Walsh, Laurie@Waterboards

From: Slaven, Devin <dslaven@lakeforestca.gov>
Sent: Friday, August 22, 2014 4:58 PM
To: Walsh, Laurie@Waterboards
Cc: Becker, Eric@Waterboards; Arias, Christina@Waterboards; Chiu, Wayne@Waterboards; Smythe, Hope@Waterboards; Beckwith, Michelle@Waterboards; Fischer, Adam@Waterboards; Chris Crompton; Humza Javed; Moy Yahya (moyyahya@caaprofessionals.com); Christopher Macon ; Wheeler, Thomas; Rosenfield, Ken@CI.LAGUNA-HILLS@DOT; Berchtold, Kurt@Waterboards; Gibson, David@Waterboards; maryanne.skorpanich@ocpw.ocgov.com
Subject: RE: Single Board regulations of Lake Forest, Laguna Hills, and Laguna Woods
Attachments: Summary of MS4 Permit Differences.docx

Laurie,

In accordance with our discussion at the July 30, 2014 meeting, and the request made by the San Diego Regional Water Quality Control Board staff, please find attached, a summary of MS4 permit differences. The proposed language to be used in the fifth-term MS4 permits to facilitate single Regional Board regulation is still under review by legal counsel; however, it will be submitted to you on Monday, August, 25, 2014.

Please let me know if you have any questions.

Thank you,

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From: Walsh, Laurie@Waterboards [mailto:Laurie.Walsh@waterboards.ca.gov]
Sent: Friday, August 15, 2014 10:52 AM
To: Slaven, Devin; Chris Crompton; Humza Javed; Moy Yahya (moyyahya@caaprofessionals.com); Christopher Macon
Cc: Becker, Eric@Waterboards; Arias, Christina@Waterboards; Chiu, Wayne@Waterboards; Smythe, Hope@Waterboards; Beckwith, Michelle@Waterboards; Fischer, Adam@Waterboards
Subject: Single Board regulations of Lake Forest, Laguna Hills, and Laguna Woods

Gentlemen,

Your Cities have requested single Board regulatory oversight of your MS4 discharges. The San Diego Water Board Executive Officer requested during our most recent meeting a list/spreadsheet of the issues your Cities deal with that unreasonably burden your resources by being regulated under two Regional Boards. I have yet to receive this information. I am currently reviewing the Regional MS4 Permit and need that information along with any draft finding language Chris Crompton wants to submit in order support a Water Board finding on single water board regulatory oversight in either Water Boards' storm water permit. I need to receive your information by Friday of next week (i.e. 8/22/14) (Santa Ana Water Board may have a different need as far as a due date) in order to have sufficient time to incorporate any potential changes to the Regional MS4 permit during the Orange County permit renewal process.

Your attention to this matter is greatly appreciated.

Laurie Walsh, PE
San Diego Water Board

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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD
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Summary of Regional MS4 Permit Differences

Forward

In general accordance with the request to identify areas of disparity between the two MS4 permits that cause significant administrative burden to split jurisdictions, a table summarizing many of the disparities is presented below. However, it should be noted that this table is inherently limited as a summary and does not capture many of the nuances that are otherwise captured in the details of each permit and have been incorporated into the principal guidance and policy documents utilized for program implementation such as the Orange County Drainage Area Management Plan (DAMP) and the cities' respective Local Implementation Plans (LIPs). The complexity of the task is significant as is best and most simply illustrated by the size and complexity of each of the permits themselves, as well as the size and complexity of the DAMP & LIP policy/guidance documents. To capture all or most of those nuanced details would yield a table that would be too unwieldy. One example is that many of the specific data fields that are required for construction site data base inventories are different between the permits, but to list required data points for each permit would be impractical. Suffice it to say, the specific data and tracking requirements are different enough to essentially require two data bases for the same construction program component. Moreover, it should be noted that the site inspections that generate the specific data are handled differently by the permits, so that each has a separate and distinct prioritization and inspection frequency depending on the region. It should also be emphasized that these differences that are too nuanced and detailed to capture in a summary table, should not be considered insignificant; indeed these are the details that cause some of the most significant administrative burden and confusion with data management, tracking, and reporting.

