

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
SAN DIEGO REGION

Revisions to Tentative Order No. R9-2008-0001

December 12, 2007

Discussion

Tentative Order No. R9-2008-0001, the Orange County Storm Water Permit, (formerly known as Tentative Order No. R9-2007-0002) was distributed for review on February 9, 2007 by the California Regional Water Quality Control Board, San Diego Region (Regional Board). At a public hearing held on April 11, 2007 in the City of Mission Viejo, a panel of Regional Board members received oral comments on the Tentative Order. Written comments on the Tentative Order were accepted until April 25, 2007. A Revised Tentative Order was then distributed on July 6, 2007. Written comments were received on the July 2007 Revised Tentative Order until August 23, 2007. Consideration of the July 2007 Revised Tentative Order has been postponed to date because of a lack of a quorum of voting Board members. The Regional Board expects to reschedule consideration of Tentative Order No. R9-2008-0001 in early 2008. In the meantime, the Tentative Order has been further revised in response to comments received through August 23, 2007. This table summarizes all significant changes in the December 12, 2007 Revised Tentative Order relative to the initial February 2007 Tentative Order.

Section	Changes in Revised Tentative Order No. R9-2008-0001
Findings	
Finding C.2	The phrase "due to anthropogenic sources" has been removed from the description of sediment as a pollutant. The definition of pollution (California Water Code Section 13050) is predicated upon waste as the source of pollutants. Therefore, by definition, all categories of pollutants described in the Finding are related to anthropogenic sources of waste.
Finding C.11	Pretreatment has been added as a recognized management technique to prevent groundwater contamination resulting from infiltration of polluted runoff.
Finding D.2.f	Reference to the Orange County Vector Control District (OCVCD) as a collaborative agency has been added.
Finding D.3.b and Finding D.3.e	These Findings have been revised to reflect that the MEP standard refers to discharges from, as opposed to into, the MS4. Additional changes were made to clarify that pollutant discharges into MS4s must be reduced using a combination of management measures, including source control, and an effective MS4 maintenance program must be implemented by each Copermittee.
Finding E.6	This Finding has been revised in response to comments regarding unfunded local government mandates subject to subvention under Article XIII B, Section (6) of the California Constitution.

Section	Changes in Revised Tentative Order No. R9-2008-0001
Finding E.7	This Finding has been revised to clarify circumstances under which BMPs may be implemented within waters of the U.S. Water quality entering the treatment BMP must be sufficient to protect the values and functions of the water body. In addition, authorization pursuant to Clean Water Act Section 404 and/or waste discharge requirements may be necessary.
Finding E.9	This Finding has been added to discuss facilities that discharge water that has been extracted from waters of the U.S. and subjected to treatment for pollutants derived from urban runoff.
B. Non-Storm Water Discharges	
Section B.5	This section has been added to establish requirements for facilities that discharge water that has been extracted from waters of the U.S. and subjected to treatment for pollutants derived from urban runoff.
D.1 Development Planning	
<i>D.1.d – Priority Development Projects</i>	
D.1.d	Footnote 4 has been modified to clarify that SUSMP requirements are applicable to projects already in the review process.
D.1.d.1.b	The language has been modified to clarify that redevelopment projects are subject to SUSMP requirements if they create, add, or replace at least 5,000 square feet of impervious surfaces on an already developed site and the existing development and/or the redevelopment project falls under the project categories or locations listed in section D.1.d.2.
D.1.d.6.a.i	This subsection now includes a reference to Orange County 85 th Percentile Isopluvial Maps.
D.1.d.6.b, D.1.d.6.c, and Footnote No. 6	The processes for mitigating pollutants with treatment BMPs have been clarified.
D.1.d.6.i	A subsection has been added for the consideration of vector mitigation.
D.1.d.9	The Copermittees are required to consider “vector minimization” when developing site design and treatment control standards.
D.1.d.11	The requirement to annually update the treatment BMP lists in local SUSMPs has been revised to a single update in year three, provided that each Copermittee develop a mechanism to annually incorporate findings from local treatment BMP effectiveness studies into its SUSMP project reviews and permitting.

Section	Changes in Revised Tentative Order No. R9-2008-0001
<i>D.1.f - Treatment Control BMP Maintenance Tracking</i>	
D.1.f.1	A requirement has been added for Copermitees to indicate in their treatment control databases whether the BMP site has been referred to OCVCD.
D.1.f.2.c.iii	The language has been modified to provide Copermitees increased flexibility regarding how inspections are conducted. For instance, Copermitees requested the ability to use third-party inspectors.
D.1.f.2.c.ix	A subsection has been added to require that the Copermitee notify OCVCD when a vector problem is noted during a BMP inspection.
<i>D.1.h - Hydromodification and Downstream Erosion</i>	
D.1.h.3.c.i	The trigger for hydromodification control waivers for redevelopment projects has been decreased from a 30 percent to 10 percent reduction in impervious area. Also, this section now allows for flexibility in developing indicators of hydromodification effects based on findings from the Storm Water Monitoring Coalition, the Southern California Coastal Waters Research Program, and other local studies.
D.1.h.4	The timeframe for developing specific hydromodification criteria has been extended from two to three years.
D.1.h.5.a	The timeframe for developing interim hydromodification criteria has been extended from 180 days to one year.
D.1.h.5.a.i	This subsection now allows for use of off-site controls and improvements as an interim hydromodification management measure.
D.1.h.5.a.ii	The previous requirement regarding disconnecting impervious areas has been incorporated into section D.1.h.5.a.i. This section has been replaced with requirements for buffer zones and stream setbacks that are revisions to previous Section D.1.h.5.a.iv. Buffer zones and setbacks are required for interim controls only when a channel is adjacent to, involved in or modified by the project. Geomorphically-referenced channel design techniques are to be used when in-stream controls are necessary.
D.1.h.5.a.iii	This subsection now allows for the use of flow-duration control or local nomographs, in addition to hydrograph matching, as a method for estimating hydromodification controls.
D.1.h.5.a.v	This subsection has been deleted. Its former requirement has been modified and moved to Section D.1.h.5.a.ii.

