

MRP 3.0 C.4/C.5 External Workgroup
April 2, 2020, 9:00 am – 10:30 am
DRAFT Meeting Summary

1. Introductions/Changes to the Agenda

- Introductions were made. A list of attendees are below.

Name	Agency
Beth Baldwin	ACCWP
Jim Scanlin	ACCWP
Michele Mancuso	Contra Costa County
Kara Kelly	Oakland
Joanne Le	Richmond
Chris Donaldson	San Jose
Rina Laxamana	San Jose
Wanda Wong	San Jose
Kristin Kerr	SCVURPPP/SMCWPPP
Julie Choun	Sunnyvale
Michael Dunning	Union Sanitary District (on behalf of Fremont)
Elyse Heilshorn	Regional Water Board
Derek Beauduy	Regional Water Board

2. Overview of changes to C.4 and C.5 matrix

Elyse, RWB staff, reviewed the updated matrix of issues and perspectives provided by the Regional Water Board on March 30th and dated April 2nd. There were several new proposed changes for discussion. At the end of the meeting Derek asked the Permittees to add their comments to the matrix and provide to the RWB.

Attachment

Draft Workgroup Comments

MRP Sub provision	Topic - WB idea or concern	Initial Municipal Response	Tentative Agreements or WB Responses	Municipal Comments
C.4 Industrial and Commercial Site Controls				
Applicability to Non Population Based Permittees	C.4 Industrial and Commercial Site Controls apply to nonpopulation based Permittees for industrial or commercial sites located partially or wholly on Permittee owned or operated property.			<p>Non population based permittees: Alameda County Flood Control and Water Conservation District, Zone 7 Water Agency, Contra Costa County Flood Control and Water Conservation District, Santa Clara Valley Water District, San Mateo County Flood Control District, Vallejo Sanitation and Food Control District.</p> <p>It is not clear why this needs to be specifically added to this Provision. These are named permittees in the MRP. This could imply the other provisions do not apply since the nonpopulation based Permittees are not mentioned specifically. Not every MRP requirement is applicable to every Permittee (population and nonpopulation based). Permittees report this nonapplicability in the Annual Reports. If WB staff believe a Permittee has inappropriately identified a Provision as not applicable it should be addressed at that time.</p> <p>The SCVWD and SMCFCFCD do not have any commercial/industrial tenants on their property that would be a business of concern for Stormwater, except for potentially a cafeteria. All of the corporation yards are inspected and reported under Provision C.2. Any cafeteria or restaurant present onsite would be inspected by the appropriate municipal C.4.business inspection programs. SCVWD tenants include open land rented for parking spaces, underground infrastructure lines, boathouses/docks, or hay farming. SMCFCFCD has one tenant which rents approximately 3,200 square feet of land for the purposes of operating and maintaining a parking lot for a retail food facility.</p> <p>The ACFC&WCD and Zone 7 also do not have any commercial or industrial tenants on their property that would be a business of concern for stormwater. Their respective corporation yards are inspected and reported under Provision C.2 of the MRP.</p>
C.4.a.ii Legal Authority, Implementation Level	ADD: Permittees shall verify that facilities applying for a business license have applied for stormwater permit coverage under the Industrial General Permit, if required, in compliance with California SB 205 (2019).		Include reference to state Board and web page for assistance and flyers	There is concern with including this requirement in the NPDES permit when municipalities already have an obligation to do this under another regulation (California Business and Professions Code and Water Code). Placing this requirement in a NPDES Permit will have regulatory ramifications that should be considered, including opening municipalities to third party lawsuits.
C.4.b (ii)(2) BIP contents	If a Permittee relies on multiple entities to perform business and commercial inspections, list the entities and their responsibilities with regard to this Permit provision. Describe how the Permittee assures that all sites with the potential to pollute stormwater are inspected. Include this information in the Business Inspection Plan	2/11/20 meeting: Permittees have broad inspection authority to inspect any business they think has potential to contaminate stormwater. Inspectors are out all the time. There are low chances of missing businesses.	Clarify BIP requirements to include the departments, agencies, contractors, etc., performing C.4 inspections. Clarify what types of businesses each group inspects. How do "outside inspectors" communicate findings, follow up actions, and enforcement needs, with the Permittee stormwater staff and, if needed, each other.	
C.4 Industrial and Commercial Site Controls: general	Include definition for "potential discharge" in Fact sheet, glossary, text.	Keep current terms of "potential discharge" and "actual discharge". Permittee documents/training materials/inspection forms/data tracking systems incorporate these terms. These terms were introduced by WB staff in MRP 2.0 to replace "violation". Potential discharge for C.4 is defined in Permit Fact Sheet page A-52: "Examples of potential discharges include housekeeping issues, evidence of actual nonstormwater discharges that are not ongoing during an inspection, lack of BMPs, inadequate BMPs, and inappropriate BMPs."	Will keep current potential and actual discharger terminology, but define where used, in the text or as a footnote. Add to glossary. Maybe list additional example BMPs.	
C.4.b (iii) Reporting-List of Facilities	Remove the list from the annual reporting requirements. The list of facilities covered under Provision C.4 should be available upon Water Board request.	Request not to include list in the AR. The list can be provided to WB upon request and is available in the BIP. Could provide the total number of facilities in AR instead.	Have the list available upon WB request.	
C.4.d.iii. ERP, Inspections, Reporting			Keep reporting requirements for listed in MRP 2.0 for 2016-2017, that is C.4.d.iii (2). Change (e) see below. ERP should state that all inspectors have authority to first level of enforcement. Usually a field or follow up notice of noncompliance or a staff enforcement letter or email with compliance actions and dates for compliance.	Provision C.4.c.ii.(1) already requires the ERP to include "the roles and responsibilities of staff responsible for implementing the ERP". A WB requirement in the MRP that all inspectors have authority to issue first level enforcement actions is too prescriptive.
C.4d.iii (2).e. List of non-filers	Remove the list from the annual reporting requirements. The list of facilities covered under Provision C.4 should be available upon Water Board request.	Agreed	List of non-filers should include non-filers discovered or repeatedly observed during a rolling three year period.	
C.4. Staff Training	ADD: C.4.e.iii Reporting (5) List any other agencies or entities performing inspections for the entity submitting the annual report form. List the number of inspectors from each agency or entity, including the entity submitting the AR.	Specify other agencies/entities performing stormwater inspections. If WB uses the terms internal and external agencies, define the terms.	Agreed. Make this change in MRP 3.0.	

