

RESPONSE TO PUBLIC COMMENTS
(DRAFT) WATER QUALITY CONTROL POLICY FOR STANDARDIZED COST REPORTING
IN MUNICIPAL STORMWATER PERMITS

May 2024



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Introduction

The proposed Draft Policy for Standardizing Cost Reporting in Municipal Stormwater Permits (Municipal Stormwater Cost Policy or Policy) was released on August 17, 2023, for a 30-day public comment period, which was subsequently extended to a 45-day comment period that closed on Tuesday, October 3, 2023. In response, 20 comment letters were submitted by interested parties that contain 109 individual comments on various aspects of the proposed Policy and the associated Staff Report.

All received comments were divided into 16 different themes:

- A. Policy Purpose
- B. Cost Categories and Sub-categories
- C. Cost Line Items
- D. BMP Implementation Cost & Street Sweeping Specifics
- E. Policy Timeline
- F. Phase II or Phase I Permittees
- G. Cost Accounting Guidance
- H. Limitations of Standardized Cost Data
- I. Stormwater Funding Sources & Cost Recovery
- J. Legal Authority & Implementation Details
- K. Alignment with Existing Cost Reporting Methods
- L. Use of Cost Data
- M. Other Comments

This document presents responses to a summary of comments under the themes listed above. Table 1 identifies the 20 comment letters received in the first public comment period, the number of comments in each letter, and the corresponding response summaries. The attachments to this document (Attachments A through M) contain the text of the original comments as received from interested parties and the complete [comment letters can be accessed using the STORMS webpage](#). Tables 2A and 2B (at the end of this document) include a comment-by-comment crosswalk for the comments received and the Summary Response Reference number to demonstrate how each comment was addressed in this document.

Table 1: Reference table to demonstrate how comments from the 20 comment letters were addressed by the Summary Responses indicated by the letter of the comment theme (e.g. A = Policy Purpose) and the summary response number within that category.

Comment Letter No	Organization or individual's name	Total Comments	Summary Responses Reference
1	Contra Costa Clean Water Program	9	B1, C1, C2, D1, D2, E1, G1, H1, I1, J1, J2
2	Alameda Countywide Clean Water Program	6	A1, B1, G1, H1, I1, J1, K1
3	City of Stockton	7	B1, C1, G1, I1
4	City of Santa Rosa Water Department	8	A1, B1, C1, D1, G2, H1, J1

Comment Letter No	Organization or individual's name	Total Comments	Summary Responses Reference
5	Richard Watson and Associates Inc	1	A2
6	Santa Clara Valley Urban Runoff Pollution Prevention Program	7	B1, D1, D2, F3, F4, G1, H1, I1, K1
7	Riverside County Flood Control and Water Conservation District	7	D1, D2, F1, G1, J1, J3, J4, L1
8	Sacramento Stormwater Quality Partnership	5	A3, B1, B3, E1, G1, H1
9	Orange County Public Works	8	B1, C1, C2, D1, D2, E2, H1, I1, J6, L1
10	California Stormwater Quality Association	12	A1, B1, D1, D2, E1, F3, G1, H1, H2, I1, J1, J6, L2, M1
11	City of San Diego Stormwater Department	4	A1, B1, D1, H1, L1
12	Marin Countywide Stormwater Pollution Prevention Program	2	F3
13	Ventura Countywide Stormwater Quality Management Program	6	A1, B1, E1, G1, H3
14	San Mateo Countywide Water Pollution Prevention Program	3	G1, K1, M2
15	City of Los Angeles Sanitation and Environment	5	A1, B1, D2, D3, G1, J1, L1,
16	County of Los Angeles & Los Angeles County Flood Control District	1	B1
17	San Bernardino County Flood Control District	1	M2
18	Napa Countywide Stormwater Pollution Prevention Program	4	C2, F2, G2, J5
19	California Coastkeeper Alliance	9	B2, C2, D1, D4, G1, G3, I1, J7, M3,
20	California Council for Environmental and Economic Balance	4	I1, L1, L3, M4, M5

Comment Theme A: Policy Purpose

A1: Redefine the purpose of the Policy to focus on determination of the permit implementation cost. Align the purpose with the proposed reporting requirements and level of details requested for various types of cost data. (Comment letters 2, 3, 10, 11, 13, and 15)

Response: Based on the comments received and revisions suggested, the statement of purpose in the Revised Draft Proposed Policy is revised as follows:

“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 **to a) determine what it costs to implement each Permittee’s municipal stormwater program as required by the applicable permit; and b) gather adequate levels of data with appropriate details to inform cost effective permit development and equitable investment in stormwater programs around the State.**”

A2: The proposed Policy should include reporting of “unnecessary expenditures.” Certain total maximum daily load (TMDL) requirements are based on outdated science (and thus unnecessary) which results in local jurisdictions paying more than necessary to address stormwater pollution. (Comment letter 5)

Response: Regional Water Quality Control Boards (regional water boards) develop permits and TMDLs based on the best available science at the time of permit issuance, and all requirements in MS4 permits are considered necessary. Permit development includes a robust public process, and concerns about specific permit requirements should be addressed during that time. Identifying potential “unnecessary expenditures” is outside the scope of the proposed Policy.

