



WSE2

DATE: April 15, 2008
TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Stormwater Municipal Regional Permit Tentative Order

RECOMMENDATION

That Council reads and comments on this report.

SUMMARY

This report describes the requirements contained in the San Francisco Bay Regional Water Board's tentative order for the Municipal Regional Stormwater NPDES Permit (MRP) and their potential financial and operational impacts on the City.

BACKGROUND

The federal Clean Water Act was amended in the late 1980s to address stormwater runoff pollution. This amendment required many municipalities in the United States to obtain National Pollutant Discharge Elimination System (NPDES) permits for discharges of urban runoff from their municipal separate storm sewer systems. The Regional Water Board first issued municipal stormwater ("Phase I") permits in the early 1990s, on a countywide basis. This allowed cities to collaborate, share information and costs, and pool resources and expertise. The Alameda Countywide Clean Water Program (ACCWP), of which Hayward is a member, received its first stormwater permit in 1992. This countywide program is a collaborative effort and not merely a county program in which cities participate. Member agencies pay a proportional program fee based on both population and area to the ACCWP.

Two successive NPDES permits were issued to ACCWP, with the current permit issued in 2003. With each permit, requirements increased and became stricter. The current permit contains provisions encompassing requirements for the following activities: new development and redevelopment, public information and participation, municipal maintenance, industrial site controls, detection and elimination of illicit discharges, monitoring of stormwater discharges, watershed management, and pollutants of concern (programs to control pollutants such as copper, mercury, and pesticides that have the potential to cause or contribute to exceedances of water

quality standards). The current NPDES permit has an associated, external Stormwater Management Plan (SWMP) that contains performance standards and details of various permit requirements.

Staff currently performs a number of tasks in order to comply with requirements in the ACCWP permit. These include inspection of commercial and industrial facilities and related enforcement, inspection of construction sites, inspection and cleaning of stormwater drain inlet and catch basins, street sweeping, imposition of stormwater treatment and design requirements on development projects, investigation of reported illicit discharges, and participation in public outreach events. Monitoring, watershed management, and pollutant of concern tasks are generally handled on a program-wide basis, with input from member agencies.

Funding for the City's stormwater program costs, which include street sweeping and maintenance of the stormwater system infrastructure, Hayward's annual contribution to the ACCWP, and an annual permit fee paid to the Regional Water Board, comes mostly from the City's Urban Runoff Fee, implemented in 1992. This fee was last updated in 1995. Although costs have increased significantly in the intervening 13 years, raising the fee would require voter approval (by either a majority of fee payers or two-thirds of the electorate) due to Proposition 218's amendment to the California Constitution, which was implemented in 1996. In addition to the urban runoff fee, which is imposed on property owners based on property area and the property's potential for stormwater pollution, the City has implemented several service-based fees in recent years. These fees aim to cover staff costs for inspection of stormwater treatment measures associated with development projects, commercial and industrial facility inspections, and street sweeping costs related to Waste Management activities.

In 2004 Regional Water Board staff and the Bay Area Stormwater Management Agencies Association (BASMAA) agreed to develop one uniform, consistent municipal regional permit and held monthly meetings in 2004 and 2005. In 2006 various work groups comprised of stakeholders (including non-governmental organizations such as environmental groups) were formed to develop performance standards and draft permit provisions. A public workshop was held in early 2007, and an administrative draft permit was issued in May 2007, followed by meetings and submission of comments. In 2007 BASMAA began to express concern with how the process was working and how prescriptive the administrative draft permit was.

The draft tentative order was issued in December 2007. The original impetus for a region-wide permit was to ensure consistency and fairness. With the tentative order the Regional Water Board expressed additional goals, some of which are to include more specificity in the permit language and requirements and to incorporate the SWMPs into the permit. Some of the stated goals were prompted by court decisions. Regional Board staff was concerned that it could not enforce external SWMPs.

Comments on the December 2007 tentative order were accepted until February 28, 2008. Staff submitted a comment letter, signed by the City Manager in February 2008 (see Exhibit A), which highlights the City's major concerns with the MRP. Regional Water Board staff received oral testimony at a public hearing held on March 11, 2008. Over 100 municipal officials spoke at the hearing to express concern with some of the new requirements and potential fiscal impacts. Attached as Exhibit B is a copy of the comment letter submitted by BASMAA and the draft

guidance document prepared by BASMAA for the benefit of its member agencies. The Alameda County Mayors' Conference submitted a request to postpone both the deadline for comments and the March 11 public hearing but neither request was successful.

DISCUSSION

While the MRP is intended to achieve the same objectives as previous permits—protection of water quality and reduction of stormwater pollution—it significantly increases stormwater-related requirements for many work activities and also includes new provisions that could greatly impact the City. Some of the more significant changes are discussed below.

The provision that has generated the most concern among municipal agency staff is that relating to trash, which has the potential to end up in bodies of water through the storm drain system. The MRP requires each city to identify high trash and litter impact catchments, totaling 10 percent of urban and suburban land, which discharge trash and litter to downstream waterways and the Bay. Very prescriptive enhanced trash control measures must be implemented for the areas representing 10 percent. These measures include weekly sweeping, enforceable parking restrictions, and enhanced inlet inspection and cleaning. Municipalities must also install trash capture devices on one-half of this area, or 5 percent of the total urban and suburban land. These devices are very costly to install and maintain. The MRP also requires that cities conduct trash assessments, which involve visually observing and counting trash.

The MRP also increases the volume of development and new development projects that are subject to “regulated project” requirements. For auto service facilities, retail gas outlets, restaurants, and parking lots, the threshold of impervious surface created or replaced is reduced from 10,000 square feet to 5,000 square feet. Requirements for regulated projects have also increased, and now include low impact development provisions in addition to requirements related to site design, source control measures, treatment of stormwater pollution, and control of stormwater flow. The MRP also requires stormwater treatment systems to be inspected more frequently than the current permit. In addition, single family homes (not part of a larger development) that create or replace 5,000 square feet or more of impervious surface now require some stormwater regulation by municipalities.

