

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Dale Bowyer)
MEETING DATE: October 14, 2009

ITEM: 7

SUBJECT: **Municipal Regional Stormwater NPDES Permit – Municipalities and Flood Management Agencies within Alameda County, Contra Costa County, San Mateo County, Santa Clara County, and Cities of Fairfield, Suisun City, and Vallejo in Solano County** – Hearing to Consider Adoption of the Proposed Permit

CHRONOLOGY: March 2008 – Testimony hearing on December 2007 Tentative Order
May 2009 – Testimony hearing on February 2009 Revised Tentative Order

DISCUSSION: At this hearing the Board will consider adoption of the Final Tentative Order for the Municipal Regional Stormwater Permit (Permit) for 76 municipalities and local agencies in Alameda, Contra Costa, Santa Clara and San Mateo Counties, and the Cities of Fairfield, Suisun City, and Vallejo in Solano County. Appendix A contains the Final Tentative Order and its attachments including the supporting Fact Sheet.

The Final Tentative Order includes changes to the February 2009 Revised Tentative Order that are an outgrowth of comments received from Permittees, key stakeholders, and the public on the February 2009 Revised Tentative Order, the December 2007 Tentative Order, and Board direction to staff at the May 2009 public hearing based on the comments. Appendix B contains a version of the Final Tentative Order that shows the changes in underline and strikeout, and Appendix C contains a summary of the changes in the Final Tentative Order.

We posted the Final Tentative Order to the Board's website on September 25 to allow interested parties an opportunity to review the changes, but we informed parties that the Board will not accept additional written comments since all changes are an outgrowth of previous comments. However, we have invited interested parties to attend the October 14 hearing and express their views on the changes made to the February 2009 Revised Tentative Order.

We received many written comment letters and much oral testimony on both the December 2007 Tentative Order and the February 2009 Revised Tentative Order. We also held numerous meetings, since the May 2009 hearing, with Permittees and other stakeholders including Save the Bay, the Natural Resources Defense Council, the San Francisco Bay Keeper, the Northern California Homebuilders, and U.S. EPA. These meetings were focused on changes to the tentative order that would resolve their key issues. We have prepared a Staff Report (Appendix D) that provides a summary of the most significant issues surrounding the tentative order(s), and how we have, for the most part, resolved these issues.

The key issues include:

- Costs of Compliance with new requirements
- New and Re-Development Treatment Measures
- Water Quality Monitoring
- Trash Load Reduction
- Mercury and PCBs Controls
- Exempted and Conditionally Exempted (Non-Stormwater) Discharges

In addition we resolved many other issues by making clarifying changes to more clearly reflect the intent of requirements and to avoid unintended consequences. We also modified some implementation and compliance schedule dates to be consistent with the expected permit effective date and to allow a reasonable startup period for new requirements. Appendix E contains our responses to all comments received on the December 2007 Tentative Order, and Appendix F contains our responses to all comments received on the February 2009 Revised Tentative Order. Copies of all comments received on the December 2007 Tentative Order and the February 2009 Revised Tentative Order are contained in Appendices G and H. Since these comments were part of the May 2009 testimony hearing materials, they are only posted on the Board's website.

The Final Tentative Order continues to reflect priorities that we discussed with the Board at the testimony hearings. It calls for consistent and accountable actions at the level of effort constituting "implementation of controls to reduce pollutants to the maximum extent practicable", the federal regulatory standard, for the basic elements of a municipal stormwater management program, which are maintained with minor changes from previous permits. Priority new areas include requirements to reduce discharges of trash, PCBs, and mercury. We recognize these new requirements will demand new resources, so the new requirements are phased in over several years. Finally, to the extent that a Permit requirement causes unintended consequences or the intent of requirement is not attainable, the Final Tentative Order contains a re-opener provision that would allow the Permit to be modified in the future in response to changed conditions and new information.

RECOMMEN- Adoption of the Final Tentative Order.
DATION:

APPENDICES:

- A. Final Tentative Order, Attachments, and Fact Sheet
- B. Final Tentative Order, showing changes to February 2009 Revised Tentative Order
- C. Summary of Changes in the Final Tentative Order
- D. Staff Report
- E. Responses to Comments Received on the December 2007 Tentative Order
- F. Responses to Comments Received on the February 2009 Revised Tentative Order
- G. Comments Received on the December 2007 Tentative Order
- H. Comments Received on the February 2009 Revised Tentative Order