A3: Continue to beta-test and work with the stakeholders to develop more specific data objectives and ensure that requested costs data satisfy those objectives. (Comment letter 8)

Response: The six-month beta test of the proposed standardized cost reporting framework was initiated on May 1, 2023, and completed on November 1, 2023. Results of the beta test indicate that the proposed cost categories satisfy the data objectives. Based on the findings from the beta test, it is not necessary to continue to test the cost reporting framework. Section 7 in the draft Staff Report summarizes the findings from the beta test and how they were addressed in the Revised Draft Proposed Policy.

Comment Theme B: Cost Categories and Sub-categories

B1: Only require category-specific reporting. Remove requirements for reporting costs under sub-categories or make it optional. (Comment letters 1, 2, 3, 4, 6, 8, 9, 10, 11, 13, 15, 16) For example:

- **Sub-categories are not reflective of regional permit requirements. The sub-category breakdown is too complex, which presents significant challenges for permittee staff to track and estimate specific costs.**
- **Sub-category specific reporting could require modification of agency-wide accounting systems.**
- **Allow flexibility to report water quality monitoring cost holistically by removing requirements to report total maximum load (TMDL) monitoring cost separately.**
- **Categories are appropriate but require a crosswalk table from Permittees to show how elements in their permits align with the proposed categories.**

Response: Based on the public comments received, as well as feedback during the beta test, the following revisions were made to simplify the sub-categories:

- Removed the following sub-categories from the cost reporting framework: “Asset Management;” “Program Effectiveness Assessment;” “Integrated Pest Management;” “Emergency Programs.”
- Combined “Receiving Water Monitoring” and “Outfall Monitoring” sub-categories into one sub-category.
- Provided flexibility for Permittees to add appropriate sub-categories under the “Permit-Specific Special Programs” category. Reporting TMDL monitoring costs under this category is optional.
- Provided additional explanations and guidance in the Staff Report regarding the types of activities that fall under each sub-category. In addition, a Cost Accounting Guidance document was developed to provide more examples of what expenditures should be reported in each category and sub-category. Permittees may develop their own crosswalk table, if necessary, based on this information.

The remaining sub-categories (“Reporting;” “Illicit Discharge Detection and Elimination;” “Spill Response;” “Post-Construction BMPs;” “Structural BMPs;” “Full Capture Device Installation;” “Street Sweeping;” “BMP Monitoring”) are essential to achieving the Policy objective to understand the cost of certain permit elements and are a necessary part of the cost reporting framework. Based on the beta testing results, reporting costs in these remaining sub-categories will not require modification of Permittees’ accounting systems.

B2: Introduce a sub-category for non-filer inspections under industrial and commercial programs to obtain information and data on whether municipalities are fulfilling their own MS4 Permit obligations by investigating industrial and commercial non-filers. (Comment letter 19)

Response: While non-filer inspections are an integral part of a stormwater management program, the data that would be obtained from this proposed specific sub-category are not necessary for the intended uses of the data as outlined in Section 4 of the Revised Draft Proposed Policy. The justification for this suggestion provided by the commentor suggested that this data would be used to evaluate “whether municipalities are fulfilling their own MS4 Permit obligations by investigating industrial and commercial non-filers.” This is in direct conflict with Section 4.4 of the draft proposed Policy which states that “reported costs of Permit implementation data shall not be used as a surrogate for the level of compliance activities

performed by a Permittee.” As such, a sub-category for non-filer inspections has not been added to the Revised Draft Proposed Policy.

B3: In the interim hybrid or initial phase of Cost Reporting Policy implementation, reporting should allow additional fields to specify when the cost estimate is not available and may be non-zero. Introduce a field for all costs reported to notate specific circumstances. (Comment letter 8)

Response: The beta test of the proposed standardized cost reporting framework was performed to identify and understand the range of circumstances where the proposed cost reporting categories and sub-categories may not capture all permit implementation costs. Based on the responses received, sub-categories were adjusted, a cost accounting guidance document was prepared, and line items were updated in the Revised Draft Proposed Policy standardized cost reporting framework. It is not necessary to add a field to specify costs that are not available; if actual costs are unknown, Permittees are expected to estimate the cost using best professional judgement. An optional field will be available for Permittees to add a comment to notate specific circumstances.