The MRP also greatly increases the types of commercial and industrial facilities that must be inspected and also the frequency of inspections. The City has a large number of facilities subject to these inspections. Under the current ACCWP permit, staff prepares a five-year business plan that prioritizes inspections based on the potential for stormwater pollution. The MRP does not allow such flexibility and requires some types of facilities to be inspected annually including those subject to the statewide General Industrial Permit, which are subject to inspection by the Regional Board.. These rigid inspection requirements of the MRP would result in almost double the number of inspections performed annually, which would significantly strain staff resources.

Construction site inspection requirements are also greatly enhanced in the MRP; it is very specific as to which sites are to be inspected and at what frequency. The MRP requires creation of a very prescriptive enforcement response plan by each municipality and does not leave much

room for staff flexibility. Tracking requirements are also increased, and municipalities will be required to document each inspection and enforcement action in a database.

The monitoring provisions identified in the MRP increase the parameters and locations to be monitored, as well as the frequency of monitoring. As most monitoring will be done on a county- or region-wide basis, this will affect program costs, which will result in higher fees to member agencies. Reporting requirements for all sections of the permit are increased. The MRP requires the creation or modification of a number of ordinances in order for municipal staff to have the legal authority to implement various provisions of the MRP. For example, the MRP requires each agency to establish an ordinance prohibiting discharge to the storm drain system from copper architectural features or pools that have been treated with copper biocides to control algae.

The MRP may also potentially affect the City's Water Pollution Control Facility (wastewater treatment plant). It contains provisions requiring pilot projects that divert stormwater to the sanitary sewer, in order to treat for certain pollutants. These provisions fail to take into account treatment and hydraulic capacity concerns or the fact that wastewater treatment plants are designed to treat human waste, not pollutants such as mercury or PCBs.

FISCAL IMPACT

Several of the significant new requirements in the MRP could potentially have a large fiscal impact. For example, the required trash capture devices are very costly to install and maintain. Enforcement of parking restrictions would entail a significant capital expenditure for signs and could require significant staff resources. Many of the new and enhanced requirements and even some of the more minor impacts contribute, cumulatively, to a large impact on staff resources.

PUBLIC CONTACT

The Regional Water Board held two public workshops in November 2006 and one in March 2007 to receive public input on the MRP under development. In March 2008 the Regional Water Board held a public hearing to receive public input on the MRP tentative order.

NEXT STEPS

The Regional Water Board is currently reviewing written comments that were submitted on the MRP and will probably present a revised tentative order to the State Water Board sometime this summer based on those comments and also oral testimony given at the March hearing.

Prepared by:



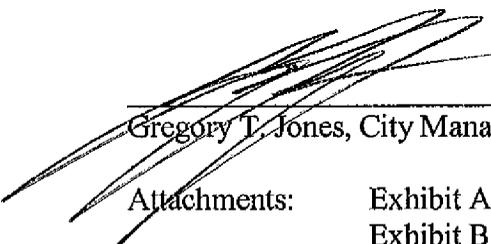
Alex Ameri, Deputy Director of Public Works

Recommended by:



Robert A. Bauman, Director of Public Works

Approved by:



Gregory T. Jones, City Manager

Attachments: Exhibit A: City of Hayward MRP comment letter
 Exhibit B: BASMA Comment Letter and draft BASMAA guidance document



CITY OF
HAYWARD
HEART OF THE BAY

February 27, 2008

MRP Tentative Order Comments

Attn: Dale Bowyer
S.F. Bay Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Municipal Regional Permit Tentative Order

Dear Mr. Bowyer,

The City of Hayward appreciates the opportunity to comment on the draft Municipal Regional Permit Tentative Order (MRP), released December 14, 2007. The City acknowledges the work and effort that has gone into the draft and supports the Water Board's goal of protecting local creeks and the San Francisco Bay from the detrimental impacts of stormwater runoff. However, the MRP as currently drafted contains many new requirements that are potentially very costly yet may be of questionable efficacy in addressing stormwater pollution. Local agencies must work with a finite amount of funding and must allocate those funds in a manner that maximizes the return on those funds for the public. In addition, agencies' ability to increase stormwater fees to fund additional requirements is severely hampered by Proposition 218's amendment to the California Constitution.

The City acknowledges and concurs with the comment letters submitted by the Bay Area Stormwater Management Agencies Association (BASMAA) and the Alameda Countywide Clean Water Program (ACCWP), and would additionally like to emphasize the following concerns regarding the MRP.

One major concern is the trash reduction component of the MRP, found in Provision C.10. The City recognizes that litter is a serious problem. In fact, the City has recently redoubled its efforts and commitment to trash reduction through public education and cleanup activities. However, the City believes that the litter problem cannot be solved through stormwater controls alone. The overly prescriptive trash-related requirements in the MRP impose a significant burden on local agency resources, while allowing little flexibility. The required enhanced litter control measures may not be applicable in all situations. It would improve the MRP if the designated measures were available as a menu for local agencies to choose from, rather than be required in each impacted area. In addition, enforceable parking restrictions could result in significant capital and staff costs to install and maintain signage and a drain on police resources for enforcement. The MRP should allow local agencies to pursue other, more cost-effective options such as public

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Exhibit A

outreach. Lastly, the requirement in the MRP to install trash capture devices on one half of the area already subject to enhanced trash control measures is duplicative; in addition, structural devices are very costly to install and maintain and may not be appropriate for all communities.

