

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 11, 2004

Prepared on January 13, 2005

ITEM NUMBER: 25

SUBJECT: Status Report – Storm Water Program Update

SUMMARY

The Storm Water Program is a National Pollutant Discharge Elimination System (NPDES) Program that has been implemented in two phases. The November 16, 1990 Federal Register describes the requirements of the Phase I Regulations and the December 8, 1999 Federal Register describes the Phase II regulations. The State of California carries out the Storm Water Regulations according to California Water Code and the Statewide General Storm Water Permits.

The purpose of the Storm Water Program is to prevent the discharge of pollutants to surface water bodies by preventing storm water runoff from acting as the vehicle for pollution. The Storm Water Program attempts to reach this goal by permitting three categories of potential pollution sources: Construction Activities, Industrial Activities, and Municipalities.

DISCUSSION

For the Central Coast Region, Phase I included three general permits and one individual permit. Construction activities, industrial activities and Caltrans activities were covered under separate general permits. The City of Salinas was the only individual municipal storm water permit holder in the Central Coast Region, as Salinas was the only City having a population of 100,000 or more. These permits are described below.

The Phase II Final Rule was published in the Federal Register on December 8, 1999. By March 10, 2003, Operators of Phase II Regulated Small Municipal Separate Storm Sewer Systems (MS4s) and Small Construction Activity were required to apply for permit coverage.

Construction

Phase I

General Permit

The State Water Resources Control Board (State Board) last reissued the statewide General Storm Water Permit for Construction Activities in 1999 when they adopted Order 99-08-DWQ. The permit is reissued every five years. The permit required land owners disturbing five acres or more to implement Best Management Practices (BMPs) to prevent the discharge of sediment-laden water off site. As a result of Phase II, Order 99-08-DWQ was modified to cover land disturbance activities of one acre or more, as discussed in the Phase II section below.

Phase II

General Permit

Construction activity disturbing one acre or more of land is subject to NPDES permitting requirements under Phase II. Construction activity disturbing less than one acre also requires a permit if it is part of a larger common plan of development or sale disturbing a total of one acre or greater, or is individually designated for permit coverage by the Regional Board based on threat to water quality.

The site-specific plan to implement BMPs is called the Storm Water Pollution Prevention Plan (SWPPP). A SWPPP that reflects the current conditions of the site is required to be kept on site at all times and available for Regional Board staff review.

The monitoring provisions in the permit require:

1. All permitted construction sites' runoff be sampled for pollutants that can not be seen in the runoff, if there is reason to believe those pollutants may be present in the runoff.
2. Operators of permitted construction sites that discharge directly to 303(d) listed water bodies that are impaired by Sediment/Silt to sample the receiving water upstream and downstream every storm event (not to exceed four events/month).

Annual reports are due to our office each September 1. These reports include information about the site topography, BMPs that will be used to prevent erosion during the rainy season, and monitoring. There are currently 580 construction sites in our Region covered by the construction storm water permit.

Permit Reissuance

It is time to reissue the General Construction Storm Water Permit. State Board is in the process of amending the permit but, at the time this staff report was written, had not yet posted a draft for public comment.

Industrial

Phase I

General Permit

The State Board last reissued the statewide General Storm Water Permit for Industrial Activities in 1997, when they adopted Order 97-03-DWQ. The permit is reissued every five years. Ten categories of industrial activity are required to obtain permit coverage.

Industrial facilities obtain permit coverage based on whether or not their Standard Industrial Classification (SIC) code is included in these ten categories. General descriptions of the categories are:

1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR Subchapter N);
2. Manufacturing facilities;

3. Mining/oil and gas facilities;
4. Hazardous waste treatment, storage, or disposal facilities;
5. Landfills, land application sites, and open dumps that receive industrial waste;
6. Recycling facilities such as metal scrap yards, battery reclaimers, salvage yards, automobile yards;
7. Steam electric generating facilities;
8. Transportation facilities that conduct any type of vehicle maintenance such as fueling, cleaning, repairing, etc.;
9. Sewage treatment plants;
10. Certain facilities (often referred to as "light industry") where industrial materials, equipment, or activities are exposed to storm water.

All industrial permit holders are required to implement BMPs to prevent the discharge of polluted storm water off site. The site-specific plan to implement BMPs is called the Storm Water Pollution Prevention Plan (SWPPP). Permit holders are required to sample their storm water runoff during a minimum of two storm events each rainy season. Samples are analyzed for pH, Total Suspended Solids, Specific Conductance, and Oil & Grease or Total Organic Carbon. Table D of the permit lists other parameters that must be tested for, based on the SIC code of the facility. Visual Observations are required throughout the rainy season. The monitoring and sampling results are recorded on an annual report, which is submitted to our office on July 1 of each year. There are currently 392 industrial facilities in our Region covered by the industrial storm water permit.

