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# LA MS4 PERMIT IMPLEMENTATION OPTIONS, DECISION POINTS AND SCHEDULE

**Effective date** of the Permit will be December 28, 2012, which is set as 50 days from adoption date of November 8, 2012. [p. 27, Part II.W.]

**Minimum Control Measures** shall be implemented within six months of effective date of the Permit (i.e., by June 28, 2013) unless otherwise specified in the Permit or unless a permittee notifies the Regional Board that they intend to participate in a WMP or EWMP. [p. F-47, F.VI.C.1.b.]

**Watershed Management Programs (WMPs)** allow Permittees the flexibility to implement the requirements of this Order on a Watershed scale through customized strategies, control measures and best management practices. WMPs shall ensure that discharges from the MS4 achieve TMDLs and receiving water limitations. A quantitative Reasonable Assurance Analysis for each water body-pollutant combination addressed by the WMP must be conducted using a peer-reviewed model in the public domain to demonstrate that the activities and control measures identified in the WMP will achieve the applicable TMDL water quality based effluent limitation and/or receiving water limitations. The WMPs must include a compliance schedule with interim milestones and dates for implementation of the strategies, control measures and best management practices.

**Enhanced Watershed Management Program (EWMP)** is at the Watershed Management Area scale and evaluates opportunities for collaboration on multi-benefit regional projects which retain the 85<sup>th</sup> percentile, 24-hour storm event or for areas of the watershed where retention of the 85<sup>th</sup> percentile, 24-hour storm event is not feasible, demonstrates via reasonable assurance analysis that the other watershed control measures to be implemented for these areas will achieve the TMDL targets and receiving water limitations.

**WMPs and EWMPs** are subject to stakeholder input and participation in the development process with review by a permit-wide technical advisory committee (to include permittee member from each watershed management area and a representative from at least one environmental organization and the Regional Board staff). The WMPs and EWMPs allow for customization of the minimum control measures and monitoring program with justification and approval by Regional Board, except that the planning and land development program cannot be customized.

**Compliance with TMDL via WMP or EWMP:** A Permittee's full compliance with all approved WMP or EWMP requirements and deadlines constitutes compliance with interim TMDL water quality based effluent limits and/or receiving water limitations. Compliance begins

upon notification of intent to develop a WMP or EWMP. *Within drainage areas where an EWMP is providing for retention of the 85<sup>th</sup> percentile, 24-hour storm event along with all non-stormwater runoff, a Permittee shall be deemed in compliance with final TMDL targets and receiving water limitations.* The exception to this is TMDLs for which the final deadline for compliance is already past, e.g., the Santa Monica Bay Dry Weather Bacteria TMDL, for which permittees must demonstrate immediate compliance or request a time schedule order within 45 days of Order adoption pursuant to CWC 13300.

**Compliance with Non-TMDL pollutants:** A Permittee's full compliance with all WMP or EWMP requirements and deadlines constitutes compliance with the receiving water limitations provisions for the specific water body-pollutant combinations which are addressed in an approved WMP or EWMP. Compliance begins upon notification of intent to develop a WMP or EWMP so long as all requirements are met.

**Monitoring and Reporting Program** requirements for all three options are significantly increased over the previous permit. Permittees may coordinate monitoring efforts on a watershed or subwatershed basis to leverage monitoring resources and to align with TMDL monitoring requirements and/or to support watershed management programs. However, there are explicit, detailed requirements for outfall based monitoring under both stormwater and non-stormwater discharge conditions as well as for receiving water monitoring to assess the impacts of MS4 discharges on receiving water quality.

## **OPTION 1: IMPLEMENT MINIMUM CONTROL MEASURES AND BE SUBJECT TO STRICT NUMERIC LIMITS FOR INTERIM AND FINAL TMDL TARGETS AND RECEIVING WATER LIMITATIONS**

- **Minimum Control Measures** are the required elements of the Permittee's stormwater management program set forth in the permit considered necessary to reduce pollutants in storm water to the maximum extent practicable and to effectively prohibit non-stormwater discharges. The Minimum Control Measures are considered to be baseline or default requirements and are grouped into six categories similar to those in the previous MS4 Permit. These categories include:
  - **Public Information and Participation Program**
  - **Industrial/Commercial Facilities Program**
  - **Planning and Land Development Program (including Low Impact Development ordinance)**
  - **Development Construction Program**
  - **Public Agency Activities Program**
  - **Illicit Connections and Illicit Discharges Elimination Program**