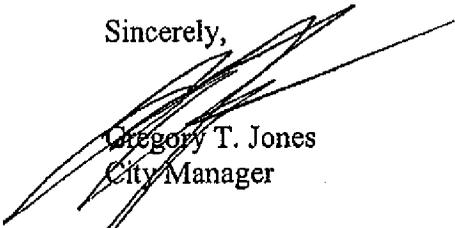
Another major concern is the requirement to conduct pilot projects to divert discharges from stormwater pump stations to the sanitary sewer, found in Provisions C.8, C.11, and C.12. First of all, requiring these additional projects before the data from current diversion projects has been evaluated is premature. Second, these requirements assume that local POTWs have the hydraulic and treatment capacity to handle stormwater discharges and the infrastructure in place to carry stormwater to the sanitary sewer, which is far from the case for many local jurisdictions. In addition, wastewater treatment plants are designed to treat biological waste and not the pollutants that the MRP is trying to address with the required diversion pilot projects (mercury and PCBs). Diverting such pollutants to the POTW could affect treatment processes and result in NPDES effluent limitation violations.

Also of concern are the rigid requirements found in Provision C.4 mandating the frequency of industrial and commercial inspections and adding new business types that must be inspected. These requirements, that include inspecting annually facilities subject to coverage under the statewide General Industrial Permit, are very burdensome for cities like Hayward that have many commercial and industrial facilities. The MRP should allow for inspectors to use their professional judgment and expertise to determine the frequency a facility should be inspected, as is the case under the current ACCWP permit. Moreover, considering that facilities covered by the General Industrial Permit currently pay an annual fee of \$700 to the state for state inspection and enforcement, it does not make sense to focus local agency resources on these particular facilities.

Lastly, new requirements found in Provision C.3 increase the burden on local agencies with limited returns. Reducing the threshold of regulated new development and redevelopment projects from 10,000 square feet to 5,000 square feet of impervious surface requires a disproportionate amount of resources to be directed at oversight and inspection of small treatment devices. Also, requiring structural treatment controls for road construction projects within existing right-of-way would place a significant burden on municipal street maintenance programs. Because of severe logistical constraints involved with installation of stormwater treatment controls within an existing roadway, the MRP should continue to exempt from numeric treatment requirements road construction within the existing right-of-way in areas where there is existing development on both sides of the road.

We appreciate your consideration of these comments.

Sincerely,



Gregory T. Jones
City Manager

cc: Robert Bauman, Director of Public Works

DRAFT Summary Illustrating Certain Key MRP Concerns Regarding Water Board Municipal Regional Permit (Draft TO)

**Current Level of Stormwater Implementation, Generally Acceptable Enhancements and Requirements Not supported but Included by Water Board staff
(Draft MRP December 4, 2007 and Errata December 14, 2007)**

Program Element	Program Activity/Draft TO Sub-provision Subject	Current Level of Implementation – Generally in Bay Area	Summary of Generally Supported Enhancements	Requirements NOT supported but included by Water Board staff
<i>Municipal Maintenance (Operations) Activities</i>	1. Street Sweeping	<p>Overall goal is to:</p> <p>1) maintain current level of PS implementation with some enhancements;</p> <p>2) ensure all municipalities are on level playing field (recognizing local differences in size/complexity) ; and</p> <p>3) ensure that PS requirements are clear and enforceable by WB.</p> <p>Current PS contain BMPs for the following major elements;</p> <ul style="list-style-type: none"> • Street sweeping w/ priority and freq.(includes measures for the selection and operation of equipment, measures to improve efficiency, disposal of sweep material, staff training and street flushing. • Street and Road repair • Sidewalk/Plaza Maintenance • Bridge and Structure maint. • Landscape maint. • Catch basin Inspection and Cleaning • Rural Public Works Maint. • Corporation Yards 	<ul style="list-style-type: none"> • Additional detail on categories of sweeping priorities. • Clarification and standardization of street sweeping frequency. • Some additional reporting that can be linked to assessing effectiveness. • Mapping designated streets within 18 months. • Performing one assessment during the permit term of street sweeping effectiveness, in coordination with POC study. • Maintain records of sweeper use and submit summary information in annual report. 	<ul style="list-style-type: none"> • Map designated streets and roads with sweeping frequency by Nov, 30 2008. • Sweeping high priority streets a minimum of 2x/month. • Sweeping low priority streets at least twice before rainy season. • 75% of replaced street sweepers shall have particulate removal of regenerative air sweepers or better. • Confirmation of street sweeper rates/speeds.
	2. Sidewalk/Plaza Maintenance		<ul style="list-style-type: none"> • Additional reporting requirements re: BASMAA mobile surface cleaner certification • All requirements need to be consistent with 	<ul style="list-style-type: none"> • Prohibition of wash water entering storm drains even if effective BMPs allowed by BASMAA mobile surface

Exhibit B

Program Element	Program Activity/Draft TO Sub-provision Subject	Current Level of Implementation – Generally in Bay Area	Summary of Generally Supported Enhancements	Requirements NOT supported but included by Water Board staff
			<p>BASMAA's Mobile Cleaner Program</p>	<p>program are implemented.</p>
	<p>3. Catch Basin Inspection and Cleaning</p>		<ul style="list-style-type: none"> • Inspect annually and clean as appropriate municipally owned and/or operated catch basins before each rainy season 	<ul style="list-style-type: none"> • Inspect and clean ALL (i.e., regardless of ownership) inlets at least once per year before rainy season • Identify inlets with high accumulations of litter/trash. • Inspect and maintain inlets with excessive sediment, trash, and debris twice a year.
	<p>4. Stormwater Pump Stations</p>		<ul style="list-style-type: none"> • New pump station BMP with priority approach to define inspection and maintenance needs. • Bay Area investigation to assist Water Board complete inventory of pump stations, characterize operations, collect general water quality data sufficient to characterize potential water quality issues, identify criteria to evaluate potential solutions and develop guidance to prioritize and implement appropriate solutions. • During the term of the permit begin identify several pilot tests • New reporting requirements 	<ul style="list-style-type: none"> • Required to inspect pump stations, regardless of ownership, at least 4x per year to address water quality problems. Keep records of maintenance and volume or mass of wastes removed. • Required to inspect and maintain trash racks and oil absorbent booms, regardless of ownership, during or within 24 hours of significant storm events (tied to a description in section under monitoring (C.8.e.iii))
	<p>5. Rural Public Works Construction and Maintenance</p>		<ul style="list-style-type: none"> • Continue existing BMPs regarding rural roads and expand training on design and maintenance. 	<ul style="list-style-type: none"> • Requirements expand existing BMPs to cover ALL rural roads during construction AND post-construction (no restrictions on who maintains). • Requirements to rehabilitate existing problematic rural roads. • Increased maintenance requirements for rural roads near creeks. • Required training at least twice during permit term on rural road BMPs.

