

ITEM: 6

Municipal Regional Stormwater NPDES Permit – Municipalities and Flood Management Agencies in Alameda County, Contra Costa County, San Mateo County, Santa Clara County, and Solano County – Reissuance of NPDES Permit

DISCUSSION

The Revised Tentative Order would reissue the Municipal Regional Stormwater NPDES Permit (MRP) for 79 municipalities and local agencies (Permittees) in Alameda, Contra Costa, Santa Clara, San Mateo, and Solano counties (Permittees). Appendix A contains the Revised Tentative Order, including the revised Fact Sheet, showing changes to the September 2021 Tentative Order. Appendix B contains errata and clarification changes made to the Revised Tentative Order since it was public noticed on April 11, 2022. Appendix C contains responses to comments received on the Tentative Order, and all comment letters received within the allowed comment period are in Appendix D.

The Tentative Order and Fact Sheet were available for public comment for 68 days from September 10 through November 16, 2021. During the public comment period, the Board held a two-day hearing on the Tentative Order. At that hearing, interested stakeholders, including the Permittees, U.S. EPA, environmental groups, industry representatives, and the public communicated their concerns and interests directly to the Board. Additionally, Board members asked questions of staff and stakeholders and gave their individual input on aspects of the Tentative Order. In addition, U.S. EPA provided written comments consistent with its testimony at the Board hearing, supporting the MRP provisions and reissuance process.

In addition to these formal opportunities for comment, we worked extensively with the Permittees and other stakeholders over the three years leading up to the release of the Tentative Order and subsequent to its release. This included regular MRP steering committee meetings with a broad cross section of Permittees and U.S. EPA staff; meetings with groups of Permittees, including the stormwater program managers and public works and planning directors' meetings; provision-specific meetings with the Permittees and interested parties; and meetings with individual stakeholders, including U.S. EPA, Baykeeper, Save the Bay, and industry representatives.

In response to oral and written comments, we revised the Tentative Order, including the Fact Sheet, and, on April 11, 2022, public noticed both the Revised Tentative Order and the responses to comments received during the public comment period. Since that time, we issued Errata Sheet #1 to correct an error in the Revised Tentative Order and make related clarifications and revisions. Errata Sheet #2 includes additional minor corrections and clarifications to the Revised Tentative Order. We expect further testimony at the Board hearing on the Revised Tentative Order.

The most significant concerns and issues raised by commenters were on the requirements for Compliance with Discharge Prohibitions and Receiving Waters Limitations (Provision C.1); New Development and Redevelopment (Provision C.3); Water Quality Monitoring (Provision C.8); Trash Load Reduction (Provision C.10); Polychlorinated Biphenyls (PCBs) Controls (Provisions C.12); Bacteria Control for Impaired Water Bodies (Provision C.14); Exempted and Conditionally Exempted Discharges (Provision C.15); and Discharges Associated with Unsheltered Homeless Populations (Provision C.17).

These provisions and the highlights of comments and issues raised, and the responses thereto, are described below, as well as any associated revisions in the Revised Tentative Order.

In addition, commenters and the Board raised concerns and expressed interest in general topics including ensuring that MRP reporting requirements consider the burden imposed by reporting and the associated water quality benefit and that new or significantly revised MRP requirements from the existing permit are appropriately phased to allow effective implementation.

- **Reporting.** We considered the MRP's reporting requirements, including the number of reports, timing, and need, and their priority with respect to water quality benefit. The Revised Tentative Order reflects a reduction in the amount of reporting and number of reports required. In some cases, we delayed the due dates for required reports. In other cases, we consolidated reports, resulting in fewer reports, or we deferred desirable, but relatively minor changes, to a future permit reissuance, which reduced the associated reporting.
- **Review of changes with respect to water quality benefit.** The Revised Tentative Order generally retains the most significant expectations from the Tentative Order, such as trash control benchmarks, expansion of the scope of new and redevelopment projects required to implement clean water controls, and expectations to reduce discharges of mercury and PCBs. However, we revised Provision C.8, water quality monitoring, to clarify the level of effort needed for trash and low impact development treatment control monitoring and to incorporate additional receiving water monitoring, in response to San Francisco Baykeeper's comments.