Comment Theme C: Cost Line Items

C1: Cost Reporting using line items should be optional because the municipal accounting process may not be able to track those costs without modifications. (Comment letters 1, 3, 4, 9, and 18)

Response: A breakdown of costs into specific line items helps to understand the distribution of municipal funding and offers insight into the cause of year-over-year variation in municipal spending for a specific permittee. For example, a large equipment purchase may cause a significant spike in annual expenditure for the reporting year, but the equipment will likely be used for many years. The broader cost category is not able to capture such nuance. Similarly, a breakdown of costs into line items such as consultant costs, personnel costs, or land acquisition costs provides a more complete picture of municipal spending. Therefore, line items remain a mandatory component of the Revised Draft Proposed Policy standardized cost reporting framework.

C2: The cost line items should be modified, clarified, and consistent. Guidance should be provided regarding the types of expenditure to be included for each cost line item, and there should be clear identification of which line items apply to which cost category. (Comment letters 1, 9, and 19)

Response: Based on the comments received and input from beta test participants, the following changes were made to the line items:

- “Overhead Cost” was combined with “Personnel Cost” to create a revised “Personnel and Overhead Cost” line item because cost reporting for overhead cost in a separate line item presented challenges.
- The “Construction Cost” line item was removed since those costs are accounted for under “Capital Cost” and “Land Cost” line items.

The newly developed “Cost Accounting Guidance” document includes a more detailed description of the line items, including examples of what types of cost shall be reported under

which line items. If a specific line item is not applicable for a cost category, Permittees shall report zero (\$0) cost for those line items.

Comment Theme D: BMP Implementation Cost and Street Sweeping Specifics

D1: Remove or retain cost reporting requirements related to details of structural stormwater BMPs. Structural BMP information (location, type, design information) is not cost data and requirements to report them do not align with the purpose of the Policy. Structural BMP details do not help to determine the cost of permit implementation. (Comment letters 1, 2, 4, 6, 7, 9, 10, 11, and 19)

Response: Structural BMPs are often necessary for stormwater pollution prevention. Most, if not all, Permittees currently report the cost for structural BMPs as a part of their permit implementation costs. While the reported data provides an estimate of the municipal expenditure for all the “in progress” structural BMP construction cost for a given fiscal year, the data is incomplete since there is no breakdown of costs on a per-project basis. Rather, the expenditures reported are a combination of all ongoing BMP construction costs for one year. In addition, the type of BMPs implemented and associated design parameters are not reported which limits understanding of construction and project costs associated with different BMP types.

The BMP implementation cost reporting requirement in the Revised Draft Proposed Policy addresses the issues summarized above and ensures that the BMP implementation cost data informs future BMP selection. After a structural BMP project is completed by a permittee, the permittee will be required to report the BMP construction cost and total project cost along with the BMP location (address and GPS coordinates), BMP type, surface area, loading rate, and drainage area. As a result, Permittees across the state will have access to a data repository where cost comparison information for different BMP types is readily available to inform improved BMP selection and implementation.

The proposed BMP cost reporting requirements will establish a data standard that Permittees shall use to report BMP construction costs as a part of MS4 permit implementation. The proposed requirements are not “extraneous” or “more than cost data.” Rather, these project details put the reported cost data in context and make the data usable for Permittees to make management decisions. Furthermore, the location information for BMPs along with their construction cost can be used to identify and address environmental justice issues in stormwater BMP implementation.

D2: Remove reporting requirements regarding street sweeping programs. Details about municipal street sweeping programs are extraneous information that does not inform understanding of permit implementation costs. In-depth reporting about municipal street sweeping programs is not required by existing permits. (Comment letters 1, 2, 6, 7, 9, 10, and 15)

Response: Street sweeping is an integral part of municipal trash control strategies. Many municipalities implemented routine street sweeping programs before the introduction of MS4 permits. As a result, many permittees in California currently do not include street sweeping in their MS4 permit implementation costs. During the April 2022 staff workshop on Standardizing

Cost Reporting in Municipal Stormwater Permits Project, Permittees commented in favor of attributing street sweeping costs to MS4 permit implementation because street sweeping is required by the MS4 permits regardless of the routine nature of the activity. The Revised Draft Proposed Policy allows the reporting of street sweeping costs based on the feedback from Permittees. However, if sweeping is performed in a greater frequency than is required by the permit, then Permittees shall report costs for only the permit-mandated frequency. Costs associated with additional street sweeping beyond what is required in an MS4 permit may be reported in the “Optional Cost Reporting” section.

Since street sweeping requirements may vary significantly between MS4 permits, it is necessary to obtain additional information to be able to better understand what is being reported and to allow meaningful evaluation of the data across Permittees. These details include the frequency of sweeping, area swept, volume of debris collected, and type of sweepers. This information will also allow for an estimate of pollutant reduction and efficacy (e.g., cost per unit of debris removed). As such, the reporting requirements for street sweeping were not removed in the Revised Draft Proposed Policy.