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	6. Corporation Yard BMP Implementation		<ul style="list-style-type: none"> • Inspection of non-NOI corp yards once per 5 year permit term and re-inspection/followup if necessary. • Retrofitting wash areas to sanitary sewer if no alternative effective BMPs can be implemented. 	<ul style="list-style-type: none"> • Requirement to develop SWPPPs for non-NOI corp yards/facilities. • Requirements for annual inspection. • Retrofitting all wash areas to plumb to sanitary sewer.
New Development and Redevelopment	1. Performance Standard Implementation	Currently all programs have a numeric sizing and source control program for new development and redevelopment (except Vallejo)	<ul style="list-style-type: none"> • Represents current level of implementation for most programs – confirm all basic elements within 6 months 	
	2. Regulated Projects <ul style="list-style-type: none"> ▪ Special Land Use Categories ▪ Other Development Projects ▪ Other Re-Development Projects ▪ New Road Projects ▪ Road Expansion or Rehabilitation 		<ul style="list-style-type: none"> • Keeps impervious surface threshold for most land use categories at current level (10,000 SF) 	<ul style="list-style-type: none"> • Reduces impervious threshold to 5,000 SF in 2 years for special land uses (automotive, gas stations, restaurants and parking lots) • Contains revised requirements for street, sidewalk and trail projects that may increase number of projects covered by C.3. • Regulates replacement of arterial roads within existing footprint (i.e., even if no expansion) • For project data reporting, requires additional specificity regarding location of project, watershed, developer, tracking of phases, and project application date.
	3. Low Impact Development (LID)		<ul style="list-style-type: none"> • Integration of LID into project design • Adds language that allows measures that disperse and infiltrate runoff from impervious areas to be included as acceptable treatment measures. 	<ul style="list-style-type: none"> • Definition of LID incorporates source control and treatment controls as well as site design
	4. Numeric Sizing for Stormwater Treatment		<ul style="list-style-type: none"> • Incorporates a combined volume/flow numeric sizing criterion 	

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	5. Alternative Compliance		<ul style="list-style-type: none"> • Eliminated requirement to show impracticability of on-site treatment before allowing equivalent off-site treatment. • Exempts certain projects (e.g., brownfields, low-income, senior housing, transit oriented) from hydraulically sized treatment systems. • Flexible definition of equivalent offsite or regional treatment systems. 	<ul style="list-style-type: none"> • Does not allow alternative compliance for <u>new</u> infill development projects greater than 1 acre in size. • Some definitions of exempted project types are problematic and inconsistent with other documents. • Existing alternative compliance programs must be rescinded or modified to be consistent. • Alternative project must be completed by the end of construction of the regulated project (allows a 3- year window for regional projects). • Establishes cap on allowable parking spaces for residential development as part of transit-oriented development definition.
	6. Operation and Maintenance of Stormwater Treatment Systems		<ul style="list-style-type: none"> • Further specifies information to be contained in annual O& M reports (prefer summary reports on number of locations and inspections as opposed to details on each inspection for a subset of inspections) • Allows flexibility in method of coordination with local vector control agency 	<ul style="list-style-type: none"> • Requires minimum inspection of 20% of total number of BMP facilities annually as part of O&M program • Requires reporting of compliance status for facilities inspected for O&M
	7. Impervious Surface Data Collection			<ul style="list-style-type: none"> • Requires Permittees to jointly propose regional pilot study for collection of impervious surface data • Requires selected pilot study permittees to report C.3. project data for small projects (that create/replace 1,000 to 10,000 SF).

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				<ul style="list-style-type: none"> • Four months to prepare pilot study; begin data collection in 1 year; does not say how long to collect data.
Industrial/Commercial Inspection Program	1. Legal Authority for Effective Site Management	Contain the following key elements: legal authority, enforcement response plan/policy (ERP), inspection program, plan check, freq. of inspections (generally 1x in 5 yrs except where enforcement is underway and for facilities with a high potential for stormwater pollution then 1x/yr as part of prioritization of inspections), content of inspections, education and outreach program and a staff training program	<ul style="list-style-type: none"> • Confirm key elements within 18 months. 	<ul style="list-style-type: none"> ○ Confirm key elements within 12 months. ○ Requirements to have the ability to levy citations or administrative fines against RPs immediately at the site or within a few days.
	2. Industrial and Commercial Business Inspection Plan (Inspection Plan)		<ul style="list-style-type: none"> • Develop/update Inspection Plan (Plan). • Annually update Plan. • Prioritization of facilities for inspection frequency based on stormwater pollution risk 	<ul style="list-style-type: none"> • High, medium and low priority facilities listed/prescribed (added facility types beyond local control – water board authority). • Minimum freq. of inspections of 1x/5 yrs for facilities with low potential for stormwater pollution and 1x/3yrs for medium potential. • Inspect high potential sites 1x/yr and requires this frequency of inspection for NOIs, landfills, SARA Title III, and haz mat disposal, storage & recovery. • Required to determine which facilities need NOI coverage and include in Ann Report. • Required to inspect mobile businesses. • Required to abate ongoing or threatened discharge within 48hours which potentially requires work during non-business hours • New requirements for inspecting mobil sources • Establishes minimum inspection freq. of once per five years for all facilities
	3. Enforcement Response Plan		Develop/modify ERP within 18 months to include:	<ul style="list-style-type: none"> ○ Additional highly detailed BMP specifications and guidance (very

