



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

Central Coast Regional Water Quality Control Board

December 17, 2012

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Email: commentletters@waterboards.ca.gov



Dear Ms. Townsend:

CENTRAL COAST WATER BOARD COMMENTS ON THE NOVEMBER 16, 2012 DRAFT PHASE II MUNICIPAL STORMWATER PERMIT

Thank you for the opportunity to comment on the November 16, 2012 Draft Phase II Municipal Stormwater Permit (Draft Permit). Central Coast Water Board staff appreciates State Water Board staff's responsiveness to our previous comments on earlier drafts. We have several principal comments on the Draft Permit, as well as detailed comments on specific sections of the Draft Permit. Our principal comments are discussed in this letter, while our more targeted comments are found in Attachment 1.

Maintain Regional Water Board Discretion to Require Continued Implementation of Existing Programs

First, we wish to express our strong support for language inserted by State Water Board staff into section E.1.b of the Draft Permit that will help preserve the progress we have made in our region in implementing Phase II municipal stormwater programs. The language of Section E.1.b allows Regional Water Boards to require continued implementation of existing programs when Regional Water Boards find those existing programs to be more effective than the Draft Permit's minimum requirements. Section E.1.b also strikes the right balance between ensuring statewide consistency and supporting program implementation progress that has already been achieved. Over the last eight years, we have expended substantial resources to enroll virtually all of the traditional Phase II municipalities within our region under the current permit. Similarly, we have also put forth significant effort to ensure our Phase II municipalities have developed and implemented meaningful programs focused on tangible water quality results to comply with the current permit. As a result of these efforts, most if not all of our municipalities are implementing many aspects of their programs at a higher level than required by the minimum requirements found in the Draft Permit.

To maintain this higher level of implementation, and its concomitant water quality benefits, we find it critical that Regional Water Boards maintain the discretion to continue requiring implementation levels that municipalities have already attained and therefore demonstrated as practicable. As currently drafted, section E.1.b of the Draft Permit provides this discretion. The

JEFFREY S. YOUNG, CHAIR | KENNETH A. HARRIS JR., INTERIM EXECUTIVE OFFICER

Draft Permit's general requirements ensure municipalities are consistent in achieving minimum standards, while section E.1.b allows to Regional Water Boards to maintain current program implementation where appropriate.

Maintaining current levels of implementation is important for adhering to the maximum extent practicable standard. As stated in Finding 37 of the Draft Permit, the maximum extent practicable standard is an ever-evolving, flexible, and advancing concept. Since most Central Coast traditional municipalities have already been enrolled for three to eight years, their programs have evolved and improved over time. A Draft Permit that allows municipalities to rollback implementation indiscriminately negates years of program evolution and improvement, and contravenes the iterative nature of the maximum extent practicable standard. Section E.1.b prevents this problem by providing a process for appropriate continuation of current implementation levels.

Regional Water Board discretion to maintain current implementation levels is even more important in the Central Coast Region when considering the improved water quality and beneficial use protection provided by the current level of implementation in this region relative to the implementation levels required by the Draft Permit. We find that urban runoff is a potential source of impairment for 72 of the 192 impaired water segments in our region. Any rollback of stormwater program implementation that will perpetuate or worsen this situation is simply not warranted. For example, the Draft Permit only requires active construction sites to be inspected once, while Central Coast municipalities typically inspect active construction sites weekly or monthly throughout the wet season, depending on the sites' priority. This is significant, because numerous water segments receiving urban runoff are impaired by sediment in our region. For several years, the Central Coast Water Board and other Regional Water Boards have increased implementation of water quality-based municipal stormwater programs. During enrollment of municipalities under the current Phase II permit, we worked with municipalities to identify their primary pollutants of concern and tailor their programs to target those conditions. Other Regional Water Boards are also rigorously pursuing water quality-based stormwater permitting through their Phase I programs. Section E.1.b will support the continued pursuit of water quality-based program implementation and water quality improvement.

We also support the additional language in the Draft Permit that balances Regional Water Board discretion while still ensuring statewide consistency. For example, municipalities are provided with a process for requesting State Water Board Executive Director review of Regional Water Board determinations. They are also allowed to change their existing programs, provided the changes meet the maximum extent practicable standard and maintain overall program effectiveness. These factors help ensure continued implementation of existing programs will proceed appropriately.

