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From: lyris@swrcb18.waterboards.ca.gov
Sent: Tuesday, June 23, 2015 3:30 PM
To: Chiu, Wayne@Waterboards
Subject: June 30, 2015 Public Workshop on Prior Lawful Approval and Alternative Compliance Pathway
Attachments: 2015-0630 PLA RWL Wrap-up Workshop Agenda.pdf; 2015-0623 Second Revised Draft RWL Compliance Pathway.pdf; 2015-0623 Second Revised Draft PLA.pdf



This is a message from the California Regional Water Quality Control Board, San Diego Region (9).

Greetings,

Please find attached the agenda for the June 30, 2015 Public Workshop to be held at the City of Vista Civic Center Complex, Community Room, 200 Civic Center Drive, Vista, CA 92084. The workshop begins at 9:30 a.m.

As a result of the information and comments received during the April 28, 2015 and May 21, 2015 Public Workshops and additional meetings with various stakeholders, and proposed revisions provided by various stakeholders, the San Diego Water Board made additional revisions to the draft language for the Definition of Prior Lawful Approval for Priority Development Projects and the Alternative Compliance Pathway for Receiving Water Limitations. The revised language (also attached to this email), proposed revised language provided by various stakeholders, as well as notes summarizing the May 21, 2015 Public Workshop are available on the San Diego Water Board's website at: http://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/index.shtml

As part of the proceedings to amend the Regional MS4 Permit (Order No. R9-2013-0001, as amended by Order No. R9-2015-0001) to extend coverage to the Riverside County Copermittees, the draft language is expected to be included into the proposed amendments to the Regional MS4 Permit. At the workshop, the Regional MS4 Permit Team will present the significant changes made to the draft language for the Definition of Prior Lawful Approval for Priority Development Projects and the Alternative Compliance Pathway for Receiving Water Limitations. The Regional MS4 Permit Team will also take comments and answer questions on the draft language at the workshop.

We look forward to seeing you at the workshop.

Wayne Chiu, PE
Water Resource Control Engineer
Storm Water Management
San Diego Water Board

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Draft Definition of Prior Lawful Approval for Priority Development Projects
Revised June 23, 2015

Revise Provision E.3.e.(1)(a) as follows:

e. PRIORITY DEVELOPMENT PROJECT BMP IMPLEMENTATION AND OVERSIGHT

Each Copermittee must implement a program that requires and confirms structural BMPs on all Priority Development Projects are designed, constructed, and maintained to remove pollutants in storm water to the MEP.

(1) Structural BMP Approval and Verification Process

(a) Each Copermittee must require and confirm that all Priority Development Projects implement the requirements of Provision E.3, except that the Copermittee may allow previous land development requirements to apply to a Priority Development Project if ~~all of the following~~ conditions of Provision E.3.e.(1)(a)(i) or Provision E.3.e.(1)(a)(ii) are met:

(i) The Copermittee has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d.:

[a] aApproved¹ a design that incorporates the storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs consistent with the previous applicable MS4 permit requirements;² AND

[b] Issued a private project permit or approval, or functional equivalent for public projects, that authorizes the Priority Development Project applicant to commence construction activities based on a design that incorporates the storm water drainage system approved in conformance with Provision E.3.e.(1)(a)(i)[a], AND

[c] Confirmed that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual, OR the Copermittee confirms that construction activities have commenced on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual, where construction activities are undertaken in reliance on the permit or approval, or functional equivalent for public projects, issued by the Copermittee in conformance with Provision E.3.e.(1)(a)(i)[b].

[d] All subsequent private project permits or approvals, or functional equivalent for public projects, that are needed to implement the

¹ For public projects, a design stamped by the City or County Engineer, or engineer of record for the project is considered an approved design.

² Order Nos. R9-2007-0001, R9-2009-0002, and R9-2010-0016 for San Diego County, Orange County, and Riverside County Copermittees, respectively

design initially approved in conformance with Provision E.3.e.(1)(a)(i)[a], must be issued within 5 years of the effective date of the BMP Design Manual. The storm water drainage system for the Priority Development Project in its entirety, including all applicable structural pollutant treatment control and hydromodification management BMPs must remain in substantial conformity with the design initially approved in conformance with Provision E.3.e.(1)(a)(i)[a].