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			<ul style="list-style-type: none"> • monetary penalty authority, • authority to address repeat offenders, • clarification of enforcement tiers, • clarification of maintenance of list of facilities to be inspected, • clarification of freq of inspections related to need for enforcement and potential for causing stormwater pollution 	<p>prescriptive approach), including definitions of violations based solely on non-stormwater discharges.</p> <ul style="list-style-type: none"> ○ Create electronic database for detailed reporting of all inspection data including enforcement follow-up data/records; database must include record of all verbal warnings. ○ Requirements for 48 hr cleanup and/or abatement of an ongoing discharge or spill. ○ Requirement for up to 45 day response to correct a <u>threatened</u> discharge. ○ Requirement for a three-year rolling window to track violations. ○ Required to regulate discharges outside municipal jurisdiction (essentially regulate all discharges to waters of the state),
<i>Illicit Discharge Detection and Elimination Program</i>	1. Legal Authority	Same goal as above.	<ul style="list-style-type: none"> • Confirm key elements within 18 months. 	<ul style="list-style-type: none"> ▪ Confirm legal authority within 4 months. ▪ Establish legal authority over significant trash/litter generating activities regardless of connection to stormwater.
	2. Enforcement Response Plan		<ul style="list-style-type: none"> • Modify/develop ERP within 18 months • Modify to include: <ul style="list-style-type: none"> • monetary penalty authority, • authority to address repeat offenders, • clarification of enforcement tiers, 	<ul style="list-style-type: none"> • Develop ERP within 4 months. • Requirements to expand ICID well beyond CWA ICID requirements to cover tracking, investigation and enforcement to a wide variety of threatened discharges to systems within municipal jurisdiction as well as beyond municipal jurisdiction. • Requirement for response and fix discharge or spill within 48 hrs and 45 days for a threatened discharge. • Required to notify RWQCB within 24

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	<p data-bbox="368 587 679 676">3. Collection System Screening - Municipal Separate Storm Sewer System (MS4) Map Availability</p> <p data-bbox="368 751 679 775">4. Tracking and Case Follow-up</p>		<ul style="list-style-type: none"> <li data-bbox="1100 587 1535 635">• Develop/update maps and have available for public agency use. <li data-bbox="1100 751 1328 775">• Additional clarification 	<p data-bbox="1556 400 1955 464">hrs of Tier Two violation, five days for a Tier One, and for extended abatement timeframes and rationale.</p> <ul style="list-style-type: none"> <li data-bbox="1556 472 1955 536">• Required to publicly make available check point maps which raises security conflicts/issues. <li data-bbox="1556 587 1955 655">• Required to survey at least 1 system check point per square mile once per year. <li data-bbox="1556 663 1955 703">• Make MS4 maps publicly available in 12 months. <li data-bbox="1556 711 1955 735">• Video inspections of storm drains. <li data-bbox="1556 751 1955 775">• Increased tracking and reporting <li data-bbox="1556 783 1955 807">• Required to develop/maintain database.
<p data-bbox="136 847 348 895">Construction Site Control</p>	<p data-bbox="368 847 679 895">1. Legal Authority for Effective Site Management</p> <p data-bbox="368 943 679 967">2. Enforcement Response Plan</p>	<p data-bbox="700 847 1079 983">Contain the following key elements: legal authority, enforcement response plan/policy (ERP), inspection program, plan check, freq. of inspections, content of inspections, education and outreach program and a staff training program</p>	<ul style="list-style-type: none"> <li data-bbox="1100 847 1535 919">• Require erosion/sediment control at all sites, through all phases, year round <li data-bbox="1100 895 1483 919">• Confirm key elements within 15 months <li data-bbox="1100 943 1535 1230">• Modify/develop EPR within 18 months to include: <ul style="list-style-type: none"> <li data-bbox="1203 991 1483 1015">• monetary penalty authority, <li data-bbox="1203 1023 1483 1062">• authority to address repeat offenders, <li data-bbox="1203 1070 1535 1094">• clarification of enforcement tiers, <li data-bbox="1203 1102 1535 1142">• clarification of maintenance of list of facilities to be inspected, <li data-bbox="1203 1150 1535 1230">• clarification of freq of inspections related to need for enforcement and potential for causing stormwater pollution 	<ul style="list-style-type: none"> <li data-bbox="1556 847 1955 919">o Required to have legal authority within 4 months to impose fines (a problem for some co-permittees) <li data-bbox="1556 943 1955 1031">• Requires one element of ERP to be citations, fines and/or other administrative action (a problem for some co-permittees) <li data-bbox="1556 1038 1955 1062">• Develop ERP within 4 months.