Further to the above, some general comments are also provided below that capture examples of the administrative burden that is more process-driven and not necessarily highlighted in a summary of permit differences.

General

- Although each MS4 Permit has a five year term, each permit inevitably gets adopted at different times. Therefore, cities that are split between Regional Boards go through two re-adoption processes which in and of itself, can be a relatively significant administrative burden. After a new MS4 permit is adopted, a split jurisdiction will need to assimilate, organize, and develop a programmatic approach to comply with the individual permit requirements. Subsequently, this process continues into staff training, necessary adjustment to processes and protocols and eventual proficiency in its implementation. However, since another permit is adopted at a later time, this process is repeated for the second permit. In this way, the staggered permit adoption leads to an extended duration of this development process and becomes further complicated when trying to assimilate two permits into a single program wherever feasible and creating a de facto "third permit" generated in an attempt to blend two permits with distinct requirements. The process can be lengthy and hinder progress toward the actually goal of the permits and the Permittees' program goals to improve water quality. The split and hybrid approaches can lead to confusion for agency staff as well as the public, and produce inefficiencies where efforts

become overly focused on administrative tasks that don't necessarily lead to improved water quality outcomes. Since the staff of all agencies are public servants, it seems prudent and necessary to provide clear regulatory governance and a clear, feasible path to achieve compliance.

- Related to above, various time requirements are established within each permit that direct the development and implementation of program components; however, because the two permits are disparate in the specific requirements and timing, each program component essentially goes through two staggered updates. For example, each permit will often require the development and/or implementation of new requirements "within 18 months of the adoption of this order." Due to the offset timing of each permit, a permittee may finish new updates to one program component only to initiate the development of the same program component for a different region or attempt to reconcile and incorporate the different/new requirements into a final program update. In this manner, permittees must devote a significant duration of time to incorporate new requirements and program development which diminish time available for implementation.

- Land development requirements are one of the most complicated areas for the public to understand and comply with. Each permit has distinct water quality requirements that an applicant must comply with depending on the location of the development within the city. While each region requires the project applicant to submit a Water Quality Management Plan (also known as a Standard Storm Water Mitigation Plan in the San Diego Region) there are significant and unique requirements for project prioritization, Low Impact Development BMPs and sizing criteria, hydromodification management BMPs and sizing criteria, defining hydrologic conditions of concern, and application of USEPA Green Streets guidance for street, highway, and roadway projects. These differences also pose additional burden and confusion for City staff in the Planning, Building & Safety, and Engineering Divisions.

- Data collection and management is another area impacted by two different MS4 permits. Many program components require development and maintenance of information in an electronic-format database. Since each permit has specific requirements, split-jurisdiction cities must effectively develop and manage two different databases for each program area requirement.

- Compiling the information from different databases, reporting the data in different formats, and submitting the annual Program Effectiveness Assessments to two Regional Boards also adds a significant workload on the Permittees that are split in two jurisdictions.

Below is a table comparing and summarizing the disparities of the two current MS4 Permits and the Regional Permit for the San Diego Region as adopted for the San Diego County agencies. As both of the fifth- term (Region 8 and Region 9) MS4 Permits are in draft format, are currently under revision, and the Permittees do not have experience in their implementation, we are focusing on the current fourth-term MS4 permits as providing the best examples:

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
Legal Authority	Each permit must be reviewed and compared with the City's municipal code. Any necessary code updates must be completed, and the City Attorney must provide certifications of adequate legal authority. Since the permits are adopted at different times, this process is most often, if not always, completed twice.			
Municipal Activities	Each permit requires an inventory of municipal facilities and field activities	§XIV - Requires inventory of specified municipal facilities and field programs (There are detailed inventory database differences between regions). Facilities/field programs specified by permit. Inventory must be prioritized as high, medium, low. BMPs per fact sheets.	§F.3 – Requires a watershed-based inventory of specified facilities/field programs (There are detailed inventory database differences between regions). No prioritization. Designate minimum BMPs. Inventory must contain specific requirements such as potential pollutants. BMPs must be developed/implemented for special events.	§E.5 – Municipal facilities now grouped with existing development. §E.5.c – A minimum of 20% of the inventoried industrial, commercial and municipal sites are required to be inspected each year; all inventoried facilities must be inspected once every five years. Drive-by, onsite, and/or visual inspections are acceptable.