No Exposure Certification

This exemption is designed primarily for those light industry facilities where all industrial activities are conducted inside buildings and where all materials stored and handled are not exposed to storm water.

To qualify for this exemption, facility operators must certify that their facilities meet all of the following conditions:

- (1) All prohibited non-storm water discharges have been eliminated or otherwise permitted.

- (2) All authorized non-storm water discharges have been identified and addressed in the SWPPP.
- (3) All areas of past exposure have been inspected and cleaned, as appropriate.
- (4) All significant materials related to industrial activity (including waste materials) are not exposed to storm water or authorized non-storm water discharges.
- (5) All industrial activities and industrial equipment are not exposed to storm water or authorized non-storm water discharges.
- (6) There is no exposure of storm water to significant materials associated with industrial activity through other direct or indirect pathways such as from industrial activities that generate dust and particulates.
- (7) There is periodic re-evaluation of the facility to ensure conditions (1), (2), (4), (5), and (6) above are continuously met. At a minimum, re-evaluation shall be conducted once a year.

Sampling and Analysis Reduction

A facility operator may reduce the number of sampling events required to be sampled for the remaining term of the General Permit if the facility operator provides certification that the following conditions have been met:

1. The facility operator has collected and analyzed samples from a minimum of six storm events from all required drainage areas;
2. All prohibited non-storm water discharges have been eliminated or otherwise permitted;
3. The facility operator demonstrates compliance with the terms and conditions of the General Permit for the previous two years (i.e., completed Annual Reports, performed visual observations, implemented appropriate BMPs, etc.);
4. The facility operator demonstrates that the facility's storm water discharges and authorized non-storm water discharges do not contain significant quantities of pollutants; and

5. Conditions (2), (3), and (4) above are expected to remain in effect for a minimum of one year after filing the certification.

Unless otherwise instructed by the Regional Water Board, facility operators shall collect and analyze samples from two additional storm events during the remaining term of the General Permit.

Group Monitoring

Permit holders with the same SIC code, have the option of forming a Group Monitoring Plan (GMP). Each GMP member is required to sample two storm events in a year, for one of the five years of the permit term.

The GMP is developed by a group leader and approved by the Regional Board if all the participants are within the same region, or the State Board if the participants are in more than one region. The State or Regional Board may disapprove a facility's participation in a GMP or require additional monitoring.

The group leader must:

1. Develop, implement, and revise the GMP
2. Develop and submit the annual group evaluation report by August 1 of each year
3. Recommend appropriate BMPs to reduce or prevent pollutants
4. Assist each participant in completing their Annual Comprehensive Site Compliance Evaluation and Annual Report
5. Conduct a minimum of two inspections of each participant's facility during the permit term.
6. Submit a GMP to the Regional/State Board.
7. Revise the GMP as instructed by the Regional/State Board.
8. Provide the Regional/ State Board with quarterly updates of new or deleted participants.

The GMP shall:

1. Identify the participants by name, location, and Waste Discharge Identification Number.
2. Include a description of the industrial activities of the participants and the BMPs that will be used.
3. Include a list of potential pollutants and the BMPs used.

4. Provide a five year sampling schedule.
5. Identify the pollutants associated with the industry that will be analyzed.

All participants that have not been selected to sample in a particular wet season are required to comply with all other monitoring and reporting requirements. All GMP participants are required to develop and implement a site-specific SWPPP.

Phase II

General Permit

Phase II will only impact the General Industrial Permit in the areas of No Exposure Certification and ISTEAs exemption.

ISTEA Exemption

Provisions within the Intermodal Surface Transportation Efficiency Act (ISTEA) temporarily exempted Phase I industrial activities operated by municipalities with populations less than 100,000 people (with the exception of power plants, airports, and uncontrolled sanitary landfills) from the need to obtain a storm water discharge permit. The Phase II Final Rule lifted the ISTEAs exemption on March 10, 2003.

No Exposure

EPA has revised the original no exposure provision to be a conditional exclusion applicable to all categories of industrial activity with no exposure of industrial materials and activities to storm water. The revision, found at Section 122.26(g) of the Storm Water Phase II Regulations, requires industrial operators claiming no exposure to submit written certification that a condition of no exposure exists at their facility/site.