Program Element	Program Activity/Draft TO Sub-provision Subject	Current Level of Implementation – Generally in Bay Area	Summary of Generally Supported Enhancements	Requirements NOT supported but included by Water Board staff
	3. Minimum Required Management Practices		<ul style="list-style-type: none"> Specified minimum BMPs for site management and erosion and sediment control. As needed use of advanced treatment for sediment removal at sites that are “threat to water quality”. 	<ul style="list-style-type: none"> Minimum BMPs must be applied to <u>ALL</u> sites with building or grading permits. Required use of advanced treatment for sediment removal at sites that are “threat to water quality” (should be optional or as prescribed by Construction General Permit).
	4. Type/Contents of Inspections		<ul style="list-style-type: none"> Definitions of three types of inspections. 	<ul style="list-style-type: none"> Requirements for tracking all violations in electronic database
	5. Frequency of Inspections		<ul style="list-style-type: none"> Inspection of high priority sites on a frequency that is consistent with the risk to stormwater quality. Specified inspection frequency for small and normal priority sites. By Oct. 15th, conduct pre-wet season inspections of all sites > 1 acres. 	<ul style="list-style-type: none"> Inspect high priority sites every 2 weeks By Sept. 1st, send pre-wet season notification letters or inspect all sites > 1 acre
	6. Tracking and Reporting		<ul style="list-style-type: none"> Current level of reporting adequate 	<ul style="list-style-type: none"> Use electronic database to track number of inspections and all violations at active sites, for threatened or actual discharges.
Public Information and Participation (PIP) PS	1. Storm Drain Inlet Marking	Currently all programs have a PIP and/or Watershed Education Outreach program. For example, elements within these programs include: storm drain stenciling, media campaigns and relations efforts (local and regional), information phone/website, event program, watershed outreach program, education (school) program, pollutant specific program, and research effort.	<ul style="list-style-type: none"> Establish goal for stormdrain inlet marking 	<ul style="list-style-type: none"> Inspect and maintain 90% of inlets, including retroactive private developments.
	2. Advertising Campaign		<ul style="list-style-type: none"> Requirement to participate in regional ad campaign Conduct pre- and post- surveys 	<ul style="list-style-type: none"> Specifies two pollutants of concern Requires two separate campaigns and two surveys
	5. Public Outreach		<ul style="list-style-type: none"> Participate in/conduct public outreach events 	<ul style="list-style-type: none"> Specified number of events Co-permittees can only get credit for half of Program events
	7. Citizen Involvement		<ul style="list-style-type: none"> Participate in citizen involvement events 	<ul style="list-style-type: none"> Specified number of events Co-permittees can only get credit for Program events if event s are in their jurisdictions
Water Quality Monitoring	1. Compliance Options	Programs encompass a variety of the following elements:	<ul style="list-style-type: none"> Regional collaborative option, including abeyance of monitoring until 2009 to allow 	

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		<ul style="list-style-type: none"> • RMP participation (all) • SWAMP participation via annual permit fee surcharge (all) • CEP participation (past five years – currently being redesigned) (all) • Status and trends in local receiving waters - SWAMP based (some) • Citizen monitoring (some) • Watershed Assessments (some) • Sediment Assessments (some) • Special Projects (some) 	<ul style="list-style-type: none"> for planning. ▪ Third party monitoring option. ▪ More specific mention of SWAMP and focusing 18.5% surcharge on joint monitoring objectives. ▪ Acknowledgement of existing efforts. ▪ Monitoring program focused on specific objectives, not just collection of data. 	
	2. SF Bay Receiving Water Monitoring		<ul style="list-style-type: none"> ▪ Participation in RMP or equivalent program. 	
	3. Status Monitoring/Rotating Watersheds		<ul style="list-style-type: none"> ▪ Status monitoring using key indicators that are linked to or impacted by stormwater. ▪ Focused monitoring in “urbanized reaches” of creeks, as opposed to listing water bodies. 	<ul style="list-style-type: none"> • Listing of specific water bodies “apriori” of collaborative plan development. • Inclusion of “storm event” type monitoring in status section (should be included in POC section). • Inclusion of the following parameters in Table 8.1: <ul style="list-style-type: none"> • Chlorine • Nutrients • Temperature • Diazinon and Water Tox (move to POCs section) • Trash Assessments at BMI stations (should only at stations downstream of enhanced controls) • Triggers based on single lines of evidence. • No upper rescore cap on trigger monitoring and investigation.
	4. Long-Term Trends Monitoring		<ul style="list-style-type: none"> ▪ Statements about using some number of stations identified in status section as long term trends stations. ▪ Use of the most effective long-term indicators via the status of POC sections. ▪ Criteria for site selection that will allow 	<ul style="list-style-type: none"> • Inclusion of site selection criteria that will not allow coordination with SWAMP. • Toxicity trigger that goes directly to TIE. • Prescribed sites.

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			<ul style="list-style-type: none"> coordination with SWAMP statewide long-term monitoring program (current language does not allow this) 	
	5. Monitoring Projects: <ul style="list-style-type: none"> Stressor Identification BMP Effectiveness Investigation Dry Weather Discharge & First Flush Investigations (Pump Stations) Geomorphic Project 		<ul style="list-style-type: none"> Stressor identification projects triggered by multiple lines of evidence, with cap on number of projects permit term. One BMP effectiveness evaluation region-wide Pump station/diversion feasibility study developed in concert with BACWA. 	<ul style="list-style-type: none"> Projects triggered by single lines of evidence Pump station investigations as described in Draft TO Geomorphic project.
	6. Pollutants of Concern (POC) Monitoring		<ul style="list-style-type: none"> A coordinated cost effective program designed to monitor loads of priority POCs to the SF Bay via small tributaries. Phasing in of stations over the 5-year permit term. Sediment delivery estimate conducted via the RMP. Emerging pollutants workplan development. 	<ul style="list-style-type: none"> Storm event monitoring conducted as described in the Draft TO. Begin sampling all stations for POCs in Year 2.
	8. Reporting		<ul style="list-style-type: none"> Urban Creeks Monitoring Report and Electronic Reporting - At least 6 months following end of fiscal year to allow for analysis and reporting. Integrated Monitoring Report 	<ul style="list-style-type: none"> November 30th due date for Electronic Reporting and Urban Creeks Monitoring Report.
Trash Reduction	1. Pilot Trash Control Implementation	<p>Not all stormwater programs have a specific program element that goes beyond the existing municipality programs which generally include some form of litter pick-up, free litter drop-off days at landfill, and reduced fees for low income residents.</p> <p>SCVURPPP program has a trash/litter program that includes the following elements/tasks:</p>	<ul style="list-style-type: none"> Study to identify and prioritize trash sources and pathways to assist in focused/pilot BMP implementation. Implementation of enhanced trash control activities that may include institutional (street sweeping, catch basin cleaning, etc.) and/or treatment devices (i.e., full capture) to significantly reduce trash in creeks via stormwater. Assist Water Board in developing 	<ul style="list-style-type: none"> Requiring that <u>ALL</u> of the enhanced measures below be implemented in 10% of urban area for each Co-permittee regardless of Trash Impacts/Loading Rates: <ul style="list-style-type: none"> Street Sweeping (weekly) Catch Basin Cleaning (4x/yr) Dumping site cleanup Public Outreach Install Full Capture Treatment Devices in at least 5% of urban area, even if

