



**(DRAFT) WATER QUALITY CONTROL POLICY
FOR STANDARDIZED COST REPORTING IN
MUNICIPAL STORMWATER PERMITS
AUGUST 2023**

Municipal Stormwater Cost Policy



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Definitions

Best Management Practices (BMP) — Management activities, physical structures, institutional practices or prohibitions implemented to control, mitigate, or prevent pollution associated with dry- or wet- weather runoff.

Clean Water Act — The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Disadvantaged Communities—A community with a median household income less than 80% of the statewide average as defined in California Public Resources Code § 75005.

Duly Authorized Representative —Consistent with 40 Code of Federal Regulations (CFR) §122.22(a)(3) or 40 CFR §122.22(b), a person or position title authorized to be a signatory and satisfies certification requirements for submittal of information and reports on behalf of a Permittee.

Illicit Connection — Any drain or conveyance system that allows an illegal discharge to enter the storm drain system.

Illicit Discharges— Any discharge to a municipal separate storm sewer that is not composed entirely of stormwater except discharges pursuant to a NPDES Permit as defined in 40 CFR §122.26(b)(2).

Minimum Control Measures—Six permit elements, as defined in 40 CFR § 122.34, that, when implemented in concert, are expected to result in significant reductions of pollutants discharged into receiving waterbodies: Public Education & Outreach; Public Involvement & Participation; Illicit Discharge Detection & Elimination; Construction Site Stormwater Runoff Control; Post Construction Stormwater Management (BMPs); and Stormwater Pollution Prevention & Good Housekeeping.

Municipal Separate Storm Sewer System (MS4) — Has the same meaning set forth in 40 CFR § 122.26(b)(8).

MS4 Implementation Cost Survey Tool — Cost submittal tool developed by the State Water Board to allow Permittees to report their annual expenditures for MS4 Permit-implementation activities.

National Pollutant Discharge Elimination System (NPDES)— A national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing Permits, as defined in 40 CFR § 122.

Non-Traditional Phase II Permittees – Phase II Permittees operated by Federal, State, or local entities other than counties cities, or towns. These can include schools, universities, parks, ports, transportation facilities, prisons, hospitals, and military bases.

Permittee — An entity that discharges stormwater and non-stormwater from its jurisdictional area under an approved Phase I MS4 or Traditional Phase II MS4 stormwater Permit.

Phase I MS4 Permits — Stormwater permits issued by regional water boards to control stormwater discharge from medium to large Permittees, consistent with the definitions provided in (40 CFR §122.26(b)(4)) and (40 CFR §122.26(b)(7)).

Phase II MS4 Permit — Statewide permit to control stormwater discharges from small Permittees as defined in 40 CFR §122.26(b)(16). Such small Permittees include non-traditional and traditional Phase II Permittees.

Trash — All improperly discarded solid material from any production, manufacturing, or processing operation including (but not limited to) products and their packaging or containers constructed of plastic, steel, aluminum, glass, paper, or other synthetic or natural materials.

Traditional Phase II Permittees — Phase II Permittees that are operated by counties, cities, or towns.

1. Purpose

- 1.1 The purpose of the Draft Policy for Water Quality Control for Standardized Cost Reporting in Municipal Stormwater Permits (Municipal Stormwater Cost Policy, hereafter Draft Policy) is to ensure that municipal separate storm sewer system (MS4) permittees (Permittees) in California estimate, track, and report annual expenditures related to the implementation of MS4 permits in a consistent manner.
- 1.2 The Draft Policy describes the cost categories that Phase I MS4 Permittees and Traditional Phase II Permittees shall use to track their Permit implementation costs, including best practices for cost accounting.
- 1.3 The Draft Policy specifies a cost reporting tool that Permittees shall use to annually report all expenditures related to the implementation of MS4 Permits.
- 1.4 The Draft Policy provides direction to regional water quality control boards (regional water boards) and the State Water Resources Control Board (State Water Board) regarding the incorporation of standardized cost reporting requirements into any future issuance or reissuance of respective MS4 permits.

