

San Diego Area Copermittees

Comments on Tentative Order No. R9-2015-0100

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November 18, 2015

San Diego Area Copermittee Comments/Requests

- A. Support RWQCB staff's recommendation to clarify that the BMPDM effective and implementation dates are the same (i.e., 90 days from this hearing, or Feb. 16, 2016)
- November 4 Errata Sheet Item 2.j
 - Permit Provision E.3.d
- B. Support RWQCB staff's stated intent to further extend the BMPDM effective date for the San Diego County Copermittees by 90 days from the current effective date of Dec. 24, 2015 (i.e., to March 23, 2016)
- Nov. 4 Response to Comments, E3d-1, p. 56
- C. Request the following additional changes regarding the extension of BMPDM effective dates:
1. Generally allow the extension of BMPDM effective dates by 180 days (instead of 90 days) when new or modified land development requirements are adopted
 2. AND Specifically allow the proposed extension of the San Diego County Copermittees' BMPDM effective date to be 180 days (rather than 90 days) from the current effective date of Dec. 24, 2015 (i.e., June 21, 2016)
 3. AND Execute the requested extension of the San Diego County Copermittees' BMPDM effective date to June 21, 2016 (item #2) by amendment of this Order (first preference)
- OR (second preference) as part of the public record for adoption of this Tentative Order, direct the RWQCB Executive Officer to administratively extend the BMPDM effective date

Item C. Additional Requested Changes (First of 3)

1. Generally allow the extension of BMPDM effective dates by 180 days (instead of 90 days) when new or modified land development requirements are adopted

Modify Provision F.2.b.(4) as follows:

(4) If the San Diego Water Board amends Provisions E.3.a-d during the permit term but after the Copermittee has completed the update pursuant to Provision F.2.b.(1), the Copermittee must revise its BMP Design Manual to incorporate the amended Provision E.3.a-d requirements as soon as possible but not later than 90 days after the date the San Diego Water Board adopts the amendments to Provisions E.3.a-d, unless otherwise directed by the San Diego Water Board Executive Officer. Under these circumstances, the effective date of the BMP Design Manual is no later than ~~90~~180 days after the date the San Diego Water Board adopts the amendments to Provisions E.3.a-d, unless otherwise directed by the San Diego Water Board Executive Officer.

Item C. Additional Requested Changes (First of 3)

Actions Typically Required in Response to BMPDM Updates

Completion of Updates

- Completion of BMPDM updates (incl. Copermittee collaboration)
- Ordinance updates (including hearings)
- Development of policies, procedures, and technical guidance

Public Process

- Industry outreach
- Stakeholder review and comment (ordinance and BMPDM)
- Potential revisions

Application of Changes to Projects

- Identification of affected projects (new and existing)
- Outreach/coordination with applicants
- Re-submittal, review, and approval of pipeline projects; etc.

Item C. Additional Requested Changes (Second of 3)

2. Specifically allow the proposed extension of the San Diego County Copermittees' BMPDM effective date to be 180 days (rather than 90 days) from the current effective date of Dec. 24, 2015 (i.e., June 21, 2016)

Further modify Provision F.2.b.(4) as follows:

(4) If the San Diego Water Board amends Provisions E.3.a-d during the permit term but after the Copermittee has completed the update pursuant to Provision F.2.b.(1), the Copermittee must revise its BMP Design Manual to incorporate the amended Provision E.3.a-d requirements as soon as possible but not later than 90 days after the date the San Diego Water Board adopts the amendments to Provisions E.3.a-d, unless otherwise directed by the San Diego Water Board Executive Officer. Under these circumstances, the effective date of the BMP Design Manual is no later than 90-180 days after the date the San Diego Water Board adopts the amendments to Provisions E.3.a-d, unless otherwise specified in this Order or directed by the San Diego Water Board Executive Officer. For the San Diego Area Copermittees, the effective date of updates to Provisions E.3.a-d adopted on November 18, 2015 is June 21, 2016.

Item C. Additional Requested Changes (Second of 3)

Significant Changes in Tentative Order affecting Land Development Requirements

Provision E.3.b.(1)(c) through (e): PDP Categories

- (c) New and redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface (collectively over the entire project site), and support one or more of the following uses:
 - (i) Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812).
 - (ii) Hillside development projects. This category includes development on any natural slope that is twenty-five percent or greater.
 - (iii) Parking lots. This category is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.
 - (iv) Streets, roads, highways, freeways, and driveways. This category is defined as any paved impervious surface used for the transportation of automobiles, trucks, motorcycles, and other vehicles.
- (d) New or redevelopment projects that create and/or replace 2,500 square feet or more of impervious surface (collectively over the entire project site), and discharging directly to an Environmentally Sensitive Area (ESA). "Discharging directly to" includes flow that is conveyed overland a distance of 200 feet or less from the project to the ESA, or conveyed in a pipe or open channel any distance as an isolated flow from the project to the ESA (i.e. not commingled with flows from adjacent lands).
- (e) New development projects, or redevelopment projects that create and/or replace 5,000 square feet or more of impervious surface, that support one or more of the following uses:

Attachment C: Definition of Redevelopment

Redevelopment – The creation and/or replacement of impervious surface on an already developed site. Examples include the expansion of a building footprint, road widening, and the addition to or replacement of a structure, ~~and creation or addition of impervious surfaces~~. Replacement of impervious surfaces includes any activity ~~that is not part of a routine maintenance activity~~ where impervious material(s) are removed, exposing underlying soil during construction. Redevelopment does not include routine maintenance activities, such as trenching and resurfacing associated with utility work; pavement grinding; resurfacing existing roadways; ~~new~~ sidewalks construction, pedestrian ramps, or bike lanes on existing roads; and routine replacement of damaged pavement, such as pothole repair.

Provision E.3.d: Grandfathering

(1) Structural BMP Approval and Verification Process

- (a) Each Copermitee must require and confirm that ~~for all Priority Development Projects applications that have not received prior lawful approval by the Copermitee by the effective date of the BMP Design Manual pursuant to Provision E.3.d, implement~~ the requirements of Provision E.3, ~~must be implemented. For project applications that have received prior lawful approval before the effective date of the BMP Design Manual pursuant to Provision E.3.d, the Copermitee may allow previous land development requirements to apply except that the Copermitee may allow previous land development requirements to apply to a Priority Development Project if the conditions of Provision E.3.e.(1)(a)(i) or Provision E.3.e.(1)(a)(ii) are met.~~
 - (i) The Copermitee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d:
 - [a] Approved³¹ a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs consistent with the previous applicable MS4 permit requirements;³² AND
 - [b] Issued a private project permit or approval, or functional equivalent for public projects, that authorizes the Priority Development Project applicant to commence construction activities based on a design that incorporates the storm water drainage system approved in conformance with Provision E.3.e.(1)(a)(i)[a]; AND
 - [c] Confirmed that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual, OR the Copermitee confirms that construction activities have commenced on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual, where construction activities are undertaken in reliance on the permit or approval, or functional equivalent for public projects, issued by the Copermitee in conformance with Provision E.3.e.(1)(a)(i)[b]; AND
 - [d] Issued all subsequent private project permits or approvals, or functional equivalent for public projects, that are needed to implement the design initially approved in conformance with Provision E.3.e.(1)(a)(i)[a] within 5 years of the effective date of the BMP Design Manual. The storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs must remain in substantial conformity with the design initially approved in conformance with Provision E.3.e.(1)(a)(i)[a].
 - (ii) The Copermitee demonstrates it lacks the land use authority or legal authority to require a Priority Development Project to implement the requirements of Provision E.3.

Item C. Additional Requested Changes (Second of 3)

Actions Typically Required in Response to BMPDM Updates

Completion of Updates

- Completion of BMPDM updates (incl. Copermittee collaboration)
- **Ordinance updates (including hearings)**
- **Development of policies, procedures, and technical guidance**

Public Process

- Industry outreach
- Public review and comment (ordinance and BMPDM)
- Potential revisions

Application of Changes to Projects

- Identification of affected projects (new and existing)
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Item C. Additional Requested Changes (Second of 3)

Requirements to Manage Areas of Critical Coarse Sediment Yield (from May 2013 Adoption)

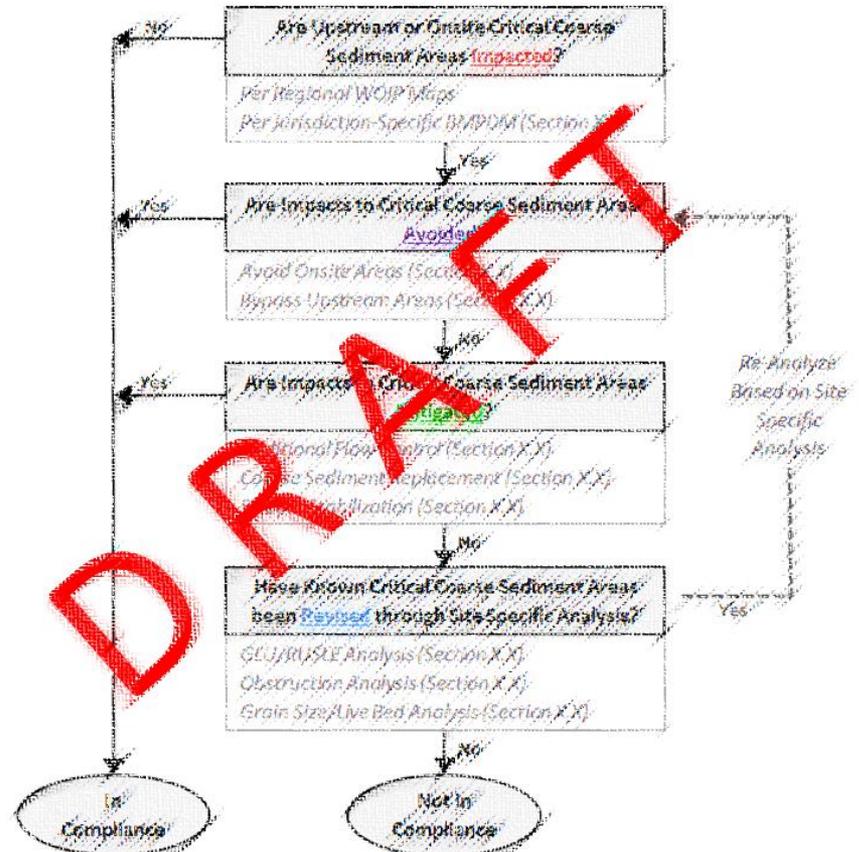
Provision E.3.c.(2)(b)

