

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

Commission
THOMAS S. SAYLES, *President*
ERIC HOLOMAN, *Vice President*
RICHARD F. MOSS
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS
General Manager

September 8, 2011.

Ms. Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-2000



Subject: Waste Discharge Requirements for Storm Water Discharges from Small
Municipal Separate Storm Sewer Systems (MS4s) (General Permit)

Dear Ms. Townsend:

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to submit comments on the draft Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4s) (General Permit). LADWP appreciates the State Board's efforts to craft a comprehensive and wide reaching general permit to address the issues of storm water discharges from small MS4s, but does have some concern with the language and requirements of the permit. These concerns and comments are outlined below.

1. Section B.4.e – Discharge Prohibitions, page 16

This section calls for any other actions necessary to prevent the discharge of incidental runoff to the MS4 or waters of the United States. It is overly prohibitive, especially based on the definition of incidental runoff contained in the permit in Section B.4. Incidental runoff is defined as "unintended small amounts (volume) of runoff from potable and recycled water use areas, such as unintended, minimal over-spray from sprinklers that escapes the area of intended use". Wind and other conditions will surely cause some incidental runoff from these use areas and minimal amounts appear to be inherent in the definition. The complete prohibition on incidental runoff is simply not possible and this requirement should be reworded to make that point clear.

LADWP recommends that Section B.4.e be reworded to read, "Any other actions necessary to prevent the discharge of non-incidental runoff to the MS4 or waters of the U.S.". This would allow the other requirements of Section B.4 to remain in effect to protect the MS4 and waters of the U.S.

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA



Ms. Jeanine Townsend
Page 2
September 8, 2011

LADWP further recommends that incidental runoff from irrigation use areas be added to the list of authorized non-storm water discharges in Section B.3.

LADWP also recommends the removal of the last paragraph of Section B.4. Incidental runoff will not require separate waste discharge requirements as defined and allowed based on the previous corrections to the permit language.

2. Section B.4.d – Discharge Prohibitions, page 16

This section of the permit requires the Permittee to report on the future discharge from a recycled water pond four hours before it happens during a 25-year, 24-hour storm event. Being able to predict the extent of a storm before it happens is tenuous at best and should not be required as a reporting mechanism.

LADWP recommends that the requirement to provide an email notification of this future discharge be changed to require an email notification as soon as practical after learning of the overflow of the recycled water pond as the result of a 25-year, 24-hour storm event.

3. Section E.6.d.ii.b and c – Public Involvement and Participation Programs, page 33

These two sections of the permit provide for the establishment of a Citizens Advisory Group (CAG) and Public Participation in the permit development and compliance process. While encouraging participation is good, and the Advisory Panel is supposed to be balanced in its make up including residents, business and environmental organizations, these activities should not be used as a means to penalize commercial and industrial activities. The panel should not be viewed as an extended compliance arm as outlined in paragraph c where it calls out a process of volunteer monitoring as a way for citizens to help in the implementation of the permit. Outreach and education should be the hallmarks of the CAG.

LADWP recommends that these sections be reworded to show that the activities of the CAG and citizen involvement are complementary to the development of a balanced system and are not designed to penalize or punish legitimate commercial and industrial activity.

Reword Section E.6.d.ii.b to read:

Establish a citizen advisory group (either a stand-alone group or utilize and existing group or process). The advisory group shall consist of a balanced representation of all affected parties, including residents, business owners *or their representatives*, and environmental organizations in the MS4 service area and/or affected watershed. The Permittee shall invite the citizen advisory group to participate in the development and implementation of all parts of the community's storm water program, *in order create a balanced and economic system that protects the environment and commerce.*

In addition LADWP suggests the following:

Reword Section E.6.d.ii.c to read:

Delete the words, "volunteer monitoring".

This removal is based on the facts that sampling techniques are highly specialized in order to protect samples from becoming contaminated or otherwise rendered invalid. Volunteer monitors often will not have the necessary background and training to fully implement proper sampling techniques, adhere to holding times, and maintain proper chain of custody records to preserve the integrity of samples.

4. Section E.8.c.ii.b – Construction Inspection and Enforcement, page 41

This section calls for the Permittee to conduct inspections of construction sites prior to any land disturbance taking place. Since this permit is applicable to small MS4 localities, resources will be an issue that will hinder compliance with the permit. Requiring an inspection prior to a construction site being allowed to disturb soil will unnecessarily delay construction projects until an inspector can go to the site. In addition, the permit calls for monthly inspections (Table A: Inspection Frequencies) of construction sites greater than 1 acre in size and as needed for sites less than one acre. The first inspection at a site could be used for making the determination that a construction site is in compliance with the necessary aspects of the permit without providing unnecessary delay to the project. In addition, inspections at facilities greater than 1 acre are the responsibility of the Regional Board and should remain as such.