D3: Remove non-applicable sub-categories under the Special Programs Category.
(Comment letter 15)

Response: The Special Program Category in the draft proposed Policy allows Permittees to report expenditures for unique permit implementation activities in their MS4 programs. Based on the review of the existing permits, such unique permit elements include, but are not limited to, specific pollutant control programs, discharges associated with homelessness, and special studies. Permittees are only required to report costs under this category if applicable for their situation. If the other categories capture a permittee’s entire permit implementation cost, the permittee can report zero expenditures for the Special Programs Category. The name of this category was revised to “Permit-Specific Special Programs” and additional clarification regarding the category was added to Section 5.2 of the draft Staff Report. The Cost Accounting Guidance document includes a few examples of typical activities that can be reported under the Permit-specific Special Programs Category.

D4: Introduce reporting requirements to assess BMP effectiveness. (Comment letter 19)

Response: A comprehensive BMP effectiveness assessment is out of the scope of this project and beyond this project’s stated objectives. However, data collected as part of the Revised Draft Proposed Policy such as structural BMP construction costs and the details of a street sweeping program may inform future BMP cost and benefit considerations.

Comment Theme E: Policy Timeline

E1: Modify the proposed adoption and implementation schedule to allow for adequate time for review and revision. Delay the draft Policy adoption and implementation timeline to allow either six months or a second public review and comment period. Perform a second beta test and hold another public workshop prior to the development of a final Policy. (Comment letters 1, 10, and 13)

Response: The tentative timeline presented below for consideration of adoption of the Draft Final Policy allows for adequate time to fully consider comments received during the public comment period and beta testing process. It is not necessary to perform a second beta test period at this time, since the comments from the first beta test were sufficient to understand the

needs of the permittees and the limitations of the reporting categories, and the proposed draft Policy has been revised accordingly.

April 2024	Revised Draft Proposed Policy to be Released for Public Comments with a 45-day comment period.
May 2024	Board Hearing on the Revised Draft Proposed Policy
Summer 2024	Board Consideration of Adoption of the Final Proposed Policy
2025	First reporting year to require Standardized Cost Reporting

E2: Use the available cost reporting data to beta test the proposed approach and take a phased approach for implementing the proposed Policy. The phased approach could start with broader categories or use currently available cost information from various regions to beta test the purpose, goals, and use of the data prior to adopting the Policy. (Comment letters 8 and 9)

Response: There are challenges in utilizing the available cost data to test the proposed approach, primarily because of the non-uniform methods currently employed in collecting and reporting MS4 permit implementation data. This exercise was attempted by the Environmental Finance Center at Sacramento State as described in their report [“Estimating Benefits and Costs of Stormwater Management; Part II: Evaluating Municipal Spending in California.”](#) Key findings included “a lack of standardized reporting across and even within regions inhibits better estimates and confidence in observed trends,” and “further and more accurate understanding of budgets and expenditures for stormwater management in California would require greater consistency in the types of activities reported (i.e. standardizing categories and the types of activities that apply to each category), as well as more communities reporting data.” Using existing data to test the outcome of the proposed Policy is not feasible.

Starting with broad categories to allow a phased implementation of the proposed Policy will not allow for the collection of data that is specific enough to achieve the goals of the Policy. The categories and sub-categories developed for the draft Policy are appropriate for the level of detail required to achieve the proposed Policy’s objectives.

Comment Theme F: Phase II or Small Phase I Permittees

F1: Small Phase I permittees face challenges similar to what is recognized in the Staff Report for traditional Phase II MS4 permittees. Allow Phase I Permittees with populations less than 100,000 to report their stormwater program costs in alignment with Section 6 of the Draft Policy, which currently provides cost categories for traditional Phase II MS4 Permittees only. (Comment letter 7)

Response: The determination of whether a permittee falls under a Phase I or Phase II permit category is not solely contingent on the population within the permittee's jurisdiction. The regional water boards have discretion to identify which permit is appropriate for a given permittee. All Phase I permittees are subjected to federal cost reporting requirements

regardless of their population. The Revised Draft Proposed Policy will require the same set of standardized cost categories for all Phase I permittees, even if the population of a Phase I permittee is fewer than 100,000.

F2: Remove Phase II permittees from the proposed cost reporting requirements as federal regulations do not require such reporting for Phase II MS4 permittees. Proposed cost reporting requirements for traditional Phase II MS4 permittees appear to be an unfunded mandate. (Comment letter 18)

Response: As outlined in the draft Staff Report (Section 2.3.2), the decisions to exclude non-traditional Phase II permittees and require traditional Phase II permittees to report permit implementation cost was made after considerable deliberation. Removing all Phase II permittees from proposed cost reporting requirements would result in a data gap and would prohibit evaluation of the costs associated with Phase II MS4 permit implementation. Considering the resource limitations of many small MS4 permittees, the Revised Draft Proposed Policy requires reporting for traditional Phase II permittees and provides an option for traditional Phase II permittees to use a streamlined approach with a less detailed cost breakdown. The proposed cost reporting requirements for traditional Phase II permittees are not an unfunded mandate. All Phase II permittees have regulatory authority to fund the costs of the proposed reporting requirements without the need for prior voter approval.