In addition, we considered and reduced, or deferred to a subsequent permit term, changes to tracking and reporting in a number of provisions (e.g., C.2, municipal operations; C.4, industrial and commercial site controls; C.5, illicit discharge detection and elimination; and C.6, construction site control). Permittees are generally performing well under those provisions, and while the changes were likely to improve performance, we reduced those changes to allow Permittees to better focus on areas of greater water quality impact.

The Revised Tentative Order would generally cover all Permittees with the same consistent requirements as in the existing permit, with some adjustment for permittee size, type, and location, and continues to reflect the following priorities:

- **Consistent and Accountable Actions** – Requirements specify, with accountability, the level of effort constituting “implementation of controls to reduce pollutants to the maximum extent practicable,” the federal regulatory standard, for the basic elements of a municipal stormwater management program, which are maintained with minor changes from previous permits. These elements include municipal operations, industrial and construction site controls, illicit discharge abatement, public outreach and participation, and control of allowed non-stormwater discharges. The elements also include new and redevelopment, which was modified as described further below.
- **Prioritization and Phasing of New and Revised Requirements** – Priority areas include new or revised requirements to reduce discharges of trash, bacteria, PCBs, and mercury; green infrastructure implementation; and tracking and reporting requirements for discharges associated with unsheltered homelessness, asset management, and stormwater program cost reporting. These new or revised requirements will demand new resources or coordination. For that reason, the requirements are generally phased over several years.
- **Implementation of TMDLs** – This permit is the implementation vehicle for wasteload allocations for urban runoff associated with Board-adopted Total Maximum Daily Loads (TMDLs), and permit requirements are consistent with implementation plans adopted with the TMDLs. The requirements reflect the current state of knowledge and implementation potential of controls to reduce these pollutants.

Compliance with Discharge Prohibitions and Receiving Waters Limitations (Provision C.1). This provision specifies that compliance with Provisions C.9 through C.12, C.14, C.18, and C.19.c-f (pertaining to pesticides, trash, mercury, PCBs, bacteria, and sediment) constitutes compliance, during the term of the permit, with Receiving Water Limitations (RWLs), which state the discharge shall not cause or contribute to a violation of any applicable water quality standard for receiving waters. It also specifies that compliance with Provision C.10, Trash Load Reduction, constitutes compliance with Discharge Prohibitions and RWLs for trash.

The San Francisco Baykeeper objected to what it called the “safe harbor” provided by Provision C.1, commenting that the Tentative Order does not satisfy the State Water Board’s Orders WQ 2015-0075 and 2020-0038, which pertain to compliance with RWLs. The permit requirements comply with these orders and are based on thorough analyses of water quality problems posed by the pollutants in question and the solutions to address them, specifically through TMDLs and the Statewide Water Quality Control Plans for Trash (Trash Amendments). The requirements reflect the latest knowledge and expertise gained by the Water Board over many years trying to resolve the impairments caused by the subject pollutants. The requirements are ambitious, rigorous, and transparent in that they require challenging but doable actions; include milestones and deadlines; and require monitoring to ensure progress in meeting RWLs and inform adaptive implementation. The permit requirements are consistent with the requirements and deadlines of TMDLs and the Trash Amendments, except for Provision C.14.a, which applies to bacteria discharges from the cities of Mountain View and Sunnyvale but is based on the analyses and requirements from other bacteria TMDLs. The State Water Board has held that full compliance with the requirements of a TMDL constitutes compliance with RWLs.

In response to the Baykeeper’s comments, Provision C.14.a. has been revised to be clearer that the cities of Sunnyvale and Mountain View are expected to achieve compliance with bacteria RWLs by the end of the permit term on June 30, 2027. This expectation is based on the rigor, completeness, and thoroughness of what is required to find and control bacteria sources, consistent with the State Water Board orders. If despite diligent efforts that does not occur, the cities are required to submit a comprehensive assessment to achieve compliance as soon as possible. The monitoring program for the cities has also been revised to systematically identify and characterize bacteria sources, focus control efforts, evaluate effectiveness of controls, and to demonstrate attainment of bacteria RWLs in the subject waters. A new mid-permit interpretive report is required to assess progress and propose monitoring for the remainder of the permit, as the monitoring will have to be adapted to respond to the results of the required surveillance and monitoring. The adapted monitoring requirements will be imposed through a permit amendment. A new, final interpretive report is also required, which includes a determination of whether bacteria RWLs have been met by June 30, 2027.

