

## State Water Resources Control Board

# RESPONSE TO PUBLIC COMMENTS FOR DRAFT STORM WATER RESOURCE PLAN GUIDELINES

On August 28, 2015, the State Water Resources Control Board (State Water Board) issued draft Storm Water Resource Plan Guidelines (Plan Guidelines) to the public for a forty-five day public review and comment period. During the public comment period, State Water Board staff conducted three stakeholder outreach meetings on the following dates:

- September 29, 2015 in Fresno, California
- September 30, 2015 in Fountain Valley, California
- October 1, 2015 in Oakland, California

On October 7, 2015, the State Water Board held a public workshop to allow stakeholders the opportunity to orally present their concerns regarding the draft Plan Guidelines directly to the State Water Board.

## **RESPONSE TO COMMENTS**

The State Water Board received 38 public comment letters by the due date of October 13, 2015. The following is a brief summary of general comments received, the name of the commenters, the cataloged comment number (cross-referencing actual public comment letter), and the State Water Board response to each general comment.

### **1. Storm Water Resource Plan Approval Process / Self-Certified Checklist:**

#### General Comment:

The commenters below state that the approval process for a Storm Water Resource Plan (Plan) is unclear in the Plan Guidelines. Many commenters support establishing a streamlined process by modifying the existing Checklist in Attachment A of the Plan Guidelines to add a signature block, thus allowing the Checklist to serve as a self-certifying document for the entity submitting the Plan to certify that their submitted Plan, at a minimum, is in accordance with Water Code requirements (as amended by Senate Bill 985). Some commenters requested that, where a Regional Water Board has approved an existing plan as compliant with requirements under an applicable Municipal Separate Storm Sewer System (MS4) permit, that approval should also constitute approval under the Plan Guidelines.

*Commenters: County of San Diego Department of Public Works, Gateway Water Management, Greater Monterey County IRWM, Los Angeles Department of Water and Power, Los Cerritos Channel Watershed Group, Marin County Stormwater Pollution Prevention Program, Orange*

*County Water District, San Diego County Water Authority, Ventura Countywide Stormwater Quality Management Program*

*Cataloged comment numbers: CoSDWPP 2, FMFCD 6, GWMA 2, GMCIRWM 2, LADWP 2, LCCWG 8, MCSPPP 3, OCWD 5, SDWA 5, VCSQMP 2*

State Water Board Response:

The State Water Board recognizes that it is important to confirm that a Storm Water Resource Plan contains all the vital elements required by the Water Code (as amended by Senate Bill 985) and the Plan Guidelines, but the State Water Board concurs that a streamlined Plan submittal process is necessary to avoid delays in access to funding. However, the State Water Board does not concur that a Regional Water Board approval of existing plans necessarily confirms that all Water Code (as amended by Senate Bill 985) or Plan Guidelines requirements have been fulfilled since the applicable MS4 permit requirements may vary.

To address these comments, the proposed checklist in Appendix A of the draft Plan Guidelines has been amended to serve as a Checklist and Self-Certification form. As proposed, all Plans submitted to the State Water Board for funding purposes must be accompanied by a completed Checklist and signed by the authorized representative of the entity that prepared the Plan, certifying that all Water Code requirements and State Water Board recommendations “checked off” on the list are properly addressed in the submitted Plan. As proposed, the checklist will require further information from the Plan preparer to cite where each provision is addressed in the Plan (and/or collection of plans that serves as a functional equivalent), including document(s) title, chapter, section, and associated page number(s). Additionally, all documents referenced must include a website address that provides for electronic accessibility; if a referenced document is not accessible to the public electronically, the document(s) must be included in the Plan submittal package in the form of an electronic file on a compact disk or other electronic transmittal tool.

The proposed self-certification checklist process is a “first-step” streamlined process for submittal of a complete Plan for funding purposes. State and Regional Water Board staff, and other agencies requiring a Storm Water Resource Plan, can then provide a further detailed review as necessary.

**2. Benefits and Benefit Metrics:**

General Comment:

The commenters below requested revisions to the proposed lists of Benefits and Metrics listed in Tables 3 and Table 4 of the Plan Guidelines, to remove redundancies, clarify benefit categories, and add additional benefits and metric units.