Require Central Coast Municipalities to Implement Central Coast Water Board Post-Construction Requirements

Central Coast Water Board staff's second principal comment is to urge the State Water Resources Control Board to require Central Coast municipalities to continue implementation of the Central Coast Water Board's Post-Construction Requirements to protect water quality and beneficial uses. The Draft Permit currently achieves this by incorporating our Post-Construction Requirements at Attachment J. We appreciate State Water Board staff's support of the requirements and validation of our approach to regulation of post-construction stormwater through inclusion of the Post-Construction Requirements in the Draft Permit.

Alternatively, the Draft Permit could require Central Coast municipalities to continue implementing the Post-Construction Requirements by referencing the requirements, rather than including them in the Draft Permit. The previous version of the Draft Permit referenced the requirements rather than including them explicitly in the Draft Permit. We entreat the State Water Resources Control Board to take action that acknowledges our substantial progress to protect water quality and beneficial uses by requiring implementation of the Post-Construction Requirements on the Central Coast by either incorporating our Post-Construction Requirements or referencing the requirements.

We find the Post-Construction Requirements to be critical to the protection of water quality and beneficial uses in our region. Implementation of the Post-Construction Requirements is one of our highest priorities. The requirements focus on maintaining the watershed processes (such as overland flow, infiltration, baseflow, and sediment transport) that are necessary for protecting water quality and beneficial uses. The State Water Board previously saw the value of this approach to post-construction stormwater management when it funded approximately \$600,000 for development of Post-Construction Requirements from the Cleanup and Abatement Account. A technical team of experts stratified the Central Coast region into watershed management zones and identified the dominant watershed processes for each of those zones. Central Coast Water Board staff built upon this technical foundation by developing Post-Construction Requirements to protect the identified dominant watershed processes. Throughout the process of developing the Post-Construction Requirements, Central Coast Water Board staff used a rigorous stakeholder involvement process that included charette-style workshops, a stakeholder review team, various traditional workshops, numerous stakeholder meetings, and several Central Coast Water Board agenda items. As a result of all these efforts, the Central Coast Water Board's Post-Construction Requirements are well founded and effectively embody the post-construction stormwater management goals of the Draft Permit.

The Central Coast Water Board's Post-Construction Requirements enact the watershed process-based approach to post-construction stormwater management outlined in the Draft Permit. In other words, our Post-Construction Requirements and the Draft Permit are consistent; we are simply further down the path towards implementation, and therefore already have detailed requirements in place for our region. This consistency is demonstrated in the Draft Permit Fact Sheet, which states: "[...] the State Water Board expects to amend [the Draft Permit] to incorporate similar requirements for Permittees in the remainder of the State." It is necessary for Central Coast municipalities to be required to implement the Post-Construction Requirements through the Draft Permit, as opposed to relying upon the Draft Permit post construction requirements for all Phase II municipalities, because the Central Coast Water Board and Central Coast municipalities have already conducted the work envisioned by the Draft Permit. To rely solely on the Draft Permit at this time, without requiring implementation of the Central Coast Board's Post-Construction Requirements, would discount and duplicate a significant amount of technical analysis, stakeholder involvement, and training already invested. This would unnecessarily delay implementation and waste the \$600,000 in State Water Board funding from the Cleanup and Abatement Account.

Furthermore, keeping the Central Coast Water Board's Post-Construction Requirements in the Draft Permit, and proceeding with their implementation in the Central Coast Region can vastly benefit future statewide implementation of a watershed process-based approach to post-construction stormwater management. The Central Coast can essentially serve as a pilot program for the state, allowing for identification of successes and areas of improvement that can be used to ensure an effective statewide program. Using the Central Coast as a pilot program makes sense, in that it allows a watershed process-based approach to post-construction

stormwater management to be implemented in a targeted area prior to more wide-scale implementation.

Improve the Central Coast Water Board's Post-Construction Requirements with Minor Modifications

Upon adoption of the Post-Construction Requirements, the Central Coast Water Board set up a formal process for communicating with municipalities regarding implementation of the Post-Construction Requirements. The goal is for Central Coast Water Board staff to understand the challenges municipalities are facing in implementing the requirements, and to identify areas where Central Coast Water Board staff can assist municipalities with implementation. The process includes a stakeholder review team, associated subcommittees, and reporting back to the Central Coast Water Board.