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
			Designate enhanced BMPs for certain impaired or other environmentally significant water bodies.	
		Storm drain system inspection/cleaning – 80% annually, with 100% every 2 years.	Storm drain system inspection/cleaning required between May 1 and September 30 on annual basis. Additional cleaning between Oct 1 and April 30 for high volumes of trash/debris.	§E.5.b – Each Copermittee must implement a schedule of operation and maintenance activities for its MS4 and related structures (including but not limited to catch basins, storm drain inlets, detention basins, etc.), and verify proper operation of all its municipal structural treatment controls designed to reduce pollutants (including floatables) in storm water discharges to or from its MS4s and related drainage structures.
New Development/ Significant Redevelopment	Each permit contains significant differences in land development requirements. To address this issue, the Permittees have developed two distinct Model Water Quality Management Plans (WQMPs [also known as Standard Storm Water Mitigation Plans in the San Diego	§XII – Requires WQMPs for certain non-priority and priority sites. Priority projects include street roads, highways, and freeways of 5,000 square feet or more with ability to utilize USEPA Green Streets guidance. WQMPs	§F.1.d – Requires WQMPs for priority sites. Priority projects include street roads, highways, and freeways of 5,000 square feet or more. Low Impact Development (LID) requirements include use of “biofiltration” BMPs to	In additional to the differences between R8-2009-0030 and R9-2009-002, there are additional differences included in R9-2013-0001. These differences between R9-2009-0002 and R9-2013-0001 are summarized

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
	Region]) to capture specific requirements and attempt to reduce the confusion of the general public as well as implementing municipal staff. The Technical Guidance Document (TGD); however, remains as a single document but attempts to highlight the differences in requirements pertaining to BMP selection, sizing criteria and calculations, hydromodification management, etc.	incorporate the use of Watershed Infiltration and Hydromodification Management Plans (WIHMPs). Low Impact Development (LID) requirements include use of "biotreatment" BMPs to meet any remaining Design Capture Volume not able to be retained onsite. Hydromodification management requirements are applicable to sites only if there is a hydrologic condition of concern in downstream receiving waters. The permit allows for use of Water Quality Credits in certain cases to reduce the necessary Design Capture Volume for the water quality alternative compliance program and to reduce the volume of water retained to meet hydromodification management requirements within the LID compliance program. Priority Development	meet any remaining Design Capture Volume not able to be retained onsite (excluding some biotreatment BMPs that are not biofiltration BMPs). The Permit and Model WQMP apply constraints for selection and sizing methods such that the total volume of the biofiltration BMP, including pore spaces and pre-filter detention volume, must be sized to hold at least 0.75 times the design storm volume that is not retained onsite by LID retention BMPs. The land development requirements also include considerations for water rights when using infiltration and harvest and use of stormwater. Hydromodification management requirements are essentially applicable to all projects regardless of existing conditions of the project site.	below: • WQMP/SSMP now called "BMP Design Manual." • TGD will need to include long-term maintenance criteria for each structural BMP listed in the BMP Design Manual. • Exemptions for Priority Development Projects are available for new or retrofit paved sidewalks, bicycle lanes, or trails that meet the criteria in section E.3.b.3. • If full capture of design storm not feasible, biofiltration BMPs may be used but must be designed to treat 1.5 times the design capture volume not reliably retained onsite. • The Regional Permit requires a Watershed Management Area Analysis as part of the

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
		Projects have an option to satisfy LID BMP sizing criteria through participation in a regional/sub-regional LID BMP. Hydromodification management requirements apply when the volumes and time of concentration of stormwater runoff for the post-development condition do not significantly (5% or less) exceed those of the predevelopment condition (i.e. current site conditions) for a two year frequency storm event, or the site infiltrates at least the volume of a two year frequency storm event.	Regional/sub-regional LID BMPs are only an option as part of a waiver request/alternative compliance program. Hydromodification management requirements apply per the approved Hydromodification Management Plan and must use continuous simulation to ensure that post-project runoff flow rates and do not exceed pre-development (i.e. undeveloped site conditions) runoff flow rates and durations by more than 10% of the time, from 10% of the 2-year runoff event up to the 10-year runoff event.	WQIP. Technical feasibility analysis not required if the Permittees determine that a mitigation project under the Alternative Compliance Program will have a greater overall water quality benefit for the Watershed Management Area. • A PDP may be allowed to utilize alternative compliance under the hydromodification provision. • Where the Copermittees will use isopluvial maps to determine the 85th percentile storm event in areas lacking rain data, the Copermittees must describe their method for using isopluvial maps in its BMP Design Manuals. • As part of the Copermittee's update to its BMP Design Manual, pursuant to Provision E.3.d, the Copermittee

