

**MRP 3.0 C.4/C.5 External Work Group Meeting**  
**May 13, 2020, 1:30 p.m. to 3:00 p.m.**  
**DRAFT Meeting Summary**

**1. Introductions/Changes to the Agenda**

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

<b>Name</b>	<b>Agency</b>
Beth Baldwin	ACCWP
Samantha Malanche	Berkeley
Michele Mancuso	Contra Costa County
Kara Kelly	Oakland
Joanne Le	Richmond
Wanda Wong	San Jose
Kristin Kerr	SCVURPPP/SMCWPPP
Andrew Wemmer	South San Francisco
Julie Choun	Sunnyvale
Melody Tovar	Sunnyvale
Michael Dunning	Union Sanitary District (on behalf of Fremont)
Derek Beauduy	Regional Water Board
Elyse Heilshorn	Regional Water Board
Zach Rokeach	Regional Water Board
Joe Monical	Regional Water Board

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

Reviewed updated matrix of issues and perspectives provided by the Regional Water Board dated May 8<sup>th</sup>. Regional Water Board staff stated there would be minimal changes to C.4 ERP language and SB205 language probably will not be included in MRP 3.0. Regional Water Board does plan to add clarifying language to all Provisions to state which are applicable to nonpopulation based Permittees. There was a suggestion to include this clarification language in the Fact Sheet instead of each Permit Provision. Elyse, RWB staff, stated they would shift the emphasis of the Mobile Source Control Program from inventories to enforcement and responsibility for discharges from mobile businesses on the company who hires them, property owner, operator, etc. Zach, RWB staff, state he thought the requirement for having an inventory of mobile businesses should stay in the Provision. There was discussion on the proposed MS4 mapping requirements. The RWB staff would like to know what information would be reasonable to develop during the next permit term, where better mapping has value for the municipalities and the current level of mapping available.

3. The RWB staff will compile the final matrix after Steering Committee comments are received. The RWB will provide the final version of the matrix to the Work Group and then the RWB will begin developing draft permit language for the Administrative Draft.

## Attachment

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C.4 and C.5 Changes Matrix

MRP Subprovision	Topic - WB idea or concern	Municipal Comments and Concerns	WB Responses	Agreements or Issues to Resolve
C.4 Industrial and Commercial Site Controls			C.4 Industrial and Commercial Site Controls	
Applicability to Non Population Based Permittees	C.4 Industrial and Commercial Site Controls apply to nonpopulation (nonPop) 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&amp;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>	The nonpopulation based Permittees (nonPop) specifically requested that the Water Board clarify which Provisions apply to them. If a business or commercial venture is on nonPop property, then they are responsible for SW inspections, directly or through an agreement with another Permittee. A few other Permittees have small numbers of industrial or commercial sites.	
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).	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.	Include reference to State Board and web page for assistance and flyers	SB 205 language was removed.
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.	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.
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.	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.	Agreed

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C.4 Industrial and Commercial Site Controls			C.4 Industrial and Commercial Site Controls	
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.	Agreed
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.	WB will review ERP language and clarify if needed.	WB will review ERP language and clarify if needed.
C.4.d.iii (2).e. List of nonfilers	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. Why 3 year record?	List of nonfilers should include nonfilers discovered or repeatedly observed during a rolling three year period. WB may do enforcement every other or every 3rd year. We want to identify repeat nonfilers.	Seemed to be in agreement.
C.4.e. 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. List the total number of inspectors performing C.4 inspections for the Permittee.	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.	WB will avoid internal/external terminology.

MRP Subprovision	Topic - WB idea or concern	Municipal Comments and Concerns	WB Responses	Agreements or Issues to Resolve
<b>Provision C.5 Illicit Discharge Detection and Elimination</b>			<b>Provision C.5 Illicit Discharge Detection and Elimination</b>	
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&amp;WCD, Zone 7, and Contra Costa Flood and Water Conservation District report on their illicit discharge detection and elimination program in Annual Reports.</p>	The nonpopulation based Permittees (nonPop) specifically requested that the Water Board clarify which Provisions apply to them. WB staff responded to that request.	WB staff will discuss language with WB management.
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, AND/OR the Mobile business, are responsible for SW pollution discharged by the mobile business operating at their location. RPs include business owner, business operator, property owner, and mobile business.	Make mobile business <b>and/or</b> , owner of business <b>and/or</b> property, where mobile business operates responsible for discharges from the mobile business operations. 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.).		Agreed, pending WB management approval of MRP 3.0 draft language
C.5.c.i, ii, iii RV Parking and Homeless Encampments	Add verbiage regarding IDDE from RV parking and homeless encampments.		Determine details after RV and homelessness workgroup meetings. The issues to be assessed at homeless encampments may include discharge of raw sewage, hazardous materials/wastes, and sediment into MS4 or waterways. These items are currently listed in C.5.a WB may add that discharges from homeless encampments, not just storage areas, are covered. Firefighting discharges also may be added here. Determine details after RV and homelessness workgroup meetings. C.5 Permit requirements may be cross referenced to the direct discharge criteria and other relevant criteria in C.10. US EPA would like to see wording regarding collaboration between Permittees and Caltrans.	WB staff will develop permit language based on results of homelessness workgroup meetings and discussion with management.
C.5.c.iii. Reporting	City web page shall list spill reporting contact information including at a minimum a telephone number, and optionally, an email address, an online complaint form, or access to a spill and dumping reporting app. Change the dates to MRP 3.0 time frame.	Do not mandate online reporting web url .	Agreed	MRP 3 language will not require but encourage online reporting sites. Language will include requirement to list links or source for mobile reporting apps, if available.
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. A short response time for spills is reasonable. An immediate response to illegal dumping is often not feasible and not necessary to protect water quality. Also see row 9 C.5.d.ii (2) (a)	Agreed that strict limit to 3 days for spills may be too restrictive. Also agree that illegal dumping may not present an immediate threat to water quality. Permit changes will be in C.5.d.	WB staff will address Permittee concerns when writing MRP 3.0 language. Possibly 3 to 5 working days for spills, longer for dumping response. WB will clarify that the complaint date is the date the complaint was received by the Permittee.
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		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 concerns in C.5.c.ii(2) Put in one place not 2. Clarify the date of the complaint is the date the complaint was received by the Permittee. Clarify who tracks what information. Must referral be query-able in database? Also see row 7.	WB will clarify the start date. Tracking database and supporting documentation should at least be available upon request. Entity responsible for database must track entities responding to spill or complaint.	WB staff will consider Permittee concerns and discuss with management.
C.5.d.ii (1)	ADD inspections, tracking sheets, and supporting documentation 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>	WB will check wording and make consistent with other Provisions. The requirement to provide documents to the Water Board upon request is in C.2, C.3, C.9, C.10, C.17, and the Fact Sheet.	Wording will be reviewed by WB management.