- (ii) The Copermittee does not have the land use authority or legal authority to require a Priority Development Project to implement the full requirements of Provision E.3. ~~has, prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, issued a building permit, or functional equivalent, that authorizes the Priority Development Project applicant to commence construction activities, based on a design that incorporates the approved storm water drainage system for the Priority Development Project in its entirety; AND~~
- ~~(iii) The Copermittee confirms that there have been construction activities on the Priority Development Project site within the 365 days prior to the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, OR the Copermittee confirms that construction activities will commence on the Priority Development Project site within the 180 days after the effective date of the BMP Design Manual required to be developed pursuant to Provision E.3.d, where construction activities are undertaken in reliance on the building permit, or functional equivalent, issued by the Copermittee in conformance with Provision E.3.e.(1)(a)(ii).~~

Draft Alternative Compliance Pathway for Receiving Water Limitations
Revised June 23, 2015

Insert the following as Provision B.3.c:

c. ~~DISCHARGE PROHIBITIONS AND RECEIVING WATER~~ LIMITATIONS COMPLIANCE OPTION

Each Copermittee has the option to utilize the implementation of the Water Quality Improvement Plan to demonstrate compliance with the requirements of Provisions A.1.a, A.1.c, A.1.d, ~~and A.2.a~~, and A.3.b within a Watershed Management Area subject to. ~~A Copermittee will be deemed to be in compliance with Provisions A.1.a, A.1.c and A.2.a within a Watershed Management Area when~~ the following conditions are met:

(1) A Copermittee is eligible to be deemed in compliance with Provisions A.1.a, A.1.c, A.1.d, A.2.a, and A.3.b within a Watershed Management Area when ~~the~~ Water Quality Improvement Plan for a Watershed Management Area ~~must~~ incorporates the following:

(a) Numeric goals, water quality improvement strategies, and schedules developed pursuant to Provisions B.3.a and B.3.b that include the following:

- (i) Interim and final WQBELs established by the TMDLs in Attachment E to this Order applicable to the Copermittee's jurisdiction within the Watershed Management Area; ~~AND~~ and
- (ii) Interim and final numeric goals for any ASBS subject to the provisions of Attachment B to State Water Board Resolution No. 2012-0012 applicable to the Copermittee's jurisdiction within the Watershed Management Area; AND
- (iii) Interim and final ~~N~~numeric goals applicable to the Copermittee's MS4 discharges within the Watershed Management Area expressed as numeric concentration-based or load-based goals for all ~~other~~ pollutants and conditions listed on the Clean Water Act Section 303(d) List of Water Quality Impaired Segments¹ for the receiving waters in the Watershed Management Area that do not have a TMDL ~~developed and~~ incorporated into Attachment E to this Order; AND/OR ~~and~~
- (iv) Interim and final ~~N~~numeric goals for pollutants and conditions identified as receiving water priorities in the Water Quality Improvement Plan for receiving waters that will result in chemical, physical, and ~~or~~ biological conditions protective of the beneficial uses of the receiving waters impacted by the Copermittee's MS4 discharges ~~that will be protective of the beneficial uses~~ within the Watershed Management Area ~~under the Copermittee's jurisdiction;~~ AND

¹ 2010 and subsequent 303(d) Lists

- (v) The Copermittee has the option to include interim and final numeric goals applicable to the Copermittee's MS4 discharges and/or receiving waters within the Watershed Management Area for any pollutants or conditions in addition to those described in Provisions B.3.c.(1)(a)(i)-(iv); AND
- (vi) Schedules for achieving each final numeric goal that reflect a realistic assessment of the shortest practicable time needed for achievement; AND
- (vii) For each final numeric goal developed pursuant to Provisions B.3.a and B.3.c.(1)(a)(i)-(v), at least one annual milestone² and date for its achievement must be included within each Water Quality Improvement Plan Annual Report reporting period until the final numeric goal is achieved.
- (b) An analysis ~~utilizing a watershed model or other watershed analytical tools~~ that meets the following conditions:
- (i) The analysis, with clearly stated assumptions included in the analysis, must quantitatively demonstrate that the implementation of the water quality improvement strategies required under Provision B.3.b will achieve the final numeric goals within the ~~established~~ schedules ~~required to be~~ developed pursuant to Provisions B.3.a and B.3.c.(1)(a).
- (ii) The development of the analysis must include a public participation process which allows the public to review and provide comments on the analysis methodology utilized and the assumptions included in the analysis. Public comments and responses must be included as part of the analysis documentation included in the Water Quality Improvement Plan.
- (iii) The analysis may be performed by an individual Copermittee ~~only for its jurisdiction within the Watershed Management Area~~, or jointly by two or more ~~of any of the~~ Copermittees choosing to utilize this compliance option for their jurisdictions within the ~~same~~ Watershed Management Area.
- (iv) The analysis must be updated as part of the iterative approach and adaptive management process required under Provisions B.5.a-b.
- (c) Specific monitoring and assessments ~~included in the monitoring and assessment program~~ required pursuant to Provision B.4.a that will be performed by the Copermittee capable of to: 1) ~~demonstrating~~ whether the implementation of the water quality improvement strategies ~~within its jurisdiction~~ are making progress toward achieving the numeric goals in