New Development and Redevelopment (Provision C.3). The Revised Tentative Order would largely maintain the changes proposed in the Tentative Order (relative to the current permit), which include: lowering the impervious surface threshold to 5,000 square feet from 10,000 square feet for the existing Regulated Project categories; adding two new Regulated Project categories for Large Detached Single-Family Home Projects that create and/or replace at least 10,000 square feet of impervious surface and for Road Reconstruction Projects that create and/or replace at least one acre or more of impervious surface; changing the low impact development exemption credits for Category C Special Projects from transit oriented development to affordable housing; and shifting the focus from green infrastructure planning to implementation.

The Permittees expressed concern that it would be challenging to immediately implement changes in impervious surface thresholds and the two new Regulated Project categories. They also expressed concern about the cost associated with the impervious surface retrofit requirement. In response to comments received, revisions to Provision C.3 include: delay by one year the implementation date for the impervious surface threshold reductions; delay by one year the implementation start date of the two

new Regulated Project categories (Road Reconstruction Projects and Large Detached Single-Family Home Projects); and reduction of the green infrastructure numeric implementation cap to 5 acres from 10 acres. The cap change reduces the required implementation for the largest population Permittees, and results in a 20 percent reduction in the total retrofit that would be required during the coming permit term. The Revised Tentative Order also allows projects in the new Road Reconstruction Regulated Project Category to count towards Permittee's green infrastructure retrofit requirement.

Special Projects Category C has also been revised to better align with the approach in the state's density bonus law and to refer to the state HUD's regularly published income limits, which are also used in the density bonus law. In response to comments regarding the MRP's regulation of gravel roads, the distinction between pervious pavement systems (which can be considered self-treating) and gravel overlays/roads (which are not) has been clarified and affirmed the continuing regulation, from MRP 2 to MRP 3, of gravel roads as impervious surfaces. Also, aligning the MRP with state goals to increase housing production, the Revised Tentative Order clarifies that an accessory dwelling unit constructed on a lot that has an existing single-family home, as is allowed under SB 9, would fall under the larger 10,000 square foot single-family home impervious surface threshold.

Recognizing testimony supporting expansion of the toolbox of clean water controls to treat runoff from new and redevelopment projects, the Revised Tentative Order includes an option for a new workgroup to discuss the pollutant removal and hydrologic equivalency of – and suggested criteria for – high flow-rate media treatment systems in combination with retention/detention measures, such as Silva cells and structural soils.

Water Quality Monitoring (Provision C.8). Numerous comments were submitted by Permittees and Baykeeper regarding the proposed monitoring requirements in the Tentative Order. The Permittees are concerned with the costs of the proposed monitoring, particularly for trash and low impact development. The Baykeeper raised concerns regarding the adequacy of the overall monitoring requirements, particularly with respect to assessing compliance with RWLs. The proposed monitoring requirements are an outgrowth of over 30 years of experience with monitoring of municipal stormwater in the Region and the use of monitoring to inform decision-making. They reflect a balance between the costs of monitoring and the monitoring information needed to inform decisions on the implementation of management actions, while ensuring that the monitoring necessary to demonstrate compliance with permit requirements is conducted. The proposed monitoring requirements are also informed by and consistent with the San Francisco Bay Regional Monitoring Program's Tributary Loading Strategy, our Surface Water Ambient Monitoring Program, U.S. EPA guidance on municipal stormwater monitoring, and recommendations in the 2009 National Research Council report to Congress, "Urban Stormwater Management in the United States."

In response to comments, the Revised Tentative Order includes changes to the Low Impact Development (LID) Monitoring requirements. Permittees expressed concerns about the difficulty of doing a power analysis to inform the monitoring schedule. We completed the analysis, removed the requirement for the Permittees to do it, and revised Table 8.d.2 accordingly. To provide flexibility given the potential for ongoing drought years with limited storm events, the required annual minimum number of sample events has been reduced in the Revised Tentative Order and includes language allowing the events to roll over to the subsequent water year if there are not enough storm events to sample. In response to comments about report timing, the submittal of the draft and final LID Monitoring Plans has been delayed. The Revised Tentative Order clarifies aspects of sampling, including what constitutes a sample event, and the list of parameters to be monitored has been segregated into required and optional parameters.