This process is currently underway, and has already resulted in identification of a minor adjustment to the Post-Construction Requirements that could increase flexibility implementing the requirements, potentially providing benefits to municipalities and developers. Specifically, the Post-Construction Requirements currently include a detailed method for calculating the volume of runoff that must be retained on site, and by working with stakeholders, Central Coast Water Board staff understands there are additional calculation methods that should be considered to achieve similar water quality treatment and watershed process protection. As such, Central Coast Water Board staff recommends a simple modification to the Post-Construction Requirements to allow municipalities to develop other methods for Central Coast Water Board Executive Officer approval. This will reduce Central Coast municipalities' concerns and directly responds to one of their most significant comments on the Post-Construction Requirements. Furthermore, it demonstrates implementation of Central Coast Water Board direction for staff and stakeholders to work together to improve implementation of the requirements. We propose this modification in this context.

Therefore, we propose the following modification to section B.4.d.vi, page 8 of Attachment J of the Draft Permit (in underline strikeout format):

Hydrologic Analysis and Structural Stormwater Control Measure Sizing – To determine Stormwater Control Measure sizing and design, Permittees shall require Regulated Project applicants to use the hydrologic analysis and sizing methods as outlined in Attachment D, ~~or a locally/regionally calibrated continuous simulation model that results in equivalent optimization of on-site runoff volume retention, or hydrologic analysis and sizing methods equally effective in optimizing on-site runoff volume retention that have been approved by the Central Coast Water Board Executive Officer.~~

In addition, following adoption of the Post-Construction Requirements, Central Coast Water Board staff identified several errors in the requirements. Adoption of the Draft Permit is an opportunity to correct those errors. None of the proposed corrections alter the scope of the requirements – they simply correct inadvertent errors. As such, we propose the following additional modifications (in underline strikeout format):

Attachment D, Section 3.a, page 29 of Attachment J of the Draft Permit - In bioretention and biofiltration stormwater control measures, the planting medium in the facility provides water quality treatment. These facilities do not rely on detention to attenuate pollutants. Therefore, this proposed language change removes the requirement to apply a minimum detention time when using bioretention and biofiltration stormwater control measures. Additionally, reference

to an underdrain is removed to avoid further confusion regarding orifice design in facilities that do use extended detention.

a) *Where full Retention/Infiltration Cannot Be Achieved*

Where constraints limit the ability to fully infiltrate the Design Volume, a SCM design that ensures treatment of the 85th percentile storm event and optimizes infiltration may be used. The SCM design shall function as a retention/detention facility and may include ~~an underdrain with an~~ orifice control to ensure that a minimum of 48 hours of extended detention is provided for the Water Quality Volume. Extended detention is not required when a bioretention and/or biofiltration treatment system is used pursuant to Section B.3.b.ii. Draw down calculations based on time steps and design configuration shall be used to size the orifice.

Attachment D, Section 2.c, page 28 of Attachment J of the Draft Permit - The runoff coefficient ("C") should not be applied to the stormwater control measures (SCMs) on a site. Stormwater control measures must be able to accommodate all of the rainwater, for the design storm, that falls directly onto the stormwater control measures. Therefore, it is not appropriate to apply a reduction coefficient to those areas.

c) *Compute Runoff:*

Runoff from 95th Percentile 24-hr Rainfall Depth = [C x Rainfall Depth_{95th} x (Tributary Area - SCM Area)] + (Rainfall Depth_{95th} x SCM Area)

Runoff from 85th Percentile 24-hr Rainfall Depth = [C x Rainfall Depth_{95th} x (Tributary Area - SCM Area)] + (Rainfall Depth_{95th} x SCM Area)

Table of Contents, page 2 of Attachment J of the Draft Permit - Remove heading for section not found in document.

7) Required Hydrologic Analysis.....12

Attachment E, fourth bullet, page 30 Attachment J of the Draft Permit- Remove language incorrectly included.

Do not include: Infiltration SCM surfaces (e.g., SCMs designed to specific performance objectives for retention/infiltration) including ~~permeable pavement~~, bioretention cells, bioswales; natural and undisturbed landscape areas, or landscape areas compliant with the Model Water Efficient Landscape Ordinance (California Code of Regulations, Title 23, Water Division 2, Department of Water Resources, Chapter 2.7.), or a local ordinance at least as effective as the Model Water Efficient Landscape Ordinance.

Thank you for the opportunity to comment. We look forward to continue working with you on the Draft Permit. If you have any questions regarding this letter, please contact Phil Hammer at phillip.hammer@waterboards.ca.gov or 805-549-3882, or Lisa McCann at lisa.mccann@waterboards.ca.gov or 805-549-3132.