Permit Reissuance

It is time to reissue the General Industrial Storm Water Permit. The changes described above will be incorporated into the reissued permit. A copy of the draft permit that has been released by the State Board for public comment can be found at www.waterboards.ca.gov/stormwtr/industrial.html. The State Board held public hearings to receive comments on the industrial permit in Rancho

Cucamonga on January 31, 2005 and in Sacramento on February 3, 2005.

Municipal

Maximum Extent Practicable (MEP) is the technology-based standard established by Congress in CWA Section 402(p)(3)(B)(iii) that municipal storm water permit holders must meet. Technology-based standards establish the level of pollutant reductions that the dischargers must achieve. The MEP approach is an ever evolving, flexible, and advancing concept, which focuses on technical feasibility, but cost, effectiveness, and public acceptance are also relevant. As knowledge about controlling urban runoff continues to evolve, so does that which constitutes MEP.

Phase I

City of Salinas

All Medium and Large Municipal Separate Storm Sewer Systems (MS4s) were required to obtain a municipal permit under Phase I of the Storm Water Program. A Medium MS4 system serves, or is located in an incorporated place or county with, a population between 100,000 - 249,999, a Large MS4 system serves, or is located in an incorporated place or county with a population of 250,000 or more. There is only one Phase I MS4 in the Central Coast Region; the City of Salinas. An individual NPDES permit, adopted in 1999, regulates the discharge of storm water from the City of Salinas. The permit requires the City to adopt and enforce a Storm Water Management Plan.

Permit Reissuance

NPDES permits have a five year permit term. It is time to reissue the Salinas permit. Since 1999, when the permit was first adopted, there have been changes in what constitutes MEP. On October 5, 2000, the SWRCB adopted Order WQ 2000-11; a precedential decision concerning the use of development standards in municipal storm water permits.

Order WQ 2000-11

The Order was adopted as a result of the controversy over MS4 permits in the Los Angeles Region, and considers development standards required for new development and redevelopment for Phase I municipalities. The Order includes a list of BMPs for specific development categories, and a numeric design standard for structural or treatment control BMPs. The numeric design standard created criteria for the amount of runoff that must be treated or infiltrated. RWQCB orders must be consistent with applicable portions of the SWRCB's precedential decisions. The draft Salinas Permit, on this agenda for adoption, is consistent with this Order.

Order WQ 2000-11 did not consider Phase II storm water permits.

Phase II

General Permit

Phase II Regulations required designated small Municipal Separate Storm Sewer Systems (MS4s) to obtain coverage under a State Board issued general permit by March 10, 2003. Due to delays that resulted from a Ninth Circuit Court decision, the permit was not adopted until April 30, 2003. The adopted permit set new dates by which the MS4s are required to submit a Notice of Intent to comply with the terms of the permit.

A small MS4 is defined as any unpermitted MS4 located in an "urbanized area" (an area with a population of 50,000 and a population density of 1,000/square mile) or an "urban cluster" (an area with a population of 10,000 and a population density of 1,000/square mile), as defined by the Bureau of the Census. A small MS4 could be designated to be covered by the Phase II program in either of two ways:

1. Automatic Nationwide Designation. The Storm Water Phase II Regulations require automatic nationwide coverage of all small MS4s that are located within the boundaries of an urbanized area as determined by the Bureau of the Census based on data from the latest Census. Attachment 1 of the permit is a list of automatically designated MS4s.

2. Designation by the Regional Board. Operators of small MS4s located in an urban cluster, as defined by the Bureau of the Census, could be designated if the Regional Board determines that storm water discharges from the small MS4 into a local water body cause, or have the potential to cause, a threat to water quality. Regional Board staff used the following criteria to recommend additional small MS4s for designation:
 - a. Discharge to a 303d listed water body;
 - b. High growth;
 - c. High tourism;
 - d. Discharge to a Marine Sanctuary

- a. Discharge to a 303d listed water body;
- b. High growth;
- c. High tourism;
- d. Discharge to a Marine Sanctuary

Attachment 1 of the permit is a list of MS4s designated due to the automatic nationwide designation criteria. These MS4s were required by the permit to submit a complete application for permit coverage by August 8, 2003.

Attachment 2 of the permit is a list of MS4s designated by the Regional Board. On November 1, 2002, this list was presented to the Board for comment. These MS4s were required by the permit to submit a complete application for permit coverage by October 27, 2003.

Attachment A (attached) shows the status of the MS4 permit applications for all MS4s listed in Attachment 1 and Attachment 2 of the permit.

Federal and State Facilities are also required to obtain permit coverage, either individually, or as a co-permittee with a contiguous municipality. Attachment 3 (attached) of the permit is a list of designated State or Federal MS4s. These MS4s were required by the permit to submit a complete application for permit coverage by April 30, 2004, a date the Regional Board decided upon at the July 11, 2003 Board meeting.