The Trash Monitoring requirements have also been revised. In response to Permittees comments that co-locating required outfall monitoring and receiving water monitoring could substantially limit the

number of potential monitoring sites, the requirement has been removed, although the permit still encourages co-locating the sites. In response to concerns about whether the amount of time allowed was sufficient to prepare and implement a trash monitoring plan, the Revised Tentative Order delays the due date for the Trash Monitoring Plan by 10 months, the start date of outfall monitoring by one year, and the start date of in-stream monitoring by two years. In response to concerns about trash monitoring costs, and particularly streambank monitoring for trash, and recognizing the inclusion of outfall and receiving water monitoring that monitor trash directly, the Revised Tentative Order removes the requirement to conduct streambank monitoring in addition to outfall and in-stream trash load monitoring and reduces the number of in-stream trash monitoring sites, by one for each county stormwater program.

The Revised Tentative Order includes monitoring requirements to assess compliance with RWLs in creeks and rivers flowing into the Bay, in response to comments from the Baykeeper that RWLs monitoring is lacking. This monitoring would require the collection of four wet season and one dry season sample per countywide program. Permittees would submit a report, subject to Executive Officer approval, that identifies representative waterbodies to sample and the list of monitored analytes with a potential to exceed water quality objectives. This receiving water monitoring in creeks would supplement the receiving water monitoring conducted in the Bay through the San Francisco Bay Regional Monitoring Program to enhance the overall assessment of RWLs. The minimum required number of samples for other pollutants of concern monitoring has been reduced to offset the additional cost of the new RWLs monitoring.

Trash Load Reduction (Provision C.10). The Revised Tentative Order maintains the Tentative Order's proposed compliance benchmarks for Permittees to install and maintain trash capture devices, or implement other equivalent trash control measures, to reduce trash loads by 90 percent from 2009 baseline conditions by June 30, 2023, and 100 percent (or no adverse impacts to receiving waters) by June 30, 2025. This is a three-year extension from the 100 percent trash reduction target of July 1, 2022, in the current permit. Permittees unable to achieve the 100 percent trash reduction requirement by June 30, 2025, which have an approved Direct Discharge Control Plan (DDCP), would have an additional six months, until December 31, 2025, to achieve the 100 percent reduction requirement.

Some Permittees requested that due to the COVID-19 pandemic, the deadlines to achieve the 90 percent and 100 percent trash reductions be extended by at least two years each, to July 1, 2025, and July 1, 2027, respectively, and that the mandatory 90 percent reduction deadline be made advisory. By contrast, Save the Bay recognized MRP 2's stated 2022 target for 100 percent reduction and requested that deadlines be shortened. The existing three-year extension of the 100 percent trash reduction target acknowledges the economic challenges faced by Permittees related to the COVID-19 pandemic, as well as challenges with implementing trash controls in the remaining uncontrolled trash generation areas. It is also intended to give Permittees more time to work with Caltrans on cooperative projects to control trash. The mandatory 90 percent reduction has not been changed because mandatory targets were a driver for progress during MRP 2 and the Statewide Water Quality Control Plans for Trash require interim milestones.

Permittees also requested that the permit maintain credits of up to ten percent toward trash reduction benchmarks for their existing and new source control measures and stated that the elimination of these credits would discourage the meaningful and effective initiation, implementation, and enforcement of source control ordinances. While we agree that source control measures can be an effective tool in controlling and preventing discharges of trash to receiving waters, continuing to allow a ten percent credit for source control measures, in addition to documentation that trash generation areas have been converted from very high, high, or moderate to low trash generation, results in double counting trash reduction. If Permittees were to get the source control percentage credit in addition to the reduced trash loads that should be reflected in their trash generation maps due to implementation and verification of

trash controls, the effect would be to allow the percentage portion of Permittees' trash loads to continue to discharge to receiving waters. Recognizing a percentage credit for source controls or percentage offsets for DDCPs and creek and shoreline cleanups, as described below, beyond the 100 percent compliance benchmark is not consistent with the Trash Amendments, which prohibit the discharge of trash to surface waters of the State or the deposition of trash where it may be discharged into surface waters of the State. The Revised Tentative Order still allows Permittees to claim up to ten percent credit toward trash load reduction compliance for new jurisdiction-wide source control actions, but only until June 30, 2025. After June 30, 2025, Permittees may demonstrate and claim full trash capture equivalence of a source control in specific trash generation areas, or in combination with other controls in an area, if the control or combination of controls are documented, assessed, and verified via visual assessments.