F3: The cost categories and line items included in the Draft Policy should be consistent for Phase I and traditional Phase II stormwater permits, where some cost categories may be allowed to be reported as not applicable to Phase II. (Comment letters 6, 10, and 12)

Response: The Water Boards develop and issue Phase I and Phase II permits separately. While the 13 various Phase I permits are issued by the regional water boards, only one statewide Phase II permit is issued by the State Water Board. There is a federal requirement for Phase I permittees to perform and report fiscal analyses annually. However, the Phase II permit does not currently have any such requirement. Considering these differences between the Phase I permits and the Phase II permit, as discussed in Section 2.3.2 of the draft Staff Report, it is appropriate to have separate cost categories for Phase I and Phase II permittees. However, if a Phase II permittee is interested in using the list of categories required by Phase I permittees, they may do so.

F4: Provide clarification in the Draft Policy that a permittee covered by a Phase I and a traditional Phase II permit only needs to submit one cost report. (Comment letter 6)

Response: The scope of the Revised Draft Proposed Policy does not include changes to the frequency of annual reports or the designated entity to which these reports should be submitted. However, it does require Permittees to adjust their cost tracking and reporting methodology. In cases where a municipality falls under both a Phase I and a traditional Phase II permit, the permittee shall adhere to the cost tracking and reporting procedures outlined in the Revised Draft Proposed Policy for each of the respective programs. The quantity of the cost reports required will be consistent with the number of annual reports submitted.

Comment Theme G: Cost Accounting Guidance

G1: Provide a detailed description of the types of cost that can be put under the proposed categories and line items. (Comment letters 1, 2, 3, 6, 7, 8, 10, 13, 14, 15, and 19) **For example:**

- Provide examples of a range of approaches that can be used for fiscal analysis.
- Provide guidance on how to account for costs in scenarios which pose challenges to accurately account for permit implementation costs: for example, situations where municipal staff meet both permit and non-permit obligations.
- Identify how expenditures should be included if a project is implemented over multiple years or when the activity is part of a larger project.
- Explain how expenditures should be reported for regional programs.
- Use Bay Area Cost Reporting Framework and MRP Cost Reporting Requirements as a supporting document.
- Replace “best practices for accounting” with recommended approach.

Response: Based on the comments received from the interested parties, including the beta test participants, a detailed cost accounting guidance document was developed. This cost accounting guidance document provides a detailed description of the types of costs to be reported under each category, as well as answers to questions related to multi-benefit and multi-year projects. This document will be released separately from the Revised Draft Proposed Policy, will be publicly available on the Water Board website, and will be updated as needed.

G2: Modify language to allow Permittees to attribute all stormwater pollution prevention expenditures, even if the costs are for areas outside the MS4 boundary. In addition, allow permittees to report all costs related to permit compliance, either prescribed or voluntarily implemented. (Comment letters 4 and 18)

Response: The Revised Draft Proposed Policy is intended to identify the annual expenditures for implementing provisions of an existing MS4 permit. In instances where a particular area within a city or county does not fall under the jurisdiction of an MS4 permit, the cost of overseeing stormwater programs in that area should remain excluded from the calculation of MS4 permit implementation costs. Likewise, if an action is not required by the relevant MS4 permits, the permittee shall not report expenditures related to that specific task as permit implementation costs. An “Optional Cost Reporting” section has been added to the Revised Draft Proposed Policy to allow Permittees to account for stormwater management activities and expenditures that are not specifically required by a MS4 permit.

G3: The State Water Board Should Be Explicit that Legislative, Quasi-Legislative, and Regulatory Lobbying Shall Be Prohibited from Inclusion in the Costs Associated with Permit Compliance. (Comment letter 19)

Response: The Revised Draft Proposed Policy is intended to identify the annual expenditures for implementing provisions of an existing permit. Any expenditures not related to actual implementation of the MS4 permit, including lobbying as well as comments and testimony regarding proposed MS4 permits, are not considered permit implementation costs. However, Permittees can document these costs under the new “Optional Cost Reporting” category (Revised Draft Proposed Policy Section 6).

Comment Theme H: Limitations of Standardized Cost Data

H1: Explicitly recognize the inherent limitations associated with compiling and interpreting Cost Reporting data, even if consistent categories are used. Make a differentiation between tracked cost and estimated cost. (Comment letters 1, 2, 4, 6, 8, 9, 10, and 11) **For example:**

- **Add language to the Policy that explains the cost reporting values are compiled from multiple internal sources and different cost accounting programs and methods. As a result, the reported values are not auditable from an accounting perspective and may differ from the adopted budget.**
- **Add language to the Policy that explicitly says cost reporting values are rounded to the nearest \$1,000.**
- **Recognize in the Policy that there are various implementation approaches (agency-staff versus subcontractors, regional programs). Consequently, the analysis of cost data is complex and not covered by the Policy.**
- **The Policy should be modified to recognize that some information may be incomplete or unavailable. Modify the language to replace occurrences of “shall” with “shall estimate with the best available information” and remove “all” from “all expenditures.”**

Response: Based on the comments received, Section 5 of the Revised Draft Proposed Policy was revised to add the following subsection:

“5.3.6 The State Water Board recognizes that the variability and complexity of municipal accounting for stormwater programs presents a challenge for Permittees to track and report permit implementation cost using a list of standardized categories and line items, and as such, many of the costs reported may be estimates based on best professional judgment. Permittees shall develop and maintain supporting documentation explaining their cost estimation process, when applicable. Such documents shall be retained by the Permittees for at least five years.”