2. Legal Authority

- 2.1 The Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) program which requires waste dischargers to comply with certain regulations that permit the discharge of water containing pollutants to waters of the United States (40 CFR § 122.1). The State Water Board is designated as the state water pollution control agency for all purposes stated in the Clean Water Act. The State and Regional Water Quality Control Boards (regional water boards) (collectively Water Boards) are authorized to issue NPDES permits to MS4 dischargers in California.
- 2.2 This Draft Policy is consistent with 40 CFR sections 122.26(d)(1)(vi)(A) and 122.26(d)(2)(vi) of the federal stormwater regulations that require Phase I Permittees to provide a fiscal analysis of the capital and operation and maintenance expenditures necessary to accomplish the activities outlined in their Phase I MS4 Permits.
- 2.3 The standardized cost reporting requirement for the traditional Phase II MS4 Permittees covered by the Phase II MS4 Permit is consistent with California Water Code section 13383 which gives the State Water Board authority to impose additional reporting requirements to dischargers.

3. Applicability

- 3.1 This Draft Policy is applicable to the MS4s regulated under Phase I and traditional Phase II MS4 Permits (Permittees).
- 3.2 This Draft Policy is not applicable to non-traditional Phase II MS4 permittees or dischargers under other NPDES Permits.
- 3.3 Within this Draft Policy, references to the State Board or State Water Board shall mean the State Water Resources Control Board. References to a Regional Board or Regional Water Board shall mean a California Regional Water Quality Control Board.

4. Use of Standardized Cost Data

- 4.1 The State Water Board and regional water boards (collectively Water Boards) shall use standardized cost data, collected in compliance with this Draft Policy, to inform the regulatory steps necessary to implement state and federal water quality laws for the protection of public health and the environment, including consideration of economic information in the development of new Permits and Permit reissuances.
- 4.2 The Water Boards encourage Permittees to use standardized cost data as a tool to seek and justify proposed stormwater funding measures.
- 4.3 The Water Boards plan to use standardized cost data, in the long-term, to identify and address environmental justice issues in municipal stormwater management, i.e., equitable stormwater management and investments in Disadvantaged Communities.
- 4.4 The reported cost of Permit implementation data shall not be used as a surrogate for the level of compliance activities performed by a Permittee. Additionally, the financial resources necessary to comply with a Permit shall not be used to justify noncompliance by a Permittee or as a rationale to request less stringent permit requirements.

5. Cost Categories for Phase I MS4 Permittees

- 5.1 Phase I MS4 Permittees covered by a Phase I MS4 Permit shall report all expenditures incurred while implementing Permit-required activities using all cost categories described below. Permittees shall further itemize expenditures using various sub-categories as shown in Table 1.
 1. *Overall Program Management and Administration*: Permit compliance administration and management activities, reporting, and general coordination.
 2. *Public Education, Outreach, Involvement and Participation*: Outreach and educational activities that inform members of the public about stormwater as a resource, the potential impacts of stormwater discharges to water bodies,

pollution prevention from stormwater discharge, and other associated activities that directly relate to MS4 permit implementation.