Permittees also commented that the permit should maintain trash load reduction offsets of up to ten percent for creek and shoreline cleanups and up to fifteen percent for implementation of DDCPs. There are interim benefits to creek and shoreline cleanups and DDCPs, such as community engagement and awareness of reduced direct trash discharges associated with illegal dumping and unsheltered homelessness. However, the Trash Amendments do not allow such offsets and require trash to be controlled before it is discharged from a Permittee's MS4 to receiving waters. Continuing to allow offsets would mean a Permittee that claims 100 percent trash load reduction that includes a percentage offset would still have trash discharges, equivalent to the claimed offset, from moderate, high, and/or very high trash generating areas.

Permittees also commented that the intangible benefits generated from the organization and implementation of creek and shoreline cleanup efforts are significant. As such, it is in the Permittees' interest to continue to support creek and shoreline cleanups irrespective of whether they receive offsets for them. In addition, Permittees may use creek and shoreline cleanups as part of an effective education and outreach program recognized under Provision C.7.

Errata Sheet #1 includes corrections of an error that allowed Permittees that implement a DDCP an additional year, until June 30, 2026, to achieve the 100 percent trash load reduction requirement. This extension deadline for most Permittees is not consistent with the Trash Amendments, which require full compliance with the Trash Amendments (i.e., the water quality objective for trash, the trash prohibition, and the implementation requirements such as installing full capture systems or achieving full capture system equivalency) within ten years of the effective date of the first NPDES MS4 permit implementing the Trash Amendments. The current permit became effective on January 1, 2016, and is the first implementing permit, and, therefore, the Permittees must achieve 100 percent trash load reduction within ten years of that date (i.e., by December 31, 2025), except the East Contra Costa County Permittees, which were subject to MRP 2 after its effective date. Errata Sheet #1 changes the extension deadline from June 30, 2026, to December 31, 2025, for all Permittees except the East Contra Costa County Permittees.

In response to comments, the optional trash reduction impracticability report in C.10.e has been revised to focus on implementing alternative controls in those areas where Permittees determine it is impracticable to control trash via full trash capture devices.

Lastly, a number of Permittees' comments questioned the requirement that they ensure that private lands within their jurisdictions, regardless of size, that are plumbed to their MS4 system and are moderate, high, or very high trash generating are controlled by full trash capture systems or control measures equivalent to full trash capture systems. Some Permittees claimed this was an expansion of trash control requirements in the current and previous permit. Control of trash from private lands, regardless of area, that discharges into Permittee MS4s has been a requirement since the first MRP was issued in 2009, and 100 percent trash load reduction from 2009 levels must be attained for all MS4 discharges from all public and private lands by June 30, 2025.

PCBs Control (Provisions C.12). This Provision includes requirements to implement specific PCBs control measures to achieve load reductions toward attainment of applicable San Francisco Bay PCBs TMDL wasteload allocations. It builds on lessons learned both from more than two decades of stormwater monitoring as well as control measure implementation experience from the current and previous permits. The required control measures to achieve PCBs load reductions include identifying and abating contaminated source properties, implementation of control measures in old industrial land use, managing PCBs in bridge roadway caulk, managing PCBs in oil-filled electrical equipment, managing PCBs-containing material in demolition waste material, and implementing green stormwater infrastructure. The Provision also established, for each control measure, an enforceable accountability metric that specifies an expected implementation intensity which will be used both to track performance and determine compliance.

One of the Permittees' main concerns expressed in comment letters was that the magnitude of the performance metric for the old industrial control measure implementation provision, which required 3,100 acres of old industrial land use to be addressed throughout the region, would be very difficult to achieve. Moreover, commenters noted a large disparity in the performance metrics for the individual countywide programs because of differing amounts of this land use in the counties. In response to these concerns, the Revised Tentative Order reduces the old industrial land use performance metrics for Contra Costa and Alameda counties to 664 acres from 1,119 acres for Contra Costa County, and to 664 acres from 937 acres for Alameda County. This acreage is the larger of the performance metrics for Santa Clara and San Mateo counties, which were not modified. This change eliminates the wide disparity in level of effort while still leaving in place a substantial overall implementation target for the region of 2,580 acres of old industrial land use.