H2: Develop guidance for Board staff that addresses considerations such as timely reviews of the cost data submitted by the Permittees, limitations associated with the interpretation of the cost reporting data and intended uses of the data. (Comment letter 10)

Response: A guidance document for Water Boards staff which addresses the review and use of the standardized cost data not within the scope of this project but may be developed as a separate project pending adoption and implementation of the Revised Draft Proposed Policy.

H3: Add a new section to the Draft Policy outlining a funding limitations assessment and outlining data collection refinement process. (Comment letter 13)

Response: A funding limitations assessment is outside the scope of the proposed Policy. Implementation of the proposed Policy may result in data that could allow for future funding limitation assessments.

Periodic assessment of an adopted Policy is a standard procedure for the Water Boards. The goal of such assessment is to evaluate whether any adjustment to the implementation strategy is needed to ensure the Policy is achieving its objectives. Therefore, it is not necessary to

specifically introduce a data collection refinement process into the Revised Draft Proposed Policy.

Comment Theme I: Stormwater Funding Sources & Cost Recovery

I1: Remove requirements related to detailed reporting of source of funds, including amounts under various sources, used for MS4 permit implementation. (Comment letters 1, 2, 3, 6, 9, 10, 19, and 20) **Specifically:**

- **It is unclear how identifying the specific amount for each funding source meets the Policy’s purpose and what management decisions will be made based on the data generated from this requirement.**
- **Only require the narrative summary that identify the types of funding sources, not specific amounts**
- **It would not be possible to track and report the exact amount of funding that is derived from each of the various sources, since many funding sources are managed by other departments.**
- **Modify the Draft Policy to include a standard list of funding types that the Permittees can select from when reporting funding sources.**

Response: Federal regulations require that Phase I MS4 permittees report the sources of funds as part of their fiscal analysis for MS4 permit implementation. The requirements in the Revised Draft Proposed Policy for identifying fund sources are consistent with these federal regulations.

Reporting recovered costs is necessary for the Water Boards to analyze the true costs of permit implementation. Fees collected from citizens, private developers, or grants may allow some permittees to develop large capital improvements or structural BMP projects that might otherwise not be feasible to implement. Some permittees also have stormwater BMP projects funded by grants such as Proposition 1, Proposition 84, and Measure W in Los Angeles. In addition, large permittees may have multi-million-dollar development projects for which permittee staff review the plans or specifications. While this staff time is allowed as a permit implementation cost, these are in part or fully reimbursed by fees charged to the private developers. Therefore, identifying the funding sources will better inform the analysis of the municipal expenditures for permit implementation.

Based on the comments received, the reporting structure has been amended to no longer require a funding breakdown for each individual cost category. The Revised Draft Proposed Policy will only require breakdown of the funding sources and an itemized list of cost recovered. The newly developed Cost Accounting Guidance document has additional details about uniform reporting of municipal funding sources, including a standard list of funding types that Permittees can select from when reporting funding sources.

Comment Theme J: Legal Authority & Implementation Details

J1: Make the cost reporting deadline consistent with (or a specific time period after) the annual report deadline. (Comment letters 1, 2, 4, 7, 10, and 15)

Response: The cost reporting deadline has been revised in the Revised Draft Proposed Policy to make it consistent with the deadline specified in the associated MS4 permit. Section 7.1 has been revised as follows:

“Each Permittee shall document and submit total MS4 Permit-related expenditures ~~annually by September 30,~~ **within the same timeframe as the annual reporting required by the Permittee’s MS4 permit.** The submission shall contain expenditure information from the previously concluded fiscal year, beginning July 1, and ending June 30.

J2: Proposed cost reporting method should be a guidance and Permittees should be allowed to continue reporting cost using the existing requirements set by the permits. (Comment letter 1)

Response: The draft Staff Report underscores the necessity and benefits of estimating and reporting MS4 permit implementation cost using a standardized method. The current permit requirements and existing guidance documents have demonstrated that relying solely on guidance for standardized cost reporting is unlikely to lead to consistent reporting of MS4 permit implementation costs. To obtain consistent data, it is imperative to develop a policy and integrate the cost reporting requirements into the MS4 permits issued by the Water Boards.