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		<ul style="list-style-type: none"> • Identification and prioritization of trash problem areas in urban streams and waterways and potential sources of trash present in those areas; 	"certification process" for full capture devices.	<p>enhanced measures have been implemented.</p> <ul style="list-style-type: none"> • No certification process for "full capture" devices
	2. Implementation and Assessment	<ul style="list-style-type: none"> • Enhancement of existing municipal trash management practices or implementation new practices to address high priority trash problem areas; 		
	3. Long-Term Plan for Trash Impact Assessment	<ul style="list-style-type: none"> • Evaluation of the condition of urban streams and waterways with respect to the level of trash over time using a field monitoring program; 	<ul style="list-style-type: none"> • Develop long-term plan to prevent trash impacts from trash transported via the stormwater conveyance system. 	<ul style="list-style-type: none"> • Develop a long-term plan that will address impacts from ALL sources of trash (stormwater and non-stormwater).
	4. Reporting	<ul style="list-style-type: none"> • Utilization of outreach and community involvement programs to increase public awareness of the impact of urban activities on streams and waterways and to foster a sense of stewardship; • Evaluation of the effectiveness of trash management and education practices; and • Development and implementation of a standardized documentation and reporting mechanism for Annual Reports. 	<ul style="list-style-type: none"> • See comments on reporting in reporting summary table. 	
Mercury Controls	1. Collection and Recycling	Same goals as above; in addition, level of implementation consistent with the RWQCB's total maximum daily load (TMDL) and related implementation plan for mercury in SF Bay.		
	2. Methylmercury Monitoring			
	3. Pilot Investigations of Hg Sources	Some Bay Area Programs already have a focused control program for mercury; others may need to develop one.	<ul style="list-style-type: none"> • Identify drainage areas (5 regionally) within 12 months that contain high levels of PCBs and conduct or cause to be conducted, pilot studies to investigate on-land PCBs contaminated soils and/or sediments that may be located on 	<ul style="list-style-type: none"> • Identify drainage areas within 5 months. • Abate or cause to be abated, land areas not municipally owned.

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			<ul style="list-style-type: none"> private properties, public rights-of-ways, and/or in stormwater conveyances. • Provide Water Board with a list of sites and potentially responsible parties for further investigation and regulatory action. • If identified as high priority, conduct abatement programs in municipally owned properties or sw conveyances within drainage areas. 	
	4. Pilot Sediment Removal/Management Enhancement Project		<ul style="list-style-type: none"> • In concert with PCBs, conduct pilot study for enhancing sediment/pollutant removal via municipal operations, with completion by October 2012. • Implement most effective enhancements beginning in next five year permit term. 	<ul style="list-style-type: none"> • Beginning July 1, 2011, implement most potentially effective measures based on evaluation of enhanced sediment removal practices.
	5. Pilot On-site Stormwater Treatment Via Retrofit Project		<ul style="list-style-type: none"> • As an element of “Investigating Hg Sources” pilot study, identify sites where pilot testing of stormwater treatment is a viable and cost effective option. • Work with Water Board and responsible parties to conduct pilot testing of stormwater treatment devices and report on effectiveness. 	<ul style="list-style-type: none"> • Co-permittees to conduct pilot stormwater treatment studies and report on effectiveness.
	6. Pilot Dry Weather/First Flush Diversion to POTW Project		<ul style="list-style-type: none"> • In coordination with BACWA develop a plan and conduct a feasibility study and cost/benefit analysis of diverting dry weather and/or first flush flows to POTWs. 	<ul style="list-style-type: none"> • Implement 5 pilot studies to divert flows to POTWs.
	7. Hg Loads or Loads Reduced Monitoring		See monitoring section.	
	8. Fate and Transport Study		<ul style="list-style-type: none"> • Participate in RMP or equivalent program to conduct studies aimed at better understanding the fate, transport, and biological uptake of PCBs discharged via 	<ul style="list-style-type: none"> • Conducting additional studies outside of the RMP.

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	9. Risk Reduction		urban runoff. • Participate in public outreach and education efforts in cooperation with BACWA, OEHHA and DHS to address PCB-related risks related to consumption of Bay fish.	• Broader implementation of actions designed to “manage” risk.
PCB Controls	1. PCB Inspections into Existing Ind/Com Inspection Program	Same goals as above; in addition, PCBs are considered a pollutant of concern (POC) requiring special attention and enhanced control measures to the MEP; if a TMDL is adopted for PCBs, level of implementation will be consistent with implementation plan.	• Train municipal construction/industrial building inspectors to identify improperly stored or dismantled PCB-containing equipment/materials, and incorporate into existing industrial/commercial inspection program.	
	2. Pilot Building Demolition/Renovation Waste Management Project	A few Bay Area Programs already have a focused control program for PCBs; others may need to develop one.	• Support/actively participate in regional study via Proposition 50 grant.	○ Prescriptive requirements that don't allow consistency with scope of Prop 50 grant.
	3. Pilot Investigations of PCB Sources		• Identify drainage areas (5 regionally) within 12 months that contain high levels of PCBs and conduct or cause to be conducted, pilot studies to investigate on-land PCBs contaminated soils and/or sediments that may be located on private properties, public rights-of-ways, and/or in stormwater conveyances. • Provide Water Board with a list of sites and potentially responsible parties for further investigation and regulatory action. • If identified as high priority, conduct abatement programs in municipally owned properties or sw conveyances within drainage areas.	○ Identify drainage areas within 5 months. ○ Abate or cause to be abated, land areas not municipally owned.
	4. Pilot Sediment Removal/Management Enhancement Project		• Conduct pilot study for enhancing sediment/pollutant removal via municipal operations within study areas where investigations of PCB sources are being conducted (if applicable), with completion by October 2012.	○ Beginning July 1, 2011, implement most potentially effective measures based on evaluation of enhanced sediment removal practices.