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
				must provide guidance for hydraulic loading rates and other biofiltration design criteria necessary to maximize storm water retention and pollutant removal. • Each Copermittee must require and confirm that for all PDP applications that have not received prior lawful approval by the Copermittee by the time the BMP Design Manual is updated pursuant to Provision E.3.d, the requirements of Provision E.3 are implemented. For project applications that have received prior lawful approval before the BMP Design Manual is updated pursuant to Provision E.3.d, the Copermittee may allow previous land development requirements to apply. • Each Priority Development Project must

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
				avoid critical sediment yield areas known to the Copermittee or identified by the optional Watershed Management Area Analysis pursuant to Provision B.3.b.(4), or implement measures that allow critical coarse sediment to be discharged to receiving waters, such that there is no net impact to the receiving water. • The Copermittee may develop, individually or with other Copermittees, alternative mandatory design criteria to that listed above for infiltration BMPs which are designed to primarily function as centralized infiltration devices.
Construction	Each permit requires inventory and inspection of construction sites	§VIII – Inventory must be developed and updated in September and in May of each year. (There are detailed inventory database & required information tracking differences between	§F.2 – Requires review and update of grading ordinance. A watershed-based inventory must be developed. (There are detailed inventory database & required information tracking	§e.4.b – Each Copermittee must maintain and update, at least quarterly, a watershed-based inventory of all construction projects issued a local permit that allows ground disturbance

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
		regions). Inventory must be prioritized as high, medium and low. Inspections during the wet season: once a month for high priority sites, twice during wet season for medium priority sites, and at least once during wet season for low priority sites. Inspections during the dry season: at a frequency sufficient to ensure compliance. Inspections must be conducted using a checklist.	differences between regions). Designate minimum BMPs. Designate enhanced BMPs. Inspections during wet season: bi-weekly for all sites 30 acres or more in size, or one acre or more and tributary to a sediment impaired water body, or environmentally sensitive area, or sites that pose a significant threat to water quality. At least monthly for sites one acre or more and not subject to bi-weekly inspections. Inspections during the dry season: at least once in August or September each year for all sites 30 acres or more, one or more acre and tributary to a sediment impaired water body or environmentally sensitive area, or significant threat site. As needed inspections for all other sites.	or soil disturbing activities that can potentially generate pollutants in storm water runoff. Each Copermittee must implement, or require the implementation of effective BMPs to reduce discharges of pollutants in storm water from construction sites to the MEP, and effectively prohibit non-storm water discharges from construction sites into the MS4. These BMPs must be site specific, seasonally appropriate, and construction phase appropriate. BMPs must be implemented at each construction site year round. Dry season BMP implementation must plan for and address unseasonal rain events that may occur during the dry season. Each Copermittee must establish appropriate inspection frequencies for high threat to water

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
				quality sites, and all other sites, for each phase of construction. Inspection frequencies appropriate for addressing the highest water quality priorities identified in the Water Quality Improvement Plan, and for complying with the requirements of this Order must be identified in each Copermittee's jurisdictional runoff management program document.
Industrial Facilities	Each permit requires inventory and inspection of industrial sites	§IX – Inventory must be developed and updated annually. Inventory must be prioritized as high, medium and low sites. All high priority sites must be inspected at least once a year. Medium priority sites must be inspected at least once every two years. Low priority sites must be inspected at least once per permit cycle.	§F.3.b – Watershed-based inventory must be developed. Minimum and enhanced BMPs must be designated. A minimum of 20% of the inventoried industrial and commercial sites are required to be inspected each year.	§E.5.c – A minimum of 20% of the inventoried industrial, commercial and municipal sites are required to be inspected each year; all inventoried facilities must be inspected once every five years. Drive-by, onsite, and/or visual inspections are acceptable.
Commercial Facilities	Each permit requires inventory and inspection of commercial sites	§X – Inventory must be developed and updated quarterly. Inventory must include various	§F.3.b – Watershed-based inventory must be developed. Inventory must include specific	§E.5.c – A minimum of 20% of the inventoried industrial, commercial and municipal sites are