*Commenters: California Council for Environmental and Economic Balance, California Water Partnership, Los Cerritos Channel Watershed Group, California Water Partnership, Tree People, Regional Water Management Foundation, General Public – Joyce Dillard*

*Cataloged comment numbers: CCEEB 1-2, CWP 5, CWP 19, CWP 22, CWP 26, CWP 21, LCCWG 5, GPJD 19, TP2*

State Water Board Response:

The State Water Board concurs with many of the requested revisions and additions to Tables 3 and Table 4 in the Plan Guidelines. The two tables of information were revised to reflect additional benefits and metric units, and to remove redundancies. Additional metrics were added for measuring pollutant load reductions for Water Quality benefits ((milligram/liter (mg/L), microgram/day (µg/day), and most probable number/milliliter (mpn/mL)); to account for cost per unit in Water Supply benefits; to encompass more types of flood management benefits (acres or linear feet); and to include environmental measurements from the California Rapid Assessment Method (CRAM) for Wetlands (landscape and buffer, hydrology, biotic structure, and physical structure). Notwithstanding the revisions to the benefits and metrics, the Plan Guidelines will continue to allow other metrics and methodologies for integrated evaluation and analysis of multiple benefits to be used, as appropriate (Plan Guidelines section VI.C.1).

**3. 85<sup>th</sup> percentile, 24-hour Design Storm Threshold for Storm Water Capture Projects:**

General Comment:

The commenters state that it is not appropriate to set a specific numeric design storm capture performance threshold for a project because: (1) it may be infeasible for water capture projects that deliver many other benefits to achieve an 85<sup>th</sup> percentile, 24-hour storm capture volume, or (2) an 85<sup>th</sup> percentile, 24-hour storm capture volume is infeasible for many watersheds throughout the state.

One commenter (*California Water Partnership, CWP 20*) supports the 85<sup>th</sup> percentile, 24-hour storm threshold, and also suggests that capture of the 95<sup>th</sup> percentile storm should be encouraged in the Plan Guidelines.

*Commenters: California Water Partnership, City of Hermosa, City of Rancho Palos Verde, Gateway Water Management Authority, General Public-Joyce Dillard, Los Angeles Department of Water and Power, Los Cerritos Channel Watershed Group, Orange County Water District, Riverside County Flood Control District, Ventura Countywide Stormwater Quality Management Program*

*Cataloged comment numbers: CoH 2, CoRPV 2, CWP 6, CWP 20, GWMA 12, GPJD 9, LADWP 5, LCCWG 1, OCWD 12, RCFCWCD 1, VCSQMP 6*

State Water Board Response:

The draft Plan Guidelines allow for variations in watersheds across the state and allow for storm water capture capabilities other than the 85<sup>th</sup> percentile, 24-hour storm.

To address concerns regarding the numeric storm water capture threshold, the draft Guidelines were revised as follows:

- i. A demonstration that, **where feasible**, individual projects (within the project areas' watershed) capture dry weather runoff and, at minimum, ~~first flush from~~ the volume from an 85<sup>th</sup>-percentile 24-hour storm event, based on available watershed-specific rainfall data for beneficial use and proposed multiple benefits.

Additionally, the definition of “project” has been clarified in the draft Guidelines; a “project” includes a collective of project activities and programs (such as distributed green streets across a subwatershed) that may collectively capture a storm event volume, rather than on an individual activity basis. The new definition for “project” states the following: *includes “project type” and consists of an entire set or group of opportunities, programs, actions or activities (including structural and non-structural implementation of management measures and practices).*

The Plan Guidelines were revised to clarify that projects included in the Plan may be individual projects or “project types” that will result in the Plan’s proposed watershed outcomes, as demonstrated through a quantitative metric-based analysis in the Plan. Figure 1 was added to the draft Guidelines to further illustrate the newly expanded definition of “project”.