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			<ul style="list-style-type: none"> Implement most effective enhancements beginning in next five year permit term. 	
	5. Pilot On-site Stormwater Treatment Via Retrofit Project		<ul style="list-style-type: none"> As an element of "Investigating PCB Sources" pilot study, identify sites where pilot testing of stormwater treatment is a viable and cost effective option. Work with Water Board and responsible parties to conduct pilot testing of stormwater treatment devices within study areas where investigations of PCB sources are being conducted (if applicable) and report on effectiveness. 	<ul style="list-style-type: none"> Co-permittees to conduct pilot stormwater treatment studies and report on effectiveness.
	6. Pilot Dry Weather/First Flush Diversion to POTW Project		<ul style="list-style-type: none"> In coordination with BACWA develop a plan and conduct a feasibility study and cost/benefit analysis of diverting dry weather and/or first flush flows to POTWs. 	<ul style="list-style-type: none"> Implement 5 pilot studies to divert flows to POTWs.
	7. PCB Loads or Loads Reduced Monitoring		See monitoring section.	
	8. Fate and Transport Study		<ul style="list-style-type: none"> Participate in RMP or equivalent program to conduct studies aimed at better understanding the fate, transport, and biological uptake of PCBs discharged via urban runoff. 	<ul style="list-style-type: none"> Conducting additional studies outside of the RMP.
	9. Risk Reduction		<ul style="list-style-type: none"> Participate in public outreach and education efforts in cooperation with BACWA, OEHHA and DHS to address PCB-related risks related to consumption of Bay fish. 	<ul style="list-style-type: none"> Broader implementation of actions designed to "manage" risk.
Copper Controls		Same goals as above; in addition, copper is considered a pollutant of concern (POC) requiring special attention and enhanced control measures.		
	2. Pool and Spa Discharges		<ul style="list-style-type: none"> Conduct targeted education and outreach on potential water quality impacts of pool and spa-related chemicals (see PIP program). 	<ul style="list-style-type: none"> Require installation of sanitary sewer discharge connection for pools, spas and fountains, even in situations where this is not feasible (septic systems).

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	3. Vehicle Brake Pads	All programs currently support and indirectly or directly participate in the brake pad partnership and engage in certain educational and outreach activities related to copper containing products and materials.	<ul style="list-style-type: none"> Participate in BPP Project. 	<ul style="list-style-type: none"> Requirement to conduct desktop study to evaluate the implementation of enhanced treatment system design, operation and maintenance efforts.
	5. Studies to Reduce Copper Pollutant Impact Uncertainties		<ul style="list-style-type: none"> Participate in RMP or equivalent program to conduct studies to investigate possible copper sediment toxicity and technical studies to investigate sublethal effects on salmonids. 	<ul style="list-style-type: none"> Conduct of cause to be conducted technical studies to investigate possible copper sediment toxicity and technical studies to investigate sublethal effects on salmonids.
PBDEs, Legacy Pesticides and Selenium	1. Control Program <ul style="list-style-type: none"> Characterize representative distribution of PBDEs, legacy pesticides and selenium Identify Controls Measures 		<ul style="list-style-type: none"> Characterization of PBDEs, legacy pesticides and selenium by October 2011. Provide info for load calculations by October 2011. Identify potential controls measures by October 2012. 	<ul style="list-style-type: none"> Characterization of PBDEs, legacy pesticides and selenium by October 2010
Exempted and Conditionally Exempt Discharges		Same Goals as above. Generally programs and municipalities rely on permit language and program guidance (where available).	<ul style="list-style-type: none"> Assist Water Board implement ongoing program but not assume Water Board regulatory responsibility for non-municipal non-stormwater discharges Confirmation that ordinances or other legal authority exist for municipality to implement program Grouped categories together Provide threshold levels (thresholds based on current program guidance and/or Basin Plan criteria) to govern when a non-stormwater discharge is exempt Provide summary of complaints in annual report Provide summary of educational material developed and distributed as part of PIP annual reporting 	<ul style="list-style-type: none"> Establishes new requirements for permittees to regulate dischargers that are not co-permittees under the MRP. Includes requirements that dischargers implement specific BMPs, monitoring, and reporting. discharges (uncontaminated gw, foundation drains, crawl space drainages) Permittees will have to make sure dischargers test pumped groundwater, foundation drains, water from crawl space pumps, and footing drains for TSS, total petroleum hydrocarbons, VOCs, and metals Permittees will have to make sure dischargers of dewatering water monitor for the first two consecutive

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			<p>Provide summary of significant discharges to WB (>50,000 gals.) as part of annual report for unplanned discharges</p>	<p>days of dewatering and then once per month.</p> <ul style="list-style-type: none"> • Requires that any discharge of treated groundwater be authorized by Water Board and it meet water quality levels in NPDES General Permits for fuel and VOCs. • Required to report to RQC a summary of authorized major discharges (>5000 gallons) and BMPs used. • Required to discourage individual car washing and to encourage use of commercial car washes. • Requirement that all discharges from new pools go to sanitary sewer • Fire fighting conditionally exempt and requires permittees to make sure firefighters control pollution threat as time and resources allow. • Permittees are required to regulate dischargers' planned potable water discharges including numeric benchmarks for chlorine residual, pH, and turbidity; requirements to notify interested parties, including NGOs; document potable water dischargers responses and complaints; and submittal of monthly electronic summary reports and annual self-audit summary reports of all discharges. • Requires significant new database and reporting