J3: Permittees should not be restricted in raising cost concern for specific permit requirements as it contradicts the recommendation by the California State Auditors’ report and Section I.G (Environmental Justice and Disadvantaged Communities) of State Water Board’s Enforcement Policy. (Comment letter 7)

Response: The second sentence of Section 4.4 of the Revised Draft Proposed Policy has been deleted as follows:

~~“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 by a Permittee to justify noncompliance by a Permittee or as a rationale to request less stringent permit requirements.”~~

J4: Clarify supporting document retention period and how that will be enforced. (Comment letter 7)

Response: Section 5.3.6 has been added to the Revised Draft Proposed Policy to provide clarification regarding a document retention period:

“...Permittees shall develop and maintain supporting documentation explaining their cost estimation process, when applicable. Such documents shall be retained by the Permittees for at least five years and provided to the regional water boards or State Water Board upon request.”

The regional water boards will have authority to determine the regulatory procedure to enforce the proposed data retention requirements.

J5: Define “timely review” of the cost data by the Water Boards. (Comment letter 18)

Response: The regional water boards will continue to follow their standard methodology to review annual reports and have full discretion in determining the timing of cost data review. References to “timely review” have been removed from the Revised Draft Proposed Policy as follows:

“8.1 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.”

“8.3 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.”~~

J6: Potential investigative order (Water Code 13383) for implementing the proposed Policy should be aligned with the final adopted language of the municipal stormwater cost Policy and the order should focus on specific management questions. (Comment letters 9 and 10)

Response: The comment is noted and will be taken into consideration when preparing the investigative order pending adoption of the Revised Draft Proposed Policy.

J7: Minimize cost exaggeration reported in catch-all categories by including spot audits of costs reported. (Comment letter 19)

Response: The regional water boards will have full discretion regarding the enforcement of the proposed cost reporting requirements once they are incorporated into the MS4 permits. Enforcement and required audits of permits and permit elements are outside the scope of this project.

Comment Theme K: Alignment with Existing Cost Reporting Methods

K1: Explicitly recognize the cost reporting framework developed by Bay Area Municipal Stormwater Collaborative (BAMSC) and align the proposed cost reporting Policy with BAMSC framework. (Comment letters 2, 6, and 14)

Response: The proposed cost reporting method in the Revised Draft Proposed Policy was informed by an extensive review of the existing cost reporting frameworks around the state in permits, annual reports, and case studies. Section 4 in the Staff Report summarizes these methods. The effort for developing a cost reporting framework by BAMSC was in parallel with the development of the draft proposed Policy, and staff held multiple meetings with the BAMSC project team to exchange ideas and discuss how the BAMSC framework aligns with the method proposed in the draft proposed Policy.

The goal of the Revised Draft Proposed Policy is to establish a list of standardized cost reporting categories that Permittees statewide shall use when reporting their MS4 permit implementation costs. The proposed framework affords Permittees the utmost flexibility, enabling them to adapt their current tracking and reporting procedures to align with the Revised Draft Proposed Policy. Selecting one of the existing tracking and reporting systems as the standardized method for all Permittees statewide does not offer the statewide flexibility identified in the Revised Draft Proposed Policy objectives.

Comment Theme L: Use of Cost Data

L1: Clarify how collected cost data will be used especially considering it is unknown how the cost data reported so far based on permit requirements has been used. (Comment letters 7, 9, 11, 15, and 20) **Specifically:**

- **Explicitly state in the Policy that the cost data will not be used to compare Permittees' performance or assess the efficacy of their MS4 programs.**
- **The Policy should acknowledge that even with a standardized format, the costs data may not be consistent or comparable amongst municipal stormwater programs due to varying permit requirements, unique physical characteristics of the municipalities, differing approaches to permit implementation, and fluctuations in municipal stormwater budgets.**
- **The Policy should include clear statements of the management questions that will be answered by the data collected.**

Response: Section 4 of the Revised Draft Proposed Policy outlines how the State Water Board intends for the Water Boards to use the reported cost data. When permit implementation cost data is systematically recorded and reported using a standardized method, it can inform Water Board regulatory actions and Permittee management decisions. The Water Boards will use the data to gain a comprehensive understanding of the cost of permit implementation and the economic implications for new permit requirements. MS4 Permittees may use the data to compare costs associated with various stormwater BMPs as well as to support grant applications for stormwater projects. Furthermore, feedback from several Permittees who are presently engaged in cost tracking has emphasized the practicality of a simplified cost tracking and reporting method, particularly in the context of municipal budgeting and the substantiation of funding requests for stormwater programs.

Due to the lack of consistency in the methods used for tracking and reporting cost data, the Water Boards have not been able to analyze the expenses associated with the implementation of different components of MS4 permits as reported in current annual reports. This Revised Draft Proposed Policy attempts to resolve this barrier to developing a clear understanding of permit implementation costs.