LADWP recommends that the need for a preconstruction inspection be removed as a pre-requisite to construction activities beginning.

5. Section E.11.b.2.a, Industrial/Commercial Inventory, pages 57 and 61

Ms. Jeanine Townsend
Page 4
September 8, 2011

This section calls for the inclusion of those facilities already subject to permitting under the State Water Board's Industrial General Permit (IGP) or other individual permits to be included in the small MS4 inventory of facilities. Furthermore, Section E.11.c.i (page 61) calls for the implementation of an inspection program for all facilities included in the MS4 inventory of facilities. This requirement to include and inspect facilities already permitted by and subject to State and Regional Board authority appears to provide double coverage for those facilities subject to the IGP. Small MS4s should not have to provide additional resources to cover responsibilities of the State and Regional Boards for inspection of these facilities.

LADWP recommends that for those facilities already covered by the IGP or other individual NPDES permit, the small MS4s should not be required to include them in their inspection programs. These facilities should remain the jurisdiction of the State and Regional Boards who actively administer these permits.

LADWP recommends that Section E.11.c.i be reworded to read:

“By May 15, 2016, the Permittee shall develop and implement a program to inspect all commercial and industrial facilities included in its inventory **that are not already subject to the Statewide Industrial Permit or other individual NPDES permit.**

6. Section E.11.b.i – Industrial/Commercial Storm Water BMPs, page 58

This section requires that industrial and commercial facilities included in the inventory to select, install and maintain storm water BMPs. For the same reasons listed in comment 5 above, LADWP feels that this section should be changed to exclude facilities already subject to the IGP or individual NPDES permits.

LADWP recommends that Section E.11.b.i be reworded to read:

“By May 15, 2014, the Permittee shall require industrial and commercial facilities included in the inventory **that are not already subject to the Statewide Industrial Permit or other individual NPDES permits.....**

7. Section E.12.b.3.i.5 – Water Quality Runoff Standard, page 68

This section specifies that the Permittee shall require applicable new development and redevelopment projects to adhere to the following treatment thresholds. The permit then lists treatment standards for Oil and Grease, 50% removal, Total Phosphorous, 40% removal, Dissolved Metals, at least 50% removal and Total Suspended Solids, 80% removal.

While LADWP supports the protection of the environment and storm water quality, it seems premature to prescribe removal rates at this time. The inclusion of removal rates needs to be based on treatment studies and verified science.

LADWP recommends the removal of this section until it can be verifiably shown that the requested removal rates can be effectively and economically achieved.

8. Section E.12.b.5.i and ii – Long-Term Watershed Process Management, page 72

These sections call for the development and implementation of numeric criteria to protect watershed processes affected by storm water. Individual municipalities should not be tasked with taking the place of the State and Regional Water Boards in setting numeric limits for storm water discharges. With the large number of small MS4's needing to implement these standards there would be no cohesive and coherent standard throughout the state. This would result in potentially conflicting standards and provide no uniform compliance.

LADWP recommends that these storm water discharge standards be set by the State and/or Regional Boards and then applied uniformly throughout the state as part of the general permit itself.

An additional general comment is that this permit requires a substantial amount of work from what are designated small communities. It is doubtful that these communities will have the necessary resources, staff and ability to carry out all of the items required in this permit. Rather than such a broad net cast over all of these municipalities, it may be far more effective to identify what the major areas of concern are for these small MS4s and focus on this subset of activities to gain the most environmental benefit. With the state of the economy in California being what it is with double digit unemployment and significant operating deficits in most cities, finding the public sector funds to accomplish the requirements of this permit will be extremely difficult. It would be far more effective to identify the most significant issues facing the small MS4s and focus the permit on these core issues.

Ms. Jeanine Townsend
Page 6
September 8, 2011

LADWP appreciates the opportunity to comment on this general permit and looks forward to working with the State Board in finding solutions to these issues of concern. Questions or comments may be directed to Mr. Michael Hanson of my staff at (213) 367-0634.

Sincerely,



Katherine Rubin
Manager of Wastewater Quality and Compliance Group

MH:db
c: Mr. Michael Hanson