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Ms. Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Proposed Amendments to the Phase II Small MS4 General Permit for Storm Water Discharges

Dear Ms. Marcus:

Thank you for the opportunity to present this letter with the California State University's outline of issues concerning the draft amendment for Phase II MS4 Permit TMDLs (Total Maximum Daily Loads) that are unique to the CSU system.

The CSU system is comprised of 23 campuses from every region of California. CSU campuses are located in all nine Water Quality Control Board regions. Each campus enjoys unique qualities that enhance the educational experience for the students of the CSU. These qualities include climate, urban and rural locations, upstream and downstream watershed, topography and many others. These unique qualities present challenges to each campus when developing plans for compliance with regulatory requirements, such as the Phase II MS4 permit.

Previous Correspondence

The CSU Chancellor's Office and several CSU campuses submitted comments on the draft amendment for Phase II MS4 Permit TMDLs on July 19, 2017, which included a request to extend the comment period for several months. Additional time was needed to fully understand the implications of the proposed amendment in order to provide meaningful input to the State Water Resources Control Board for its consideration. The State Water Resources Control Board extended the comment period to August 21, 2017. However, in order to successfully develop and ultimately implement actions to TMDL requirements, it is necessary to fully understand the implications of developing such plans and seek subsequent clarification relating to the amendment on potential issues. For this reason, an extension for several months was requested again in the August 18, 2017 letter transmitted from CSU to the State Water Resources Control Board.

CSU Campuses
Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay

Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime Academy

Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego

San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

Comments

During the initial comment period, staff from the Chancellor's Office and CSU campuses met with staff from the State and Regional Boards in Long Beach. At this meeting, staff exchanged information about CSU campus operations and the intent of the new draft amendment. The meeting resulted in a better understanding of the proposed requirements, as well as more questions, and the need to present additional detailed comments with suggested amendment changes.

Based on this meeting and analysis of the proposed draft amendment for Phase II MS4 Permit TMDLs, it has been concluded that the number of TMDL allocations, the requirements for implementation of the load allocations, and the diversity of CSU campus locations, geography, topography, development density, storm drainage systems and many other campus characteristics create a complex matrix of issues that will require considerable time to assemble and integrate into one comprehensive and coherent set of comments that serves the entire CSU system and delineates a pathway to compliance. Several examples that illustrate the complexity of the issues are described below.

- Development of TMDLs identified for the CSU campuses named in Attachment G of the permit was completed prior to the existence of nontraditional Phase II MS4 entities, such as universities. Waste Load Allocations provided in the Amended Fact Sheet and incorporated by reference in Attachment G include requirements for testing and monitoring without regard to the applicability to storm water discharges from nontraditional Phase II MS4s. Many of the TMDL Plans and Waste Load Allocations contain monitoring protocols that are impractical or impossible for campuses to perform, such as hourly monitoring or fish tissue sampling which seem more appropriate for point source discharges such as wastewater treatment plants. Testing and monitoring is further complicated by lack of access to appropriate collection locations; campus discharges to adjoining MS4s and not directly into the listed impaired water body; lack of clarity on actual allowable discharge concentrations; and monitoring locations not within campus owned or operated properties.
- Campuses such as CSU Northridge, CSU Dominguez Hills, and CSU Los Angeles discharge storm water to adjoining Phase II MS4s and do not directly discharge to an impaired water body. Discharge points are accessed via manholes and catch basins at various depths. Additionally, the waste load allocations, provided in the Amended Fact Sheet and incorporated in Attachment G by reference, for these campuses include criteria such as for one hour average, 30-day average, rolling average etc., which are commonly associated with point source discharges. These campuses are left to interpret how, when and where to perform monitoring and what constitutes a discharge limit to comply with the WLA.

- Attachment G allows for preparation of an implementation plan to obtain compliance with established waste load allocations. One option for compliance is to demonstrate retention to an 85% of a 24-hour storm event on site. In the case of CSU Channel Islands, storm water is initially discharged to Long Grade Creek, which is designated as waters of the state and is not owned or incorporated into the campus MS4 boundaries. Since the campus does not ultimately control the storm water outside its MS4 boundaries, it is not able to demonstrate retention.

At the meeting with staff from the State and Regional Boards, it was mentioned that Attachment G of the permit will allow identified CSU campuses to enter in a cooperative agreement with Phase I MS4 Permittees to participate in a Watershed Management Program (WMP) or Enhanced Watershed Management Program (EWMP) developed and approved pursuant to one of the Los Angeles Region's Phase I MS4 permits, which could provide CSU with efficiencies in addressing permit requirements. However, there are several hurdles in entering into such agreements. First, many of the entities that have developed WMPs or EWMPs have existed for a substantial period of time and as such have developed Memorandums of Agreement (MOA), budgets and requirements for entities to participate. Second, these entities have made substantial time and financial commitments to develop WMPs and EWPs. Incorporating CSUs into these existing entities may not be feasible if these entities do not wish to partner with a nontraditional Phase II MS4 for legal and/or financial reasons. Third, Phase I MS4s may disagree with inclusion of a nontraditional Phase II MS4s thereby eliminating this option for the campuses. Finally, Attachment G provides the CSU campuses with 6 months to identify their intent to enter into a cooperative agreement and one year to finalize the cooperative agreements. Legal and financial issues associated with entering into a cooperative agreement make it very unlikely to accomplish this task within the time frame.

Recommendation

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As evident from the above examples, the complexity of these issues requires considerably more time to shape a process which enables CSU to successfully to address the intent of the amendment for Phase II MS4 Permit TMDLs. It is thus recommended that the amendment for Phase II MS4 Permit TMDLs be updated to include a provision that enables CSU with the ability to develop a program within twelve months following adoption of the Phase II MS4 Permit TMDLs, in collaboration with State and Regional Water Boards, which is specific to CSU circumstances and provides the ability to develop clear procedures and programs that will lead to compliance with the intent of the amendment for Phase II MS4 Permit TMDLs.

Thank you for your consideration. We look forward to hearing from you and working with the Board's representatives.

Felicia Marcus, Chair
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Should you have any questions, please do not hesitate to call me at (562) 951-4120.

Sincerely,



Dr. Steven Lohr
Chief of Land Use Planning and
Environmental Review

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