MRP Sub provision	Topic - WB idea or concern Revised after the 2/11/2020 meeting	Initial Municipal Response	Tentative Agreements or WB Responses	Municipal Comments from 4/2/20 Meeting
Provision C.5 Illicit Discharge Detection and Elimination				
Applicability to Non Population Based Permittees	Provision C.5 Illicit Discharge Detection and Elimination applies to non population based Permittees.			<p>Non population based permittees: Alameda County Flood Control and Water Conservation District, Zone 7 Water Agency, Contra Costa County Flood Control and Water Conservation District, Santa Clara Valley Water District, San Mateo County Flood Control District, Vallejo Sanitation and Food Control District.</p> <p>It is not clear why this needs to be specifically added to this Provision. These are named permittees in the MRP. This could imply the other provisions do not apply since the nonpopulation based Permittees are not mentioned specifically. Not every MRP requirement is applicable to every Permittee (population and nonpopulation based). Permittees report this nonapplicability in the Annual Reports. If WB staff believe a Permittee has inappropriately identified a Provision as not applicable it should be addressed at that time.</p> <p>The SCVWD, SMCFCDD report, ACFC&WCD, Zone 7, and Contra Costa Flood and Water Conservation District report on their illicit discharge detection and elimination program in Annual Reports.</p>
C.5.a., b. Legal authority, Enforcement Plan – Related to mobile businesses	Clarify that the business, property manager, property owner, etc., that hire the mobile business is responsible for SW pollution discharged by the mobile business operating at their location. RPs include business owner, business operator, property owner.			Do not add language to C.5.a. Legal Authority. Add language to C.5.b Enforcement Response Plan under ii.(1) Enforcement Procedures to include guidance for identifying responsible parties for mobile business illicit discharges (e.g. business owner, business operator, property owner, mobile business, etc.).
C.5.c.i, ii, iii	Add verbiage regarding RV parking and homeless encampments from IDDE perspective?		Determine after RV and homelessness workgroup meetings. Add subsection numbers for these issues. Perhaps C.5.c.i and C.5.c.ii(7). Firefighting discharges may be placed in C.15. May include requirements in C.10.	
C.5.c.iii. Tracking, reporting	City web page shall spill response information including at a minimum a telephone number and optionally an online form or access to a spill and dumping reporting app.	Do not mandate online reporting web url.	Agreed	
C.5.c. ii (2) Spill dumping, complaint response	Investigation information, (a) Date started ADD: must not exceed 3 days from the date of complaint			Permittees are required to track date/time of complaint and date/time investigation started. Has the WB staff seen any issues with the reported times to begin investigation that necessitate this requirement of 3 days be added to the MRP? There is concern that the 3 days are not specified as business days. And there is concern that there are many types of complaints that warrant different response times, for example, some types of illegal dumping may take more than three days to respond while a discharge of immediate threat to a receiving water would be responded to in less than three business days.
C.5.c.iii. Tracking, reporting	Change the dates to MRP 3.0 time frame.			
C.5.d.i Tracking and Case Follow up Task	SWRCB Order 2006-0003-DWQ, [ADD]" Waste Discharge Requirements for Sanitary Sewer Systems" to clarify the statement.	Agreed.		
C.5.d.ii (2) (a) Tracking and Case Follow up Implementation	Investigation information, (a) Date started ADD: must not exceed 3 days from the date of complaint.			See response to C.5.c.ii (2) above
C.5.d.ii (1)	ADD audits, inspections, tracking sheets, shall be available upon WB request			<p>C.5.d.ii.(1) currently states "electronic database or equivalent tabular system shall be made available to Water Board staff or representatives during audits or inspections".</p> <p>No additional text is needed. The WB can request additional records for clarification during an audit or inspection without adding text to this specific MRP Provision.</p>
C.5.d.ii (2)	ADD: Departments or agencies responding to release			Adding responding departments or agencies to the data tracking requirements is an increase in reporting requirements and would require modifications to electronic databases and tracking systems. The Departments and Agencies that are called for specific types of illicit discharges are already available in C.5.c.ii (4) and (5) requirements for response flow chart and/or phone trees. Adding this information specifically to the electronic data systems would be burdensome.