Sincerely,



Digitally signed by Kenneth A Harris Jr
DN: cn=Kenneth A Harris Jr,
o=CCRWQCB, ou=Interim Executive
Officer, email=kharris@waterboards.
ca.gov, c=US
Date: 2012.12.17 08:17:21 -08'00'

Kenneth A. Harris, Jr.
Interim Executive Officer

cc: Tom Howard, Executive Director, State Water Board, tom.howard@waterboards.ca.gov
Jon Bishop, Deputy Director, State Water Board, jon.bishop@waterboards.ca.gov
Ali Dunn, State Water Board, ali.dunn@waterboards.ca.gov
Eric Berntsen, State Water Board, eric.berntsen@waterboards.ca.gov
Christine Sotelo, State Water Board, Christine.sotelo@waterboards.ca.gov

Attachment: Central Coast Water Board Comments on Specific Sections of the November 16, 2012 Draft Phase II Municipal Stormwater Permit

ATTACHMENT**Central Coast Water Board Comments
on
Specific Sections of the November 16, 2012 Draft Phase II Municipal Stormwater Permit**

Section E.6.a.i. p. 23 - This section has been edited to say municipalities only have to develop legal authority to the extent allowable under local law. However, the point of the requirement is for municipalities to update local law so they can implement the permit and comply with its requirements. Municipalities should not be allowed to use inappropriate local law as an excuse for failed implementation or inadequate legal authority. This section should be edited as follows:

Task Description – Within the second year of the effective date of the permit, the Permittee shall review and revise relevant ordinances or other regulatory mechanisms, or adopt any new ordinances or other regulatory mechanisms, to obtain adequate legal authority, to the extent allowable under state ~~or local~~ law, to control pollutant discharges into and from, as applicable, its MS4, and to meet the requirements of this Order.

Section E.6.a.ii.f. p. 24 – This section has been edited to allow municipalities to obtain legal authority for just one of the following: installation, implementation, or maintenance of BMPs. Municipalities need to have legal authority to require all three of these items, since BMP effectiveness is reliant on all three. This section should be returned to its previous version:

Require operators of construction sites, new or redeveloped land, and industrial and commercial facilities to minimize the discharge of pollutants to the MS4 through the installation, implementation, ~~or~~ and maintenance of BMPs consistent with the California Storm Water Quality Association (CASQA) Best Management Practice Handbooks or equivalent.

Section E.10.c.ii. p. 46 - The first sentence in this section has new language that is confusing. We recommend the language be reworded:

The inspection procedures shall be implemented per the Permittee's construction site storm water control ordinance and shall verify compliance with the project's erosion and sediment control plan ~~ordinance~~.

Section E.10.c.ii. p. 46 – The new language included in this section does not specify an inspection frequency at active construction sites. Instead, it only applies recommended inspection frequencies. As such, it is largely unenforceable. Minimum inspections frequencies need to be included in the Draft Permit so that municipalities and Regional Water Boards will have a common understanding of expectations. The section should be changed as follows:

Prior to allowing an operator to commence land disturbance during the rainy season, the Permittee must perform an inspection to ensure all necessary sediment controls are in place. During active construction, the Permittee shall conduct inspections based on prioritization of construction sites. Prioritization criteria shall be based on project threat to water quality. Project threat to water quality includes soil erosion potential, site slope, projects size and type, sensitivity of receiving water bodies, proximity to receiving water

bodies, non-storm water discharges and past record of non-compliance by the operator of the construction site. Frequencies ~~may~~ shall be conducted in accordance with the frequencies described below. At the conclusion of the project, and prior to final occupancy approval, the Permittee must inspect to ensure that all disturbed areas have reached final stabilization and that all temporary control measures are no longer needed and have been removed.

~~Recommended~~ Required Inspection Frequencies:

Section E.11.d.i, p. 51 – This section includes revised language indicating that if a hotspot facility has a spill prevention plan or hazardous materials plan, it does not need to develop a SWPPP. There are many aspects of good SWPPP that would not be covered by a spill prevention plan or hazardous materials plan. This section should be edited as follows:

Task Description – Within the fourth year of the effective date of the permit, the Permittee shall develop and implement SWPPPs for pollutant hotspots. If a Permittee has an existing document such as Hazardous Materials Business Plan, Spill Prevention Plan, or other equivalent document the Permittee is not required to develop a SWPPP if that document includes the necessary information required within a SWPPP.

