

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Jan O'Hara & Sue Ma)
MEETING DATE: July 20, 2005

ITEM: 9

SUBJECT: **Santa Clara Valley Urban Runoff Pollution Prevention Program, Santa Clara County - Amendment of NPDES Municipal Stormwater Permit**

CHRONOLOGY: February 2001 - Permit reissued
October 2001 - Permit amended to include new and redevelopment requirements
October 2003 - ~~Approved~~ Board ~~and~~ approved Alternative Group 2 Project Definition
November 2004 and February 2005 - Status reports on Hydromodification Plan Approval and New and Redevelopment Treatment Control Implementation

DISCUSSION: The Revised Tentative Order (Appendix A) would amend the Santa Clara Program's stormwater permit to approve an alternative definition of small new and redevelopment projects that would be required to implement stormwater treatment controls. Consideration of such an alternative is consistent with the October 2001 amendment of the Program's permit, which was the first Board order to require implementation of stormwater treatment controls at new and redevelopment projects. The Board included similar, but not identical, requirements for implementation of stormwater treatment controls at new and redevelopment projects in the permits of other Bay Area stormwater programs in early 2003. This Order would also approve key provisions of the Program's Hydromodification Management Plan to control the flow of stormwater runoff, the first such plan and approval in our Region.

Alternative Group 2 Definition: In September 2003, the Santa Clara Program proposed an alternative Group 2 Project definition (those smaller new and redevelopment projects that create 10,000 square feet or more but less than 1 acre of new impervious surface), so as to provide more consistency between its permit and the other Bay Area stormwater programs' permits. The Board found this alternative definition to be comparable in its effectiveness as the original definition and approved the Program's proposal at its October 2003 meeting.

In March 2005, the Program proposed another alternative Group 2 Project definition both to allow more time for the implementation of stormwater treatment controls for all Group 2 Projects and to allow that implementation to be completed in two phases, to compensate for the fact that Group 2 implementation is scheduled earlier for the Program than for the other Bay Area stormwater programs. Subsequent negotiations between Board staff and the Program's representatives have modified the Program's proposal such that stormwater treatment controls would be required within three months of the Board's approval of the first phase of Group 2 (designated as Group 2A Projects). Group 2A Projects are those projects 10,000 square feet and larger in a subset of land uses, such as parking lots, auto repair shops, gas stations and various outdoor-focused businesses. The second phase of Group 2 (designated as Group 2B Projects) would include all projects 10,000 square feet and larger, and would be timed to coincide with the Group 2 implementation date for the other Bay Area stormwater

programs. This Order would approve this modified alternate Group 2 Project definition and phased implementation.

Hydromodification Management Plan: The 2001 permit amendment also required the Program to prepare and submit for Board approval a Hydromodification Management Plan (HMP). The goal of the HMP is to control the flow of stormwater runoff from larger new and redevelopment projects, where such flow can cause flooding, increase erosion of creek beds and banks, generate silt pollution or cause other impacts to the beneficial uses of creeks and streams. The Program submitted its final HMP Report in April 2005. This Order would approve key provisions of the HMP Report, and require their implementation to start within three months of the Board's approval. HMP implementation required in this Order is essentially phased in order to compensate for the fact that such HMP implementation is scheduled earlier in Santa Clara County than for the other Bay Area counties. Some technical and implementation components of the HMP would not be approved by this Order. Where these components are applicable across the Bay Area, they will be addressed on a regional level.

In May 2005, Board staff circulated for public comment a Tentative Order that would amend the Program's permit regarding the Group 2 definition and hydromodification. At the Program's request, the public comment period was extended by three weeks to late June. Staff received comment letters from the Santa Clara Program (through its legal counsel, Morrison Foerster), Baykeeper, Ruth & Going Consultants, and the City of San Jose (Appendix C), and has responded to all comments (Appendix D). At the hearing, we expect testimony from parties that submitted written comments as well as from local groups that have not submitted written comments. The Revised Tentative Order represents the results of negotiations between Board staff and the Program's representatives during the public comment period, and consideration of all comments received during the public comment period.

This Order represents a compromise on many implementation issues, designed to require increased use of stormwater treatment controls in new and redevelopment projects, while minimizing any inequities caused by the requirement that Santa Clara County implement such treatment control use earlier than other Bay Area counties. This Order also requires implementation of the first plan to control the flow of stormwater runoff in the Region, while saving some issues raised by the Program's HMP for resolution on a regional basis.

RECOMMEN-
DATION: Adopt the Revised Tentative Order

File No. 2182.05 (JBO, SKM)

Appendices: A: Revised Tentative Order
 B: Revised Fact Sheet
 C: Public Comments
 D: Response to Comments