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Provision C.5 Illicit Discharge Detection and Elimination				
C.5.e. Control of Mobile Sources	Shift emphasis from identifying individual mobile businesses to putting the responsibility for discharges from mobile businesses on the company who hires them, property owner, operator, etc. Codify this approach in the permit to assist Permittees with enforcement capabilities.	But, keep general so the Permittees have the flexibility to go after multiple RPs. For example, business, property manager, property owner, mobile business. See C.5.a,b above. PERMITTEES: Continue with current programs through IDDE Programs and continue outreach efforts.	Agreed	
C.5.e.ii (1) c Mobile sources, Inventory	ADD: mobile vehicle fueling to list of example mobile businesses.		Drop mobile business inventory for now. Focus on making entity hiring mobile business responsible for discharges from the mobile business.	
C.5.e.ii (1)(d), and C.5.e.iii Outreach to mobile businesses	Keep all outreach requirements associated with Mobile Businesses in C.5	Agreed.		
C.5.f MS4 Maps	<p>This permit term: (1) Determine sewer sizes and years of information missing from the base maps. (2) Identify and make available maps of all storm sewers, and other control equipment or LID units installed after publication of the Oakland Museum watershed maps. (3) Have Clean Water Programs work with the Oakland Museum of CA to assess when their base maps may be updated.(?is this a correct assessment of the situation?) (4) Next permit term, develop maps for older sewers not included in existing maps or elsewhere in Permittee files. Update maps or include references for newer storm sewers or other MS4 components, not already included or available by reference in to MS4 maps or other Permittee files. (5) Submit a plan in year 5 of the Permit term for identifying missing storm sewers and components, during the MRP 4.0 permit term</p>	<p>PMTE: Opposition to developing maps other than the Oakland Museum maps. WB: Drawings of newer streets and developments should be available. Drawings of old storm sewer lines may have been lost. PMTE: Updated maps will not be as user friendly as the creek maps created by the Oakland Museum.</p>	<p>Permittees should know the location, materials and condition of the MS4 system. This information is necessary of asset management which will be required in the future by US. EPA per 40 CFR. State Board developed guidance should be issued in 2022. How are the Oakland Museum maps generated and updated? Who or what funds that effort? WB proposes that MRP 3.0 will require Permittees to identify the information gaps in the knowledge and records of their MS4 system. That is, for what areas and/or streets in the Permittees jurisdiction, or for what years, are records of the MS4 system missing or incomplete for location, material and condition? Cities should have plans and drawings showing stormwater pipes and other items on public and private property for newer system within the public works, planning or similar departments. Documentation identifying and describing the gaps shall be submitted with the Permit year 4 annual report. Submit a plan to obtain the missing information over the next permit term.</p>	<p>It is important to identify the target audience and use of the MS4 maps being discussed under this Provision.</p> <p>Goal identified in MRP 2.0 Fact Sheet: meet 40 CFR 122.26(d)(1)(iii)(B)(5). This only requires mapping of major outfalls. Permittees should have these mapped. (Note Oakland Museum Maps fulfill this requirement for some, not all, Permittees).</p> <p>Target audience identified in MRP 2.0: makes maps available to the public and publicize availability. A main reason for making maps available to the general public is to educate the public on the connection between storm drains and watersheds. This was the intent of the user friendly Oakland Museum Maps (http://explore.museumca.org/creeks/crkmap.html). Note storm drain systems are a utility similar to wastewater collection systems, gas pipelines, electrical lines, etc. There may be a concern with municipalities making thier infrastructure details available to the general public. Therefore, the level of detail provided by the 40 CFR 122.26 mapping requirements is adequate to provide the general public. Note, the Oakland Museum Maps will not be updated. If there are additional Permit mapping requirements they will be met with other resources (i.e. internal GIS maps).</p> <p>Goal identified by WB staff at 4/2/20 meeting: MS4 system (private and public) mapped to identify where illicit discharges will flow to prevent reaching a RW or to assist with cleanup activities. These maps would only need to be available to City staff and would not need to be publicized to the public. Private storm drain systems do not necessarily need to be mapped for illicit discharge investigations. A field visit and general knowledge of the public storm drain system in the area would provide enough detail to rapidly identify direction of flow. Current municipal GIS maps and plot plans would likely provide a level of information satisfactory to meet this need.</p> <p>Target audience: developers: Municipalities routinely provide storm drain system GIS maps and/or plot plans of the storm drain system to project applicants upon request. Project applicants must field verify utility locations.</p> <p>Asset Management proposed by WB staff for Provision C.3: Program to identify structural water quality assets (e.g., bioretention cells, pervious pavement, FTCDs), including their type, location, relevant design</p>