The General Permit requires each MS4 to:

1. Describe in their Storm Water Management Plan (SWMP), the BMPs, Measurable Goals, and timetables for implementation of the six Minimum Control Measures (MCM):

1. Public Outreach
2. Public Involvement

3. Illicit Discharge Detection and Elimination
 4. Construction Program
 5. Post-construction Program
 6. Good House Keeping / Pollution Prevention
2. Reduce its discharge of pollutants to the MEP.
 3. Annually report on the progress of SWMP implementation.

Those MS4s with a population of more 50,000 or more, or with a growth rate of 25% or more over the last ten years (denoted with an * on Attachment A), are required to comply with the Design Standards described in Attachment 4 of the permit (attached). These Design Standards are similar to those discussed in Order WQ 2000-11.

SWMP Philosophy

The purpose of the SWMP is to describe the BMPs, Measurable Goals, and timetables for implementation of the six MCM. The process for determining which BMPs should be selected and which Measurable Goals are appropriate includes first identifying the pollutant sources and Pollutants Of Concern (POC). Second, BMPs that adequately address the POC are selected. Next, Measurable Goals that appropriately measure the effectiveness of each BMP are established. Each year the SWMP is evaluated and modified if, for example, the Measurable Goals determine the BMPs are ineffective, or the BMPs do not adequately address the POC.

SWMP Review

A complete application for the Phase II MS4 General Permit includes the Notice of Intent, SWMP (electronic version and hard copy), map and fee. After a complete application is received, Regional Board staff reviews the SWMP for compliance with the permit. Regional Board staff then sends a letter to the permit applicant containing comments concerning the SWMP, and a due date for the submittal of the amended SWMP. This process continues until a SWMP, that complies with the permit requirements, is submitted. Next, the SWMP is posted on the SWRCB web page for a 60 day public comment

period and the interested parties list is notified, by email, of the posting. If there are no comments submitted to the Regional Board, permit coverage begins the day after the public comment period ends.

If comments are submitted, Regional Board staff notifies the permit applicant so that changes can be made to the SWMP if necessary. If the changes are significant, the SWMP is reposted. If changes are not significant, the applicant receives permit coverage.

If a hearing is requested, the item is placed on the next available Regional Board Meeting agenda. Regional Board staff then contacts both the party requesting the hearing as well as the permit applicant to initiate discussion about the SWMP.

The Monterey Regional Storm Water Management Plan hearing is on this agenda. The San Luis Obispo County Storm Water Management Plan hearing is currently on the July Regional Water Quality Control Board Meeting agenda.

Caltrans

Phase I

Statewide permit

In 1996, Caltrans requested that the State Board consider adopting a single NPDES permit for storm water discharges from all Caltrans properties, facilities, and activities that would cover the Municipal MS4 requirements as well as the statewide Construction and Industrial General Permit requirements. The federal regulations allow for the issuance of system-wide MS4 NPDES permits. The Caltrans permit was adopted in 1999, and is intended to cover all municipal storm water activities conducted by Caltrans, both in areas that require an MS4 permit and areas that currently do not. The permit is also intended to cover all Caltrans construction activities that require a permit under the federal regulations. As part of the permit requirements, Caltrans was required to develop and implement a Storm Water Management Plan (SWMP). A final version of the SWMP was agreed upon by the State Board and Caltrans Headquarters in April of 2001. The

SWMP requires Caltrans to implement BMPs to protect water quality in their right-of-way.

Permit Reissuance

It is time to reissue the Statewide Caltrans Storm Water Permit. State Board is in the process of amending the permit but, at the time this staff report was written, had not yet posted a draft for public comment.

Phase II

Statewide permit

The Caltrans MS4 Permit changed in response to Phase II to require construction projects disturbing an acre or more to file a Notice of Construction with the Regional Board.

Recommendation

Because there are so many State and Federal MS4s (listed in Attachment 3), Regional Board staff recommends updating the Board on the status of the MS4 Permit applications for these MS4s at a subsequent Board Meeting.

Regional Board staff also recommends including status tables such as Attachment A (attached), in the Executive Officer's Report each Board Meeting until all of the SWMPs have been adopted.

Attachments

Attachment A - Storm Water Management Plan adoption status for MS4s listed in Attachment 1 and 2 of the Phase II Municipal Storm Water Permit

Attachment 3 – Region 3 portion of Attachment 3 of the Phase II Municipal Storm Water Permit; State and Federal MS4s required to obtain permit coverage

Attachment 4 - Attachment 4 of the Phase II Municipal Storm Water Permit; Design Standards