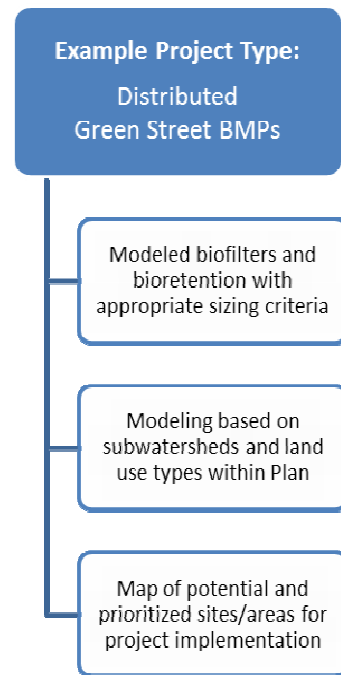


Figure 1. Example project "type."

#### 4. **Functionally Equivalent Plans:**

##### General Comment:

Some commenters requested that the Plan Guidelines explicitly state that certain plans, such as Enhanced Watershed Management Plans and/or Watershed Management Plans prepared for compliance with the Los Angeles Water Board storm water permits, already meet the provisions in the Water Code (as amended by Senate Bill 985). Other commenters requested more information regarding what constitutes a functionally equivalent plan.

*Commenters: City of Duarte, City of Hermosa, City of Los Angeles Bureau of Sanitation, County of Los Angeles Department of Public Works, City of Malibu, City of Rancho Palos Verde, Gateway Water Management Authority, California Stormwater Quality Association, City of Santa Maria, California Water Partnership, Marin County Stormwater Pollution Prevention Program, Orange County Water District, Regional Water Management Foundation, Ventura Countywide Stormwater Quality Management Program*

*Cataloged comment numbers: CoDu 2, CoH 1, CoLABS 1, CoLADPW 1, CoM 1, CoRPV 1, GWMA 3-6, CASQA 3, CoSM 2, CWP 12, CWP 30, MCSPPP 2, OCWD 4, RWMF 8, VCSQMP 1*

##### State Water Board Response:

The purpose of the Plan Guidelines is to provide guidance in preparing Plans, not to assess or indicate whether existing or pending plans comply with provisions in the Water Code; therefore it is not appropriate for the guidelines to identify plans that meet the Water Code requirements.

The draft Plan Guidelines acknowledge that there are existing plans that could be used to fulfill Water Code requirements as a functionally equivalent plan or plans; accordingly, the examples of existing plans that may serve as functionally equivalent documents have expanded. The wording in the Guidelines will remain flexible to allow for inclusion of varying plan types that have elements in common to a storm water resource plan.

## **5. Submission of Plan to Integrated Regional Watershed Management (IRWM) Group:**

### **General Comment:**

The commenters below state that, while submittal of a completed Plan to the applicable integrated regional water management (IRWM) group is required by the Water Code, the Plan Guidelines should stipulate that proof of submittal of the Plan to the applicable IRWM group is required. For “incorporation” into the IRWM plan, some commenters suggest that the Plan Guidelines should direct the IRWM planning regions to incorporate Plans into their IRWM plans by reference, similar to how other planning documents such as Urban Water Management Plans are incorporated.

*Commenters: Fresno Metropolitan Flood Control District, City of Hermosa, City of Los Angeles Bureau of Sanitation, County of Los Angeles Department of Public Works, City of Malibu, City of Rancho Palos Verde, Los Angeles Department of Water and Power, Orange County Water District, Santa Ana Watershed Project Authority, San Diego County Water Authority, Trust for Public Land, Ventura Countywide Stormwater Quality Management Program*

*Cataloged comment numbers: FMFCD 4, CoH 3, CoLABS 3, CoLADPW 2, CoM 2, CoRPV 3, LADWP 4, OCWD 9-10, SAWPA 2, SDWA 1, TPL 2, VCSQMP 3*

### **State Water Board Response:**

The State Water Board concurs that placing the responsibility on the Storm Water Resource Plan preparer to ensure incorporation into an IRWM plan is unreasonable, especially due to timing constraints associated with funding applications. To address this concern, the draft Plan Guidelines were revised to clarify the State Water Board’s expectations regarding the submittal of Plans to the IRWM groups. For the purposes of applying for funding, the Plan Guidelines allow the submittal of a Plan to the IRWM group to satisfy the initial requirement of incorporation into the IRWM plan; the draft Plan Guidelines have been modified, however, to clarify that the State Water Board urges public agencies to collaborate with other local and regional partners of the IRWM group to implement the Storm Water Resource Plans through an integrated IRWM process. Further guidance to outline a specific process for the Department of Water Resources and regional IRWM groups to follow is outside the scope of the Plan Guidelines; therefore, the Guidelines remain unchanged with respect to this concern.