Permittees also expressed concern in comments that requirements for the 2022 Annual Report did not provide adequate time for Permittees to accomplish the reportable activities. In response to these concerns, the Revised Tentative Order includes several changes. First, the due date has been moved from the 2022 Annual Report to March 31, 2023, for reporting plans and schedules for control measure implementation in old industrial areas. The reporting due dates have been moved from the 2022 to the 2023 Annual Report for provisions related to PCBs in bridge and roadway expansion joints, PCBs in oil-filled electrical equipment, and for providing enhanced documentation of demolished structures containing PCBs in their building materials. The Revised Tentative Order clarifies that implementation and reporting requirements pertain only to demolition of structures containing building materials with PCBs concentrations 50 ppm or greater whose demolition permits were approved after July 1, 2023.

Bacteria Control for Impaired Waterbodies (Provision C.14). This Provision includes updated requirements for the City of Pacifica and San Mateo County to attain their San Pedro Creek and Pacifica State Beach Bacteria TMDL wasteload allocations. It also includes new requirements to attain wasteload allocations for two bacteria TMDLs adopted after the current permit was issued. These are for the Marina Lagoon Beaches Bacteria TMDL that applies to the City of San Mateo and the Pillar Point Harbor/Venice Beach Bacteria TMDL that applies to City of Half Moon Bay and San Mateo County.

The Provision also includes requirements for the cities of Mountain View and Sunnyvale for discharges that may be violating bacteria RWLs, i.e., discharges that may be causing or contributing to exceedances of bacteria water quality objectives in waters. These requirements are consistent with bacteria TMDLs wasteload allocation implementation requirements for bacteria discharges adopted with bacteria TMDLs and are the most effective way to achieve compliance with bacteria RWLs in a timely manner. Revisions made in response to comments are described in the discussion of Provision C.1 above.

Exempted and Conditionally Exempted Discharges (Provision C.15). This provision authorizes discharges of certain types of non-stormwater from MS4s if they are properly managed. These include discharges of firefighting water and foam resulting from emergency firefighting activities. It requires Permittees to develop and implement Best Management Practices (BMPs) and Standard Operating Procedures (SOPs) to reduce the adverse water quality and hydrologic impacts associated with those discharges, to the extent that such implementation does not interfere with immediate emergency response operations or impact public health and safety.

In response to fish kills caused by discharges of firefighting foam and potable water to receiving waters in recent years, the Tentative Order included several changes to the current permit. Those changes were to form a workgroup to evaluate the efficacy of Permittees' BMPs and SOPs and make recommendations for improvement, which Permittees would implement (as applicable) upon submittal of a report during the permit term. Generally, comments were about perceived impacts to firefighting personnel's emergency response, the perception that examples of BMPs included in the provision were instead requirements, and the additional burden of the proposed reporting requirements.

In response, the Revised Tentative Order includes clarifications on the workgroup's role, the BMPs and SOPs to be considered (example BMPs and SOPs were moved to the Fact Sheet), and expectations for coordination with internal departments and external agencies. Also in response to comments, the Revised Tentative Order includes examples of potable water spills resulting in fish kills, clarifies adverse water quality impacts associated with firefighting foams, simplifies reporting by consolidating two Firefighting Discharges Reports into a single Firefighting Discharges Report, and reverts reporting on emergency discharges to be consistent with the current permit.

Discharges Associated with Unsheltered Homeless Populations (Provision C.17) – This new provision would require Permittees to use results from biennial point-in-time surveys and/or other available information (e.g., databases, complaint logs) to identify the scope of and help manage discharges of trash and sewage associated with unsheltered homeless populations to receiving waters through Permittee MS4s. In addition, Permittees would be required to collectively develop a BMP report that identifies effective practices to manage those discharges. Permittees would also be required to report on the control measures being implemented and the approximate portion and locations of unsheltered homeless populations being served by those measures, as well as the unmet need: the approximate portion and location of the unsheltered homeless population not fully served by those measures. Having this information would enable Permittees to evaluate the effectiveness of their implemented BMPs and identify potential areas within their management practices that need additional improvement.