² Annual milestones for each final numeric goal must build upon previous milestones and lead to the achievement of the final numeric goal. The annual milestones may consist of water quality improvement strategy implementation phases, interim numeric goals, and other acceptable metrics.

accordance with the established schedules developed pursuant to Provisions B.3.a and B.3.c.(1)(a), and 2) determining whether interim and final numeric goals have been achieved. The specific monitoring and assessments must be updated as part of the iterative approach and adaptive management process required under Provision B.5.c.

(d) Documentation showing that the numeric goals, schedules, and annual milestones proposed pursuant to Provision B.3.c.(1)(a), the analysis performed pursuant to Provision B.3.c.(1)(b), and the specific monitoring and assessments proposed pursuant to Provision B.3.c.(1)(c) have been reviewed by the Water Quality Improvement Consultation Panel (see Provision F.1.a.(1)(b)) ~~for any recommendations~~. Updates must be reviewed by the Water Quality Improvement Consultation Panel for any recommendations.

(2) Each Copermittee that voluntarily completes the requirements of Provision B.3.c.(1) ~~is chooses to utilize this option will, for the pollutant/water body combinations included in the analysis performed pursuant to Provision B.3.c.(1)(b), be~~ deemed in compliance with Provisions A.1.a, A.1.c, A.1.d, and A.2.a, and A.3.b for the pollutants and conditions for which numeric goals are developed when the Water Quality Improvement Plan, incorporating the requirements of Provision B.3.c.(1), is accepted by the San Diego Water Board pursuant to Provision F.1.b or F.2.c. The Copermittee is considered to be in compliance during the term of this Order as long as:

~~(3) The Copermittee will, for the pollutant/water body combinations included in the analysis performed pursuant to Provision B.3.c.(1)(b), remain in compliance with Provisions A.1.a, A.1.c and A.2.a during the term of this Order as long as:~~

~~(a) The results of the analysis performed pursuant to Provision B.3.c.(1)(b) is accepted by the San Diego Water Board Executive Officer as part of the Water Quality Improvement Plan and as part of subsequent updates to the Water Quality Improvement Plan; AND~~

~~(b)~~ (a) The Copermittee ~~continues to~~ is implementing the water quality improvement strategies within its jurisdiction developed pursuant to Provision B.3.b.(1) and in ~~accordance~~ compliance with the schedules for implementing the strategies established pursuant to Provisions B.3.b.(3)(a) and B.3.c.(1)(a)(vii); AND

~~(e)~~ (b) The Copermittee ~~continues to~~ is performing the monitoring and assessments ~~specified in the Water Quality Improvement Plan, developed and implemented pursuant to Provision B.3.c.(1)(c), to demonstrate its progress toward achieving the numeric goals applicable to its MS4 discharges in accordance with the interim and final dates for achieving the numeric goals established pursuant to Provision B.3.a.(2)~~; AND

~~(d)~~(c) The Copermittee's assessments in the Water Quality Improvement Plan Annual Report submitted pursuant to Provision F.3.b.(3) support a conclusion that: 1) the Copermittee is in compliance with the annual milestones and dates for achievement developed pursuant to Provision B.3.c.(1)(a)(vii), OR 2) the Copermittee has provided acceptable rationale and recommends appropriate modifications to the interim numeric goals, and/or water quality improvement strategies, and/or schedules to improve the rate of progress toward achieving the final numeric goals developed pursuant to Provisions B.3.a and B.3.c.(1)(a)(i)-(vi); AND

(d) Any proposed modifications to the numeric goals, schedules, and/or annual milestones are accepted by the San Diego Water Board as part of subsequent updates to the Water Quality Improvement Plan pursuant to Provision F.2.c;³ AND

(e) The Copermittee ~~continues to~~ is implementing the requirements of Provision A.4.a.

³ A request for proposed changes to the Water Quality Improvement Plan does not stay any permit condition.