## **6. Watershed Size/Scale:**

### **General Comment:**

Some commenters support a large minimum watershed scale for preparation of Plans and recommend a larger minimum scale (the Plan Guidelines recommends a scale of greater than five square miles). At least one commenter (Marin County Stormwater Pollution Prevention Program, MCSPPP 5) suggests that requiring a minimum watershed size for planning purposes may prevent important projects from moving forward in smaller watersheds.

*Commenters: Fresno Metropolitan Flood Control District, General Public – Joyce Dillard, Los Cerritos Watershed Group, Marin County Stormwater Pollution Prevention Program, Orange County Water District, Regional Water Management Foundation, Santa Ana Watershed Project Authority, San Diego County Water Authority*

*Cataloged comment numbers: FMFCD 2-3, GPJD 17-18, LCCWG 3, LCCWG 7, MCSPPP 5, OCWD 11, RMWF 7, SAWPA 3, SDWA 2*

**State Water Board Response:**

The State Water Board does not concur and the recommended watershed scale recommendation in the Plan Guidelines was not revised for the following reasons. Adjusting the watershed size recommendation to allow for smaller scale planning efforts would not meet the intent of the Water Code (as amended by Senate Bill 985), to encourage coordination and collaboration across multiple jurisdictions for watershed planning purposes. On the other hand, the State Water Board understands the concern that requiring a larger minimum watershed size may preclude use of planning efforts of some smaller communities and/or watersheds. Accordingly, the minimum watershed size was revised to be a general recommendation, and the following text was added to clarify that exceptions to the minimum size would be considered due to watershed-specific conditions:

“Entities working in watersheds smaller than 5 square miles should not be precluded from funding due to the limited size of the watershed if they can demonstrate: 1) they have unique water quality challenges; 2) they are hydrologically independent from the larger surrounding watersheds; and 3) they have met all of the other requirements of the Storm Water Resource Plan Guidelines.”

**7. Regulatory Status of Guidelines:**

**General Comment:**

The commenters below expressed concerns with the fact that some of the Plan Guidelines are non-regulatory and non-binding in nature, and solely State Water Board recommendations.

*Commenters: California Stormwater Quality Association, California Water Partnership, General Public – Joyce Dillard, General Public - Mark Connelly, Orange County Water District*

*Cataloged comment numbers: CASQA 1, CWP 1, CWP 14, GPJD 1-2, GPMC 1, OCWD 1*

**State Water Board Response:**

Storm water resource planning is a long-term effort; however, the Plan Guidelines also serve the immediate purpose of assisting funding applicants with developing the required plans to obtain state funding for storm water and dry weather runoff capture and use projects. To the extent a provision of the Plan Guidelines is specifically required by SB 985’s revisions to the Water Code, it has been incorporated as a binding requirement of the Plan Guidelines. While Plan Guidelines are non-binding at this time, State Water Board staff have included, not only Water Code requirements, but strong recommendations and guidance for completing a Storm Water resource Plan. However, if the State Water Board chooses in the future to make other provisions of the Plan Guidelines binding, the appropriate avenue for further development of the Guidelines is through a formal rule-making process.

## **8. Adaptive Management of Storm Water Resource Plans:**

### **General Comment:**

The commenters below stated concerns with how future projects would be added to a completed Storm Water Resource Plan. The lifespan of Storm Water Resource Plans will likely extend beyond current funding timeframes; therefore, there must be requirements for procedures to update Plans and add future projects.

*Commenters: California Water Partnership, Gateway Water Management Authority Los Cerritos Channel Watershed Group, Orange County Water District*

*Cataloged comment numbers: CWP 4, CWP 18, GWMA 7, LCCWG 8, OCWD 9*

### **State Water Board Response:**

The State Water Board concurs that Storm Water Resource Plans should be dynamic and allow for adaptive management. The Plan Guidelines have been modified to include a section titled Adaptive Management, purposely to emphasize the importance of long-term adaptive management to keep the Storm Water Resource Plan continuously updated in accordance with newly acquired information and local/regional decisions.