3. *Illicit Discharge Detection and Elimination (IDDE) and Spill Response*: Efforts necessary to identify, investigate, enforce, and eliminate illicit connections and illicit discharges.
4. *Planning and Land Development*: MS4-related planning activities necessary to accomplish Permit-specified objectives. Costs reported shall be limited to the costs incurred during the reporting period.
5. *Industrial and Commercial Facilities*: Permit-required inspection, outreach, municipal oversight, and enforcement of industrial and commercial facilities.
6. *Construction Site Management*: Implementation of Permit-required inspection, outreach, municipal oversight, and enforcement to minimize the impact of construction site runoff to receiving waters.
7. *Municipal Operations and Maintenance*: Planning and implementation of pollution prevention and control programs to address runoff resulting from operation and maintenance of Permittee-owned or operated facilities and activities.
8. *Trash Management*: Activities designed and performed to comply with trash provisions, including trash control activities that are required by the Permit and routinely performed as a part of municipal maintenance.
9. *Water Quality Monitoring*: Permit-required water quality monitoring activities shall be broken down into subcategories such as receiving water monitoring, outfall monitoring, BMP effectiveness monitoring, and facility-specific monitoring.
10. *Special Programs*: Keeping a diverse approach to municipal stormwater management in California in mind, this category is intended to obtain cost information about various region-specific MS4 program elements, including but not limited to TMDL implementation requirements and specific pollutant requirements, other than trash.
11. *Miscellaneous Costs*: Anything not identified or directly related to the other cost categories.

Table 1: List of standardized categories and sub-categories for reporting cost of Phase I Permit implementation

| Category Name | Sub-categories |
|--|---|
| 1. Overall Program Management and Administration | a. Asset management b. Reporting c. Program effectiveness assessment d. Others |
| 2. Public Education, Outreach, Involvement and Participation | - |
| 3. Illicit Discharge Detection and Elimination (IDDE) and Spill Response | a. IDDE b. Spill Response |
| 4. Planning and Land Development | a. Post-construction BMPs for new or redevelopment projects b. New structural BMP projects (with total stormwater related budget higher than \$200,000) c. Others |
| 5. Industrial and Commercial Facilities | - |
| 6. Construction Site Management | - |
| 7. Municipal Operations and Maintenance | a. Integrated pest management (IPM) program b. Emergency program c. Others |
| 8. Trash Management | a. Full capture device installation and maintenance b. Street sweeping c. Others |
| 9. Water Quality Monitoring | a. Receiving water monitoring b. Outfall monitoring c. BMP monitoring d. Others |
| 10. Special Programs | a. TMDL implementation and monitoring b. Discharge associated with people experiencing homelessness c. Others |
| 11. Miscellaneous Costs | - |

- 5.2 Phase I MS4 Permittees shall track and report all expenditures in each cost category using the following line items:
- a. Costs associated with staff wages, salaries, and benefits.
 - b. Capital investments for Permit implementation, except for land costs.
 - c. Expenditures for land or right-of-way easement acquisition.
 - d. Cost of hiring private consultants to perform Permit implementation activities.
 - e. Costs associated with new infrastructure or retrofit that were not reported under capital expenditure or land costs.
 - f. Costs associated with Permit-required day-to-day operation and maintenance activities.
 - g. Indirect costs associated with the costs reported under 5.2.a to 5.2.f.
- 5.3 Phase I MS4 Permittees shall track and report construction costs for structural stormwater BMPs upon project completion. Permittees shall also include relevant project details, including location (address and Global Positioning System coordinates), BMP type, BMP surface area, volumetric loading rate, and drainage area with the total project cost of the completed project.

6. Cost Categories for Traditional Phase II MS4 Permittees Only

- 6.1 Traditional Phase II Permittees shall report all expenditures incurred while implementing Permit-required activities. Traditional Phase II Permittees may use the cost categories described in Section 5 and shown in Table 1 to report expenditures. Alternatively, Traditional Phase II Permittees may report their expenditures using all cost categories described below.
1. *Overall Program Management and Administration*: Permit compliance administration and management activities, reporting, general coordination.
 2. *Capital Costs*: Development of new structural stormwater control measures or other tangible assets required to comply with the Permit.
 3. *Minimum Control Measures*: Permit-required routine operational and maintenance activities, including minimum control measures implementation.
 4. *Water Quality Monitoring*: All Permit-required water quality monitoring activities.
 5. *Miscellaneous Costs*: Anything not identified or directly related to the other cost categories.