Section	Changes in Revised Tentative Order No. R9-2008-0001
<i>D.1.i - Training and Education</i>	
D.1.i.1.c.viii	A subsection has been added to include public health concerns of storm water management infrastructure in educational programs.
D.1.j	This section has been deleted. Annual reporting requirements have been consolidated into Table 4 in Section H.3.a.3.
D.2 - Construction	
D.2.c.2	The language has been modified to clarify that it is the construction BMP plan prepared for local ordinances that must be reviewed. Commenters had interpreted the original requirement as meaning that the storm water pollution prevention plan prepared for the statewide Construction General NPDES Permit must be reviewed by Copermittees.
D.2.d.1.b.iii	The language regarding when slope stabilization is necessary has been reworded for clarity.
D.2.i.	This section has been deleted. Annual reporting requirements have been consolidated into Table 4 in Section H.3.a.3.
D.3 – Existing Development	
D.3.a.5.a	This subsection has been deleted.
D.3.a.10.a.i.g	A requirement has been added to include vector control issues in municipal educational programs.
D.3.a.11	This section has been deleted. Annual reporting requirements have been consolidated into Table 4 in Section H.3.a.3.
D.3.b.4.c.iv	This subsection has been deleted.
D.3.b.7	This section has been deleted. Annual reporting requirements have been consolidated into Table 4 in Section H.3.a.3.
D.3.c.6.b.v	A requirement has been added to include vector control issues in residential educational programs.
D.3.c.7	This section has been deleted. Annual reporting requirements have been consolidated into Table 4 in Section H.3.a.3.
D.4 - Illicit Discharge Detection and Elimination	
D.4.h.1 and D.4.h.2	These sections have been clarified to require that management measures and procedures must be implemented to prevent and respond to spills. Commenters had interpreted the original language to require Copermittees to prevent all spills and be solely responsible for all cleanup activities.
D.4.j	This section has been deleted. Annual reporting requirements have been consolidated into Table 4 in Section H.3.a.3.

Section	Changes in Revised Tentative Order No. R9-2008-0001
E - Watershed Urban Runoff Management Program	
General	Requirements to develop watershed programs in four of six watershed management areas have been deleted.
E.1.f.2	The language has been revised to specifically include OCVCD.
F –Fiscal Analysis	
F.2.c	The section requiring a description of fiscal benefits has been deleted.
G – Program Effectiveness Assessment (PEA)	
G.1.a	This section has been revised to state that changes involving the PEA will begin with the Annual Report due in 2009, rather than 2008. A requirement has been added to require that the assessment measures include water quality conditions and results of enforcement activities. A requirement has also been added that effectiveness assessments be developed and conducted for control actions implemented, in response to situations where discharges are causing or contributing to water quality standard violations, based on the iterative approach outlined in Section A.3 of the Order.
G.1.b	This section has been revised to clarify that integrated assessments are required for each of the program objectives in Section G.1.a.
G.2	This section has been reformatted to focus on program modifications made in response to effectiveness assessments.
G.3	This section has been revised to state that changes involving the PEA reporting will begin with the Annual Report due in 2009. Reporting requirements have been clarified to ensure that results of steps taken per Section A.3 and in response to illicit discharge investigations are reported. A requirement has also been added to report each program modification made in response to the effectiveness assessments conducted pursuant to Section G.1.
H – Reporting	
H.3.a.3	This section has been revised to include a table of annual reporting requirements that had been previously dispersed within Sections D.1 through D.5. Additionally, approximately 36 percent of the previous tentative annual reporting requirements have been removed and replaced with a requirement that each Copermitttee retain documentation, available for review, that Permit requirements have been met.

Attachment E - Monitoring and Reporting Program	
II.A.1.d	Wet weather mass loading protocols have been revised to allow the countywide program to continue using current wet season composite sampling protocols. Dry weather mass loading protocols have been revised to allow the program to implement the same procedures as are used in the part of Orange County within the jurisdiction of the Santa Ana Regional Water Quality Control Board.
Table 1	Monitoring for nitrate and nitrite may be reported together as nitrate + nitrite.
II.A.1.h	This subsection has been deleted.
II.A.1.i	The organisms to be used for toxicity monitoring have been changed to more closely match U.S. EPA protocols and the current Orange County monitoring program. A table (Table 2) has also been added for clarity.
II.A.2.a	The number of bioassessment stations has been reduced from 12 to six.
II.A.2.b.1	The date for submitting a final Special Study report to justify reducing the frequency of bioassessment monitoring has been revised from June 30, 2009 to 24 months after acceptance of the proposal by the Executive Officer.
II.A.2.c.3	An updated reference for bioassessment protocol requirements has been added.
II.A.5	This section has been revised to require sampling of coastal storm drains that are diverted to the sewer only when the diversions are inoperable.
II.C.4	Monitoring requirements have been added for facilities that discharge water that has been extracted from waters of the U.S. and subjected to treatment for pollutants derived from urban runoff.
II.C.5	A requirement has been added for the Copermittees to participate in the Southern California Monitoring Coalition program for Regional Monitoring of Southern California's Coastal Watersheds.