Section 4.4 of the Revised Draft Proposed Policy specifically states, "The reported cost of Permit implementation data shall not be used as a surrogate for the level of compliance activities performed by a Permittee." As such, the cost data will not be used to assess the efficacy of Permittees' MS4 programs.

L2: Add a new section titled "Future Assessment and Refinement" to the Policy that outlines a process to determine in the future if any modification of the Policy is needed to accomplish Policy objectives. (Comment letter 10)

Response: Periodic assessment of an adopted Policy is a standard procedure for the Water Boards. The goal of such assessment is to evaluate whether any adjustment to the implementation strategy is needed to ensure the Policy is achieving its objectives. Additionally, a Permittee or member of the public may always request the State Water Board to consider revisions to any existing policy. Therefore, it is not necessary to specifically introduce an "Assessment and Refinement" section into the Revised Draft Proposed Policy.

L3: Policy guidance is needed for MS4 permittees and regional water boards regarding how data gathered under the proposed Policy to be used, including in Financial

Capability Assessment (FCA) framework developed by the United States Environmental Protection Agency (USEPA). (Comment letter 20)

Response: As mentioned in response H2, a guidance document regarding the use of the cost data for waterboard staff may be developed after adoption and implementation of the proposed Policy. Data collected under the proposed Policy could inform future Financial Capability Assessments (FCAs) for municipal Permittees; however, development of FCAs is outside the scope of this project.

Comment Theme M: Other Comments

M1: Provide more definition for key terms for better clarity and consistency with the language in various permits. (Comment letter 10)

Response: The Revised Draft Proposed Policy and Staff Report include additional definitions for “Best Professional Judgement” and “Easement.”

M2: Comments supporting CASQA’s comment letter. (Comment letters 14 and 17)

Response: Comments noted. Please refer to the responses to various comments from CASQA (comment letter 10).

M3: Explicitly mention that all cost data will be publicly available through SMARTS. (Comment letter 19)

Response: Section 8.4 of the Revised Draft Proposed Policy has been revised as follows:

“The State Water Board shall **make the collected cost data publicly available**, conduct regular review of the cost data, provide periodic Policy related updates to the board, and maintain the MS4 Implementation Cost Survey Tool **Cost Data Portal**.”

M4: Incorporate the best available science and engineering practices into its stormwater programs, including streamlining adjustments to water quality standards while fully protecting beneficial uses. (Comment letter 20)

Response: Changes to water quality objectives are outside the scope of this project.

M5: The State Water Board should evaluate MS4 permit implementation measures for effectiveness. (Comment letter 20)

Response: Assessing the effectiveness of any MS4 permit or benefits from its implementation is outside the scope of this project.

Table 2: Detailed Breakdown of Public Comments and Corresponding Response (See Table 1 for Comment Number Authors)

Theme and Summary Response Number		#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	#17	#18	#19	#20
A. Policy Purpose	A1		2.1	3.1							10.1	11.1		13.2		15.1					
	A2					5.1															
	A3								8.1												
B. Cost Categories	B1	1.4	2.3	3.1 3.2 3.4	4.2 4.3		6.2		8.2	9.5	10.2	11.2		13.3		15.4	16.1				
	B2																			19.7	
	B3								8.4												
C. Cost Line Items	C1	1.5		3.5	4.4					9.6									18.2		
	C2	1.5								9.6											19.5
D. BMP and Street Sweeping Specifics	D1	1.2			4.5		6.5	7.3		9.8	10.2	11.1								19.9	
	D2	1.2					6.5	7.3		9.8	10.2					15.3					
	D3															15.3					
	D4																				19.8
E. Project Timeline	E1	1.1									10.11			13.1							
	E2								8.2	9.3											
F. Phase II or Small Phase I	F1							7.1													
	F2																			18.1	
	F3						6.4				10.10 10.6		12.1								
	F4						6.4														
G. Cost Accounting Guidance	G1	1.3	2.3	3.3			6.3	7.5	8.3		10.5			13.4	14.3	15.5					19.6
	G2				4.6															18.3	
	G3																				19.3
H. Limitation of Standardized Data	H1	1.6	2.4		4.1		6.1		8.5	9.1	10.4	11.3									
	H2										10.4										

Theme and Summary Response Number		#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	#17	#18	#19	#20		
	H3													13.5									
I. Source of Funds/ Cost Recovery		I1	1.8	2.5	3.6		6.6			9.7	10.8									19.4	20.3		
J. Legal Requirements		J1	1.7	2.6		4.8			7.2		10.7					15.2							
		J2	1.9																				
		J3								7.6													
		J4								7.4													
		J5																		18.4			
		J6										9.4	10.12										
		J7																				19.2	
K. Alignment with Existing Methods		K1		2.2			6.7								14.2								
L. Use of Cost Data		L1						7.7		9.2		11.3				15.1					20.1		
		L2									10.3												
M. Other		M1									10.9												
		M2														14.1			17.1				
		M3																			19.1		
		M4																				20.4	
		M5																				20.2	