- 6.2 Traditional Phase II MS4 Permittees shall itemize all expenditures in each cost category using the following line items:
- a. Costs related to staff wages and benefits.
 - b. Cost of equipment and machinery purchase.
 - c. Cost of land and right-of-way easement acquisition.
 - d. Cost of hiring consultants for Permit implementation activities.
 - e. Cost of materials as capital investments.
 - f. Cost of sampling for water quality monitoring.
 - g. Cost of laboratory analysis of monitoring samples.
 - h. Indirect costs associated with the costs reported for 6.2.a to 6.2.g.

7. Cost Accounting

- 7.1 Permittees shall track all expenditures directly related to Permit implementation activities for each fiscal year beginning July 1 and ending June 30.
- 7.2 Permittees shall treat standardized cost categories as mutually exclusive. Similarly, if an activity or a project is a collaboration among multiple Permittees or co-Permittees, each jurisdiction shall only report their portion of the cost. The sum of all reported costs shall be the total cost of implementing such an activity or program.
- 7.3 For activities that serve purposes in addition to stormwater management, Permittees shall estimate a percentage of expenditures that can be directly attributed to Permit implementation. The cost estimation of these activities shall be informed by feedback from staff performing those activities. Best professional judgement shall be used when estimating personnel costs for staff who are also assigned job responsibilities beyond stormwater Permit implementation.
- 7.4 Permittees may attribute expenditures incurred while performing routine activities that are part of municipal operations required by an MS4 Permit (e.g., street sweeping, storm drain cleaning) entirely to the MS4 program. Permittees shall only report costs for the Permit-required frequency (costs incurred past the Permit-required frequency shall not be included). Permittees shall include relevant details of street sweeping, including area swept, type of sweepers, and volume of debris collected.
- 7.5 Permittees shall track portions of Permit-implementation costs recuperated by a cost recovery program (e.g., one time or recurring fees).
- 7.6 Permittees shall track the sources of funds and amounts associated with each source to implement their MS4 permits.

8. Cost Reporting

- 8.1 Each Permittee shall document and submit total MS4 Permit-related expenditures annually by September 30. The submission shall contain expenditure information from the previously concluded fiscal year, beginning July 1 and ending June 30.
- 8.2 Each Permittee shall report the sources of funds used to implement its MS4 permit.
- 8.3 A Duly Authorized Representative shall compile and submit required reporting on behalf of the Permittee.
- 8.4 Annual expenditure Reports for MS4 Permit implementation shall be submitted electronically using the MS4 Implementation Cost Survey Tool. Each submission shall be certified electronically in the manner specified by the State Water Board.
- 8.5 Submitted cost information shall be in a format consistent with this Draft Policy and shall be verifiable using supporting documentation retained by the Permittees. Each Permittee shall make such supporting information available upon request within a timely manner, generally no more than ten business days.

9. State Agency Roles

- 9.1 The regional water boards shall incorporate cost reporting requirements consistent with this Draft Policy into a Phase I MS4 Permit through an amendment or at the time of the next permit reissuance after the effective date of this Policy. Once incorporated into a Phase I MS4 Permit, regional water boards shall ensure Permittees follow the Policy through timely review of cost data submitted by Permittees.
- 9.2 The regional water boards shall review the annually submitted data and use the data to inform the economic analysis of future permits.
- 9.3 The State Water Board shall incorporate cost reporting requirements consistent with this Policy into the statewide Phase II MS4 Permit through an amendment or at the time of the next permit reissuance. Once incorporated into the traditional Phase II MS4 Permit, the State Water Board shall ensure Permittees follow the Policy through timely review of cost data submitted by Permittees.
- 9.4 The State Water Board shall conduct regular review of the cost data, provide periodic Policy related updates to the board, and maintain the MS4 Implementation Cost Survey Tool.
- 9.5 The State Water Board shall compile and analyze submitted cost data to inform, develop, and implement strategies for supporting efficient stormwater management statewide.