Section E.12.j, p. 82 – This section states the Central Coast municipalities must comply with the Planning and Building Document Updates and Source Control Requirements in section E.12. However, the section numbers referenced appear to be wrong. The section should be edited to state:

Central Coast Small MS4s, subject to Provision E of this Order shall comply with the Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region (Central Coast Specific Post-Construction Requirements) contained in Attachment J. Central Coast Small MS4s subject to Provision E of this Order shall adhere to the Central Coast-Specific Post-Construction Requirements, in place of complying with the requirements set forth in Provision E.12, except for Provisions E.12.j~~l~~ [Planning and Building Document Updates] and E.12.d~~h~~ [Source Control Requirements]. Central Coast Small MS4s subject to Provision E of this Order shall comply with the following implementation time schedules:

Section E.12.i.ii, p. 80 – This section has been modified to give municipalities up to four years to change their planning and permitting processes to accommodate new post-construction requirements. Previously, the Draft Permit provided municipalities with one year for the majority of this effort. This new extended timeframe is in conflict with requirements for Central Coast municipalities to implement the Central Coast Post-Construction Requirements by September 6, 2013. Updates to planning and permitting processes and codes are a critical component of post-construction requirement implementation and must be conducted prior to implementation, not three years after implementation begins. To correct this conflict and acknowledge Central Coast implementation schedules, we recommend the following edits to **sections E.12.j.a and E.12.j.b**:

(a) Central Coast Small MS4s subject to Provision E of this Order, that were previously required by Central Coast Water Board Resolution No.R3-2012-0025 to incorporate the Central Coast Specific Post-Construction Requirements into their SWMPs, shall implement the Central Coast Specific Post-Construction Requirements and sections E.12.i and E.12.d by September 6, 2013.

(b) Central Coast Small MS4s subject to Provision E of this Order, that were not previously required by Central Coast Water Board Resolution No.R3-2012-0025 to incorporate the Central Coast Specific Post-Construction Requirements into their SWMPs, shall implement the Central Coast Post-Construction Requirements and sections E.12.i and E.12.d within the first year of the effective date of this Order.

Section E.12.i, p. 80 – This section's requirements have been reduced to the point that it is likely to be ineffective. The only code now required to be updated is the landscape code, since any other reference to other codes is so vague as to be unenforceable. While updates to landscape codes are important, code updates that allow for reductions in impervious surfaces are just as critical. In addition, all detail that serves to identify the types of code updates required has been removed. Again, this makes the section difficult to enforce and may result in municipalities being uncertain how to comply. As mentioned above, code and process updates to support post-construction requirements are a critical component of the requirements' success. The proposed changes do not do service to this important topic. The changes should be removed and the language from the previous draft reinstated.

Section E.13.a.iii, p. 88 – The Draft Permit has been edited so that monitoring reports are only required in years 2 and 5. This is insufficient, since Regional Water Boards will not be able to determine if monitoring is being conducted in compliance with the Draft Permit or the monitoring plan without regular reports. This section should be edited as follows:

Reporting – By the second year Annual Report and annually thereafter, the Permittee shall complete and ~~have available~~ submit a report ~~(50 page maximum)~~ that includes a summary of baseline data collections and discussion of monitoring program results.

~~*By the fifth year Annual Report, the Permittee shall complete and have available a report (50 page maximum) that includes a comparison of data collection to baseline data, and discussion of monitoring program results.*~~

At a minimum, the ~~second and fifth year~~ Annual Reports shall include the following information:

Section E.13.b.iii, p. 91 – Same as comment for section E.13.a.iii above.

Section E.14.a.i, p. 93 - The change from requiring municipalities to assess pollutant load reduction to assessing pollutants of concern is inappropriate. Pollutants of concern is an unclear term, and parties often disagree on its meaning. This could lead to inadequate effectiveness assessment. Also, stormwater programs are not just limited to pollutants of concern. Often BMPs address a wide range of pollutants or pollutant that may not be defined as pollutants of concern, but those BMPs need effectiveness assessment. In addition, assessment of pollutant load reduction implies a quantifiable assessment, while reducing pollutants of concern is less clear. Pollutant load reduction measurement is an important step in effectiveness assessment, since it provides measurable data of program effectiveness, without the cost of discharge or receiving water quality monitoring. This section should be changed to read:

Task Description - The Permittee shall develop and implement a Program Effectiveness Assessment and Improvement Plan that tracks annual and long-term effectiveness of the storm water program. The Program Effectiveness Assessment and Improvement Plan will assist the Permittee to document compliance with permit conditions and to

adaptively manage its storm water program and make necessary modifications to the program to improve program effectiveness at reducing ~~pollutants of concern~~ pollutant loads, achieving the MEP standard, and protecting water quality. The Program Effectiveness Assessment and Improvement Plan shall identify the strategy used to gauge the effectiveness of prioritized BMPs and program implementation as a whole. The annual effectiveness assessments will help identify potential modifications to the program to ensure long-term effectiveness.

Section E.15.d, p. 98 – Changing shall to may in this section essentially negates the reporting requirements for TMDL implementation. Simply requiring municipalities to report on TMDL implementation is not enough to assess municipal compliance with wasteload allocations. To adequately assess compliance with TMDL requirements, the Draft Permit needs enforceable reporting requirements. As such, this section should be changed back to:

The Permittee shall complete and report the status of their implementation of the specific TMDL implementation requirements that have been incorporated into the permit with each Annual Report via SMARTS. Reporting on TMDL implementation ~~may~~ shall include the following information:

Section F.5.g.4, p. 134 – While this section requires participating Central Coast non-traditional municipalities to comply with the Central Coast Post-Construction Requirements in Attachment J, it does not require those municipalities to implement standard source control measures for new development. This section should require these municipalities to also comply with section F.5.g.2.a, similar to how this issue is handled for traditional municipalities in section E.12.j. This section should be edited as follows:

Central Coast Small MS4s subject to Provision F of this Order that were previously required by the Central Coast Water Board Resolution No.R3-2012-0025 to incorporate the Central Coast Specific Post-Construction Requirements into their SWMPs shall comply with the Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast Region (Central Coast Specific Post-Construction Requirements) contained in Attachment J. Central Coast Small MS4s subject to Provision F of this Order shall adhere to the Central Coast Specific Post-Construction Requirements, in place of complying with the requirements set forth in Provision F.5.g, except for Provision F.5.g.2.a [Source Control Measures]. Central Coast Small MS4s subject to Provision F of this Order shall comply with the following implementation time schedules:

(a) Central Coast Small MS4s subject to Provision F of this Order, that were previously required by the Central Coast Water Board Resolution No.R3-2012-0025 to incorporate the Central Coast Specific Post-Construction Requirements into their SWMPs, shall implement the Central Coast Specific Post-Construction Requirements by September 6, 2013.

(b) Central Coast Small MS4s subject to Provision F of this Order, that were not previously required by Central Coast Water Board Resolution No.R3-2012-0025 to incorporate the Central Coast Specific Post-Construction Requirements into their SWMPs, shall implement the Central Coast Specific Post-Construction Requirements within the first year of the effective date of this Order.

Reporting Requirements (all sections) – The detailed reporting requirements in the Draft Permit have been removed and replaced with a requirement for municipalities to certify compliance. Certification alone is not sufficient to determine if compliance is actually achieved, since various

parties frequently have different interpretations of what constitutes compliance. If compliance cannot accurately be assessed, the reporting loses its primary purpose. While Regional Water Boards can take action to require comprehensive Annual Reports, that is not necessarily a satisfactory solution, since those reports are time consuming for municipalities and difficult for Regional Water Boards to assess. Instead, the Draft Permit should require municipalities to demonstrate compliance through the SMARTS system, which could be designed to request only targeted pertinent information. This approach would reduce the reporting burden on municipalities while at the same time creating a reporting framework that is useful for compliance assessment. Use of such an approach does not necessitate major changes to the Draft Permit. A minor change to the standard reporting requirements can be added that requires municipalities to demonstrate compliance, then State Water Board staff, Regional Water Board staff, and municipalities could jointly develop the information fields to be used in SMARTS. Below is a standard reporting requirement that appears throughout the Draft Permit and our suggested change:

Reporting – The Permittee shall use State Water Board SMARTS to submit a summary of the past year activities and certify and demonstrate compliance with all requirements of this program element. The summary shall also address the relationship between the program element activities and the Permittee's Program Effectiveness Assessment and Improvement Plan that tracks annual and long-term effectiveness of the storm water program. If a Permittee is unable to certify compliance with a requirement in this program element see Section E.16.a.for compliance directions.