- (b) Each Priority Development Project must 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.**

Item C. Additional Requested Changes (Second of 3)

Technical Specifications, Guidance, and Policy Direction Needed

- **Local mapping revisions** to Regional WMMA CCSY Maps
- Methods for **avoidance** of coarse sediment
- Methods for **routing and pass-through** of sediment
- **Mitigation** options and guidance
- Guidance for Conducting **site-specific mapping analysis**



Item C. Additional Requested Changes (Second of 3)

Joint County-City effort to develop guidelines for complying with CCSY (Draft Schedule)

TAC #1 (~ 12/31/15)

- Overall Process
- Mapping Revisions
- Mitigation efforts (flow control, sediment replenishment, stream restoration)

TAC #2 (~ 2/29/16)

- Avoidance, Routing/Pass-thru, Site-specific mapping analysis

TAC #3 (~ 4/11/16 if needed)

- Follow-up discussion of previous or newly identified topics

Public Workshop (~ 4/26/16)

Final Guidance to be completed by 5/24/16

Item C. Additional Requested Changes (Third of 3)

3. Execute the requested extension of the San Diego County Copermittees' BMPDM effective date to June 21, 2016 (item #2) by amendment of this Order (as shown in item #2)

(4) If the San Diego Water Board amends Provisions E.3.a-d during the permit term but after the Copermittee has completed the update pursuant to Provision F.2.b.(1), the Copermittee must revise its BMP Design Manual to incorporate the amended Provision E.3.a-d requirements as soon as possible but not later than 90 days after the date the San Diego Water Board adopts the amendments to Provisions E.3.a-d, unless otherwise directed by the San Diego Water Board Executive Officer. Under these circumstances, the effective date of the BMP Design Manual is no later than ~~90-180~~ days after the date the San Diego Water Board adopts the amendments to Provisions E.3.a-d, unless otherwise specified in this Order or directed by the San Diego Water Board Executive Officer. For the San Diego Area Copermittees, the effective date of updates to Provisions E.3.a-d adopted on November 18, 2015 is June 21, 2016.

Item C. Additional Requested Changes (Third of 3)

OR (second preference) as part of the public record for adoption of this Tentative Order, direct the RWQCB Executive Officer to administratively extend the BMPDM effective date

Thank You

B.3.c.(1)(a) (vii): For each final numeric goal developed pursuant to Provisions B.3.a and B.3.c.(1)(a)(i)-(v), at least one ~~annual~~ milestone⁹ and date for its achievement must be included for the permit term within each Water Quality Improvement Plan and progress towards attaining the milestone(s) reported upon during each Annual Report reporting period. Further, for each final numeric goal developed pursuant to Provisions B.3.a and B.3.c.(1)(a)(i)-(v), at least one milestone forecasted to be achieved in subsequent permit terms must be included within each Water Quality Improvement Plan. This process will continue until the final numeric goal is achieved

Footnote 9: ~~Annual m~~Milestones for each final numeric goal must ~~build upon previous milestones and~~ cumulatively result in ~~lead to~~ the achievement of the final numeric goal. The ~~annual~~ milestones may consist of water quality improvement strategy implementation phases, interim numeric goals, and other acceptable metrics. The milestones may also address multiple numeric goals and/or multiple waterbodies, as applicable and appropriate.

B.3.c.(2)(c): The Copermittee's assessments in the Water Quality Improvement Plan Annual Report submitted pursuant to Provision F.3.b.(3) support a conclusion that: 1) the Copermittee is in compliance with the **annual** milestones and dates for achievement developed pursuant to Provision B.3.c.(1)(a)(vii), OR 2) the Copermittee has provided acceptable rationale and recommends appropriate modifications to the interim numeric goals, and/or water quality improvement strategies, and/or schedules to improve the rate of progress toward achieving the final numeric goals developed pursuant to Provisions B.3.a and B.3.c.(1)(a)(i)-(vi); AND

B.3.c.(2)(d): Any proposed modifications to the numeric goals, schedules, and/or **annual** milestones are accepted by the San Diego Water Board as part of subsequent updates to the Water Quality Improvement Plan pursuant to Provision F.2.c; AND