073 in Response to Public Comment (note: Draft Order track changes documents provided via hyperlink only)
 - a. Track Changes to June 2019 Draft Order (includes Attachments A-F)
 - b. Track changes to June 2019 Attachment G (Economic Considerations) of the Draft Order
 - c. Track changes to June 2019 Attachment H (Fact Sheet) of the Draft Order
3. Proposed August 2019 Draft Order No. R3-2019-0073
 - a. August 2019 Draft Order (includes Attachments A-F)
 - b. August 2019 Attachment G (Economic Considerations) of the Draft Order
 - c. August 2019 Attachment H (Fact Sheet) of the Draft Order
4. USEPA August 2019 Comment Letter²

² Contact Central Coast Water Board staff to request a copy of the signed USEPA letter on USEPA letterhead.