Some Permittees expressed concern that the mapping requirements in C.17 could contribute to the criminalization of homelessness and increase disruptive sweeps. We retained the mapping requirement and clarified that the provision provides substantial flexibility around mapping while still being supportive of the privacy of those experiencing unsheltered homelessness. In addition, we clarified that the intent behind the mapping requirement is for Permittees to generally identify locations within their jurisdiction where homeless populations exist in relation to storm drain inlets and existing streams, rivers, flood control channels, and other surface waters. While homeless populations can be transient, locations tend to be occupied and reoccupied over time, and this information will help Permittees focus their water quality protection efforts.

Permittees also expressed concerns that it would be challenging for municipal stormwater programs to coordinate with other agencies and questioned whether this requirement should be included as part of a stormwater program. We have retained the coordination expectation, which is similar to other kinds of coordination and communication the stormwater programs complete—both internal and external—such as internal coordination with city departments to implement trash controls or LID controls in city

projects, or coordination with industry groups to establish BMPs. In our communications with the Permittees and NGO representatives, we heard that this coordination between City staff and other agencies is necessary. It is reflected in inter-departmental and inter-agency task force efforts being completed now by Permittees, including the cities of Oakland and San Jose. We have also noted that long-term solutions to the water quality concerns associated with discharges from homeless encampments include providing housing, jobs, and supportive services. As such, having some understanding of those efforts is necessary to understand the trajectory of efforts to control non-stormwater discharges associated with unsheltered homelessness.

In conclusion, the Revised Tentative Order implements federal Clean Water Act requirements by prescribing consistent and accountable actions to effectively prohibit non-stormwater discharges, reduce pollutants to the maximum extent practicable, implement TMDLs, and meet RWLs. Implementation of these actions will satisfy the Permittees' responsibility to make measurable progress towards the attainment of water quality standards in the Bay and its watersheds. We recognize that new requirements will demand new resources, so the Revised Tentative Order reduces some requirements compared to the previous permit and phases in new requirements over the 5-year permit term. Also, regarding new resources, an unprecedented and significant amount of federal and state funding will soon be available for Permittees, such as \$24 million this year in the San Francisco Bay Improvement Fund administered by U.S. EPA, new federal funding from the Bipartisan Infrastructure Law, new State funding for infrastructure projects, and ongoing opportunities to partner with Caltrans on cooperative projects to control PCBs in old industrial areas and to control trash. Finally, to the extent that a permit requirement causes unintended consequences, or the intent of a requirement is not attainable, the Revised Tentative Order contains a re-opener provision that would allow the permit to be modified in the future in response to changed conditions and new information.

APPENDICES

- A. Revised Tentative Order
- B. Errata Sheet #1 and Errata Sheet #2
- C. Responses to Comments Received
- D. Comment Letters Received during the Written Comment Period

Appendix A

Revised Tentative Order

The Revised Tentative Order is available online at:

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/

To download a copy of the Revised Tentative Order, please click on the “Municipal Regional Permit Reissuance” tab, and then click the bulleted link with the text, “Municipal Regional Stormwater NPDES Permit Revised Tentative Order – April 11, 2022.”

It may be downloaded directly by clicking on the following link:

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/MRP/mrp5-22/MRP_3_Revised_Tentative_Order.pdf

Appendix B

Errata Sheets #1 and #2

Appendix C

Responses to Comments Received

The Response to Comments Received is available online at:

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/

To download a copy of the Response to Comments Received, please click on the “Municipal Regional Permit Reissuance” tab, and then click the bulleted link with the text, “Response to Comments Received.”

It may be downloaded directly by clicking on the following link:

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/MRP/mrp5-22/MRP_3_Response_Comments.pdf

Appendix D

Comment Letters Received during the Written Comment Period

Tagged comment letters received during the written comment period have been uploaded to the Water Board's FTP site. **Instructions for how to login to the FTP site are provided below:**

1. Visit the website: <https://ftp.waterboards.ca.gov>
2. Log in with the following credentials:
 - a. Username: rb2-ftp
 - b. Password: SanF@rb2
3. Navigate to: RB2/MRP/MRP 3.0 Revised Tentative Order/Comment Letters Received