



Environmental Compliance Services

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Public Comment
LA MS4 Permit- A-2236(a)-(kk)
Deadline: 01/21/15 by 12:00 noon

January 20, 2015



Ms. Felicia Marcus
Chair
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812 -0100

Subject: Comments to A-2236(a)(kk)

Dear Chair Marcus:

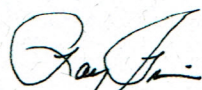
Thank you for the opportunity to comment on the State Board's Draft Order (DO) in connection with petition A-2236(a)(kk). My clients will be forwarding to you extensive comments regarding the DO and its petition response. In summary terms, the comments include, but are not limited, to the following:

1. The State Board should conduct additional workshops on the DO that will lead to standard MS4 Permits and will be consistent throughout the State.
2. The DO should not commingle Receiving Water Limitation (RWL) Policy issues with responses to the administrative petitions because of the confusion it has caused over the safe harbor and the iterative process. The Board's RWL Policy response should be conducted through a state-wide memorandum.
3. Part V.A of the L.A. MS4 Permit, which implements WQO 99-05, should be restricted only to the SWMP and iterative process. Both the DO and MS4 Permit extend the WMP/EWMP to parts of V.A which are only applicable to the SWMP.
4. The iterative process, as affirmed by Water Quality Order 99-05 and 2001-15, should be the only mechanism for determining compliance with RWLs.
5. The iterative process should be applied only to outfall monitoring as a means of determining RWL exceedances and not to the receiving water. The reason the iterative process failed is that it was based on RWL exceedances determined by receiving water monitoring.
6. The iterative process should also include performance indicators to demonstrate progress in meeting water quality standards. The proposed North Orange County MS4 Permit contains performance metrics to assure that the iterative process is not used to delay compliance with water quality standards indefinitely. These performance metrics can be incorporated into the L.A. MS4 Permit.

7. The iterative process, which currently only applies to the SWMP, should also be extended to the WMP/EWMP. The safe harbor cannot serve this purpose because the Courts have said it cannot forgive violations. The MS4 Permit references the safe harbor but only mentions that the Courts have not allowed it as a means of shielding permittees against violations (viz., RWL exceedances). The adaptive management process (AMP) also cannot serve this purpose. The AMP, according to the L.A. MS4 Permit, only extends milestones consisting of proposed projects for implementation in accordance with a schedule. The AMP cannot forgive violations; nor cannot it prevent them. Only the iterative process can prevent violations.
8. TMDL compliance with non-stormwater discharges should be eliminated. Federal regulations only require a prohibition on non-stormwater discharges to the MS4 which is addressed through the illicit connection and discharge detection and elimination program.
9. The current use of the numeric WQBELs should be voided and replaced with WQBELs that conform to federal regulations and USEPA guidance. The L.A. MS4 Permit inappropriately used the numeric WQBEL to mean TMDL waste load allocations applied to the outfall and the receiving water. WQBELs, in general, only translate TMDL WLAs into BMPs and other actions to be implemented through the MS4 permit. The WQBEL cannot be a "one-size-fits" all proposition. It must be specific to each TMDL and the beneficial use it is intended to protect. For example, the bacteria TMDL must be specific to human health, while the metals TMDLs should be protective of aquatic life, and in species-specific terms.
10. The requirement for monitoring and complying with TMDL wet weather waste allocations should be deleted. State Board Water Quality Order 2001-15 made it clear that there is nothing in federal or state law that requires wet weather TMDLs. TMDLs are ambient (dry) weather standards.
11. Compliance with requirements that lie outside of the MS4 (streets, catch basins, storm drains, etc.) should be excluded. The MS4 does not include receiving waters.
12. Municipal Action Levels (MALs) should be deleted as a compliance and monitoring requirement. The MS4 Permit already calls for conventional monitoring for TMDLs and other water quality standards to determine compliance with RWLs. The MALs are duplicative and will add to compliance costs unnecessarily.

Thanks again for the opportunity to comment. My clients and I look forward to the next workshop. Should you any questions, please call me at 626.396.9424.

Sincerely,



Ray Tahir