- Permittees shall demonstrate compliance with TMDL Water Quality Based Effluent Limitations and/or receiving water limitations that have been incorporated into the MS4 Permit through an approved monitoring program.
  - By December 28, 2013 Permittees not participating in a WMP or EWMP must submit an Integrated Monitoring Plan to the Regional Board Executive Officer.
  - Monitoring must commence within 30 days of plan approval by the EO.
- Permittees which elect this option must implement most Minimum Control Measures (MCMs) by June 28, 2013, notable exceptions include:
  - Upon determination that discharges from the MS4 are causing or contributing to an exceedance of RWL, Permittee must notify Regional Board within 30 days of receipt of analytical results and submit an Integrated Monitoring Compliance Report with the next Annual Report
  - Notify Regional Board within 30 days of determination that authorized or conditionally exempt essential non-storm water discharges are a source of pollutants
  - Tracking system and inspection program for new development and redevelopment post-construction must be implemented within 60 days of adoption or by January 8, 2012
  - Training of employees within one year of adoption, or by November 8, 2013 and annually thereafter before June 30.
- No protection from immediate enforcement or 3<sup>rd</sup> party lawsuits are provided in the event that interim TMDL targets and/or receiving water limitations are not met.

## **OPTION 2: DEVELOP AND IMPLEMENT WATERSHED MANAGEMENT PROGRAM WITH BMP-BASED COMPLIANCE FOR INTERIM TMDL TARGETS**

- By June 28, 2013 notify Regional Board of intent to develop Watershed Management Program and whether Permittee will submit draft WMP within 12-months of effective date, or with specified early actions submit the WMP within 18-months from effective date. Early actions must include:
  - Begin drafting **Low Impact Development (LID) ordinance** with 60 days and complete draft LID ordinance meeting requirements of Permit within 6 months of effective date
  - Begin drafting **green street strategies for transportation corridors** within 60 days and complete draft policy within 6 months of the effective date
  - If collaborating with other Permittees on a WMP, then the above two conditions must be met in greater than 50% of the land area covered by the WMP

- Notification must include identification of watershed control measures from existing TMDL Implementation Plans that will ensure that MS4 discharges achieve compliance with interim and final WQBELs (including for trash) which come due prior to approval of WMP approval.
- Note that ability to customize Planning and Land Development (LID) is not provided by the WMP, but otherwise the WMP can provide for customization of all other MCMs *with justification*.
- Submit draft WMP by December 28, 2013 (12 mo. From effective date) or with early actions by June 28, 2014 (18 mo. From effective date).
- Receive comments from RB staff by 4 months from submittal (4/28/2014 or 10/28/2014)
- Submit final WMP within 3 months of receipt of comments (7/28/2014 or 01/28/2015)
- Implement WMP immediately upon approval of the plan, which approval or denial will be rendered within 3 months of submittal (10/28/2014 or 04/28/2015)
  - If WMP approval is denied, Permittee becomes retroactively subject to the MCM and all other permit requirements
- Evaluate and modify WMP every two years from approval (10/28/2016 or 04/28/2017)

### OPTION 3: DEVELOP AND IMPLEMENT ENHANCED WATERSHED MANAGEMENT PROGRAM WITH BMP-BASED COMPLIANCE FOR INTERIM TMDL TARGETS AND RWL NOT ADRESSED BY TMDL

- By June 28, 2013 notify Regional Board of intent to develop Enhanced Watershed Management Program and whether are requesting to submit work plan within 18-months of effective date and draft EWMP 30-months from effective date with specified early actions. Early actions include:
  - Begin drafting **LID ordinance** with 60 days and complete draft LID ordinance meeting requirements of Permit within 6 months of effective date
  - Begin drafting **green street strategies for transportation corridors** within 60 days and complete draft policy within 6 months of the effective date
- Notification must include identification of watershed control measures from existing TMDL Implementation Plans that will ensure that MS4 discharges achieve compliance with interim and final WQBELs (including for trash) which come due prior to approval of WMP approval.
- Notification must also include:
  - Plan concept and geographic scope
  - Cost estimate for plan development

- Executed MOU or final draft MOU among participating Permittees with signed letter of intent from each participating City Manager at time of notification and final execution within 12 months of effective date
- Identification of and commitment to fully implement one structural BMP or suite of BMPs at a scale that provides meaningful water quality improvement within 30 months of effective date within each watershed covered by plan (must be approved by RB Executive Officer)
- Submit final Work Plan for EWMP by June 28, 2014 (18 mo. From effective date).
- Submit draft EWMP by June 28, 2015 (30 months from effective date)
- Receive comments from RB staff by 4 months from submittal (10/28/2015)
- Submit final EWMP within 3 months of receipt of comments (01/28/2016)
- Final EWMP approval or denial within 3 months of submittal (10/28/2014 or 04/28/2015)
- Evaluate and modify WMP every two years from approval (10/28/2016 or 04/28/2017)

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