MRP Subprovision	Topic - WB idea or concern	Municipal Comments and Concerns	WB Responses	Agreements or Issues to Resolve
<b>Provision C.5 Illicit Discharge Detection and Elimination</b>			<b>Provision C.5 Illicit Discharge Detection and Elimination</b>	
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. WB Notes: Permittees currently do not track referrals in database. Do not want to change database to add referrals. Referrals are inspector's notes.	if the Permittee stopped an investigation or response because it was referred to another agency, the name of that agency should be recorded.	WB staff will consider Permittee concerns and discuss with management. Requiring updates to the database once per permit term may not be unreasonable.
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. That is have the mobile business and the hiring entity or property owner and/or be responsible for any discharges to the storm drain or receiving waters. For example, business owner, property manager, property owner, and/or mobile business owner are all RPs. See C.5.a,b above. PERMITTEES: Continue with current programs through IDDE Programs and continue outreach efforts. Leave IDDE outreach in C.5	Agreed. WB will clarify language to state that both the mobile business and the hiring entity or property owner are responsible for any discharges. Mobile business related outreach and education will remain in C.5	WB will clarify language to state that both the mobile business and the hiring entity or property owner are responsible for any discharges.
C.5.e.ii (1) c Mobile sources, Inventory	ADD: mobile vehicle fueling to list of example mobile businesses.	No objection		Agreed
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.		Agreed
C.5.f MS4 Maps <b>February/March 2020</b>	February/March 2020: 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	2/11/20 PMTE: Opposition to developing maps other than the Oakland Museum maps. Updated maps will not be as user friendly as the creek maps created by the Oakland Museum.	<b>March 2020</b> 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.	
C.5.f MS4 Maps Discussion <b>April 2, 2020 and following (1)</b>	4/2/20 starting point as above.	It is important to identify the target audience and use of the MS4 maps being discussed under this Provision.  <b>Goal identified in MRP 2.0 Fact Sheet: meet 40 CFR 122.26(d)(1)(iii)(B)(5).</b> This only requires mapping of major outfalls. Permittees should have these mapped. (Note Oakland Museum Maps fulfill this requirement for some, not all, Permittees).  <b>Target audience identified in MRP 2.0: makes maps available to the public and publicize availability.</b> 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 ( <a href="http://explore.museumca.org/creeks/crkmap.html">http://explore.museumca.org/creeks/crkmap.html</a> ). 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 their 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).	<b>4/2/20 WB:</b> What Do Permittees have now in GIS? PMTE: Some have mainly size and location of public storm drains. Why does WB want to know size and material? WB: so information is available for first responders-where to plug to minimize spread and discharge of a spill. For system management and maintenance, e.g., for asset management. WB: Drawings of newer streets and developments should be available. Drawings of old storm sewer lines may have been lost.	<b>4/2/20: WB</b> will discuss further with WB management. It will be helpful if the Permittees provide information regarding data gaps and the level of effort and resources needed to fill the data gaps. WB will be cognizant of the different levels of information appropriate different audiences, the level of effort and resources required and the potential timeline.

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Provision C.5 Illicit Discharge Detection and Elimination			Provision C.5 Illicit Discharge Detection and Elimination	
		<p><b>Goal identified by WB staff at 4/2/20 meeting:</b> 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><b>5/7/20 WB:</b> WB is willing to work with Permittees spread out the work load and cost of updating and completing storm system maps. Maps should be used to help find the sources of illicit discharges, identify outfalls for polluted firefighting water, assist with planning stormwater loads from new and redevelopment projects, and general asset management. It is difficult to manage assets if you do not know the asset location or condition. MRP 3.0 may include a separate asset management provision, or asset management related items may be included in individual provisions.</p>	<p><b>5/7/20 WB:</b> What information can Permittees reasonably develop and provide during the next permit term? WB does not need all the details, but tell us where better mapping has value. Some basic level of effort is expected.</p>
C.5.f MS4 Maps Discussion April 2, 2020 and following (continued(2))		<p><b>Target audience: developers:</b> 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><b>Asset Management proposed by WB staff for Provision C.3:</b> Program to identify structural water quality assets (e.g., bioretention cells, pervious pavement, FTCDs), including their type, location, relevant design information, condition, and inspection status/history. Asset management goes beyond mapping, and asset management requirements should not be included in Provision C.5.</p>		