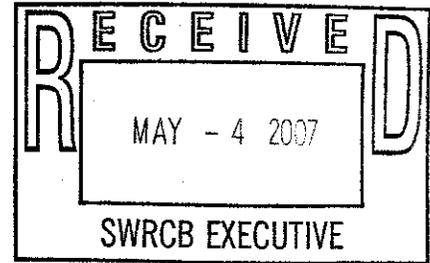


Construction General
Permit - Stormwater
Deadline: 5/4/07 5pm

April 4, 2007

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Dear Ms. Her,

Please accept these comments on the draft General NPDES Permit for Construction Activities. This draft permit raises many important issues which received preliminary discussion in the workshops and are sure to be the object of many formal comments. Rather than reiterate much of what has been communicated to you thus far, my comments will be focused on issues raised by the "New Development and Re-Development Storm Water Performance Standards" section.

Section IX.K, Page 24

Subsection 1 states: "The discharger shall obtain Regional Water Board approval for the use of any structural control measures used to comply with this requirement."

This requirement is problematic since Regional Boards do not maintain lists of approved BMPs. Typical the responsibility of selecting BMPs that constitute treatment to the maximum extent practicable is left to the site designer. The central purpose of the current review process is for the collection of BMPs selected to be proposed to the City or County with plan review jurisdiction for approval. This section seems to require the additional step of Regional Board review on every construction site with structural control measures. This is an unnecessary and burdensome requirement that raises many questions.

For example, how is Regional Board approval intended to be demonstrated? Is an approval letter required? How long will this additional review delay project approval?

Is it intended that the Regional Boards will adopt or endorse manuals maintained by the Counties, Flood Control Districts, CASQA, Caltrans or others, such that use of BMPS from those manuals satisfies this requirement without additional Regional Board review?

If this is the intent, it is necessary to establish a clear and efficient process whereby innovative or new technologies can be reviewed and approved for use. Preferably this would occur at the State Board level to avoid duplicative and contradictory processes. Currently most BMP manuals contain only conventional land based water quality and quantity management practices that do not reflect the full array of BMPs that are commonly used in California. Many sites, especially retrofits or those with high development density will require innovative sub-surface detention and/or retention BMPs

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in order to meet the hydromodification requirements in this permit. Review and approval of these and other structural control measures must be simplified and expedited.

The intended implementation process for this requirement and its consequences in terms of project delay and increased burden on the Regional Boards should be more thoroughly considered.

Attachment G: New and Redevelopment Performance Standard Worksheet

The runoff volume calculator seems to exempt runoff from impervious areas from volume calculations if it is simply routed through vegetated areas. There does not appear to be any consideration of the actual infiltration or detention provided by the pervious areas. This oversight could result in vastly greater peak volumes than are calculated. For example, if a roof is designed without gutters and downspouts and drains to a landscaped area, runoff from it is subtracted regardless of the infiltrative capacity of the landscaped area. Similarly, routing water through a swale provides a volume reduction using the calculator even if the swale is not designed to infiltrate any water.

At a minimum, the calculator should be redesigned to incorporate runoff coefficients for the pervious areas. Ideally, these runoff coefficients would be field verified or at least would be based on an evaluation of native soils and soil amendments used.

Pervious BMP performance during infrequent events must also be considered more thoroughly. For example, as rainfall rates exceed percolation rates in permeable BMPs, the proportion of rain that leaves as overland flow increases. As landscaped areas become saturated, ponding water may float mulch and other landscaping materials which can be lost downstream. Landscaped areas and other pervious areas must also be protected from high velocity flows that may cause erosion. This calculator does not promote these kinds of considerations. It does set up a false choice between treating runoff in structural controls requiring Regional Board review, presumably to assure that specific design and performance criteria are met, or simply running it through some permeable area with unknown properties.

Using the calculator as provided is likely to produce developed sites that will discharge significantly more runoff than under predevelopment conditions. This obviously undermines the Board's efforts to limit on-site and in-stream erosion, especially during infrequent storm events.

As revisions are made to the draft permit, please consider that while distributed, permeable site design BMPs may be more effective and cheaper to maintain than structural controls on many sites, this is not always the case. As stated in the stormwater panel report on the feasibility of numeric effluent limits, stormwater facilities should be designed "much more rigorously with respect to the physical, chemical and/or biological processes that take place within them." The surest way to safeguard the quality of our waters is to apply this design

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guidance to site design and structural controls equally, and to give water quality and quantity credit only where it is deserved. In combination with clear hydromodification control requirements, this approach is more consistent with our shared goal of protecting water resources to the maximum extent practicable since it leaves developers free to select the most effective and feasible management strategy for their construction sites.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Vaikko P. Allen II". The signature is stylized and somewhat cursive.

Vaikko P. Allen II, CPSWQ
Regulatory Relations Manager - West
CONTECH Stormwater Solutions

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