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
		commercial facilities including transport, storage or transfer of pre-production plastic pellets. Inventory must be prioritized as high, medium and low sites. At least 10% of the inventory (not including food service facilities) must be ranked as high priority, 20% of the inventory (not including food service facilities) must be ranked medium priority, and the remaining 70% of the inventory may be ranked low priority. All high priority sites must be inspected at least once a year. Medium priority sites must be inspected at least once every two years. Low priority sites must be inspected at least once per permit cycle.	sites/sources and includes mobile vehicle washing, mobile carpet cleaning, mobile pet services, and cemeteries. A minimum of 20% of the inventoried industrial and commercial sites are required to be inspected each year.	required to be inspected each year; all inventoried facilities must be inspected once every five years. Drive-by, onsite, and/or visual inspections are acceptable.
Water Quality Monitoring		Dry Weather Monitoring Program- A seasonal monitoring program in order to comply with the permit requirements, which occurs between May and October of each	Non-stormwater Dry Weather Action Levels (NALs) - For the San Diego Region, the NALs program is conducted year-round with each site monitored once during the dry season	Non-stormwater Dry Weather Action Levels (NALs) will be incorporated into the Water Quality Improvement Plans (WQIPs). City must participate in a transitional

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
		calendar year. It involves monthly sampling (5 times total) at targeted sites which are strategically selected by each jurisdiction. Random sites which were selected randomly throughout the MS4 at the inception of the program are sampled every month and a half (3 times total). Upon receiving data tables from the Principal Permitee for the monitoring season, City Staff compares the data to the "Tolerance Intervals" which are set as the upper bound of the 90th percentile as calculated from random site data for each constituent. Tolerance intervals are used to guide NPDES Program Managers as to when source investigations are necessary. Immediate inspections are typically performed when monitoring staff notices exceedances for field	(May 1 – September 30) and once during the wet season (October 1 – April 30). The NALs were based on narrative and numeric objectives and criteria as outlined in the Basin Plan, the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), and State Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays and Estuaries (State Implementation Plan or SIP). During NALs monitoring, County staff notify the municipality with jurisdiction over the drainage area of any NALs exceedances or any other condition that would suggest an illegal discharge or illicit connection impacting a storm drain outfall. City Staff is required conduct a source investigation and attempt to reach one of five specific end-point determinations with	monitoring plan until the WQIP is approved. Each Copermittee must identify all major MS4 outfalls that discharge directly to receiving waters within its jurisdiction and geo-locate those outfalls on a map of the MS4 pursuant to Provision E.2.b.(1). This information must be compiled into a MS4 outfall discharge monitoring station inventory. Additionally, each Copermittee must perform dry weather MS4 outfall field screening monitoring to identify non-storm water and illicit discharges within its jurisdiction in accordance with Provision E.2.c, to determine which discharges are transient flows and which are persistent flows, and prioritize the dry weather MS4 discharges that will be investigated and eliminated in accordance with Provision E.2.d. For

	General	R8-2009-030	R9-2009-0002	R9-2013-0001
		monitoring data such as electrical conductivity, water temperature, ammonia, nitrate, and total chlorine levels. These warning levels combined with visual observations of unusual conditions are used to notify the municipalities of immediate problems found in the field. City Staff provides information to the Regional Board annually in its Program Effectiveness Assessment report.	corresponding actions and reporting requirements. If the source remains unidentified, then the exceedance is identified as a high priority pollutant of concern in the sub-watershed and additional sampling is performed with reporting in the Program Effectiveness Assessment report.	Copermittees with 125 major MS4 outfalls or more, but less than or equal to 500 that discharge to receiving waters within a Watershed Management Area, all the outfalls must be visually inspected at least annually during dry weather conditions.