



**SAN MATEO COUNTYWIDE
Water Pollution Prevention Program**

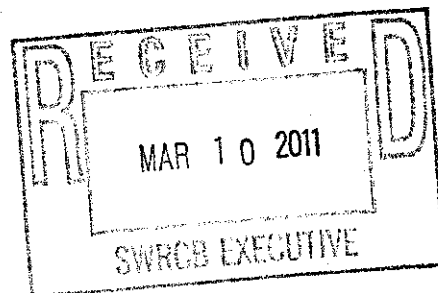
Clean Water. Healthy Community.

Public Comment
Caltrans – MS4 Permit
Deadline: 3/14/11 by 12 noon
555 County Center
Redwood City, CA 94063
P 650.361.1406
F 650.361.8227
flowstobay.org

Public Comment
Caltrans – MS4 Permit
Deadline: 3/14/11 by 12 noon

March 10, 2011

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street 24th floor
Sacramento, CA 95814



Subject: "Comment Letter – Caltrans MS4 Permit"

Dear Ms. Townsend:

The San Mateo Countywide Water Pollution Prevention Program (Countywide Program) appreciates this opportunity to comment on the draft municipal separate storm sewer system NPDES permit for the California Department of Transportation (Caltrans). The Countywide Program is a consortium of 21 municipalities and the San Mateo County Flood Control District (District) that operates under the auspices of the City/County Association of Governments of San Mateo County. The Countywide Program assists with implementation of the San Francisco Bay Regional Water Quality Control Board's municipal regional stormwater permit (MRP) requirements that may be handled more efficiently on a countywide basis.

Caltrans is an essential partner with local municipalities and the District in helping to address the problems caused by municipal stormwater runoff in San Mateo County, and it will play a key role in achieving trash load reductions and implementing pesticides toxicity, mercury, and PCBs controls. Caltrans owns and operates El Camino Real that serves as the major transportation corridor through much of the commercial areas of San Mateo County. It also operates major freeways within the county, essential highways linking the county's coastside and bayside, and Highway 1 along the coastside of San Mateo County. In addition, Caltrans operates a major maintenance facility located in the City of Foster City.

The Countywide Program supports the draft Caltrans NPDES permit with the proposed modifications and additions described below. The basis of this support and the proposed modifications and additions are included in the following sections.

Support for Trash Load Reduction Requirements

The Countywide Program supports the San Francisco Bay Region Attachment V requirements for Trash Load Reduction because it would be impossible for local municipalities and the District to comply with the MRP's trash load reduction mandates without Caltrans also controlling trash and litter from its facilities and rights-of-way. In many places the Caltrans storm drainage system ties into local municipal stormwater infrastructure, so inclusion of Caltrans in formal NPDES permit requirements for trash and litter control is essential.

Additional Pesticides Toxicity Controls

Background

The draft Caltrans NPDES permit documents the importance of Caltrans' pesticide use practices in protecting water quality. Finding 12 identifies pesticides as a potential pollutant; Finding 14 identifies diazinon and chlorpyrifos as high priority constituents in Caltrans runoff; and Finding 27 concludes that the toxicity levels found in Caltrans runoff indicate a need to monitor acute and chronic toxicity. In response to this priority, the draft Caltrans NPDES permit requires that climate-appropriate landscaping be used that "minimizes the use of pesticides..." [Provision 2.d.1).d.i).(5)] Further, the draft Caltrans permit requires that: "The Department shall control its handling and application of chemicals including pesticides, herbicides, and fertilizers to reduce or eliminate the discharge of pollutants to the MEP." [Provision 2.h.3).b.)]

The draft Caltrans NPDES permit's Finding 35 states this Order requires Caltrans to comply with all TMDLs for which it has been assigned a waste load allocation, a load allocation, or specific actions to implement the TMDL, either individually or jointly. In addition the draft permit states the following in Attachment IV TMDL Requirements: "The Department is obligated to consult each TMDL to comply with all applicable allocations and other provisions, whether included in the table or not."

The San Francisco Bay Water Board's Water Quality Control Plan (Basin Plan) Water Quality Attainment Strategy and TMDL for Diazinon and Pesticide-Related Toxicity in Urban Creeks states that the implementation requirements will be included in future NPDES permits. The San Francisco Bay Water Board crafted a four-page Pesticides Control Provision C.9 of the MRP to add compliance dates and needed specificity to incorporate the Basin Plan's requirements into the MRP. The draft Caltrans NPDES permit's Attachment IV implementation requirements have been reduced to merely submitting a Pesticide-Related Toxicity Control Program plan with the Year 2 Annual Report.

Recommended Changes

The Countywide Program recommends that additional clarifying language for pesticides toxicity control be added to Attachment V Part 2 San Francisco Bay Region portion of the Caltrans NPDES permit or to Attachment IV. The addition of these requirements should make Caltrans' obligations for its facilities and rights-of-way identical to those of the municipalities where Caltrans facilities are located and would clarify Caltrans' responsibilities for pesticides toxicity control.

The MRP requires that municipalities and flood control districts work with the California Department of Pesticides Regulation and USEPA to improve the regulation of pesticides in order to protect water quality. It is essential to these efforts include as many partners as possible. On this basis we recommend that at a minimum the following text be added to the Caltrans NPDES permit:

6. Pesticides Toxicity Control

The Department shall participate in relevant pesticide regulatory processes (may be done jointly with other Permittees, such as through CASQA or BASMAA and/or the Urban Pesticide Pollution Prevention Project).

- a. The Department shall track USEPA pesticide evaluation and registration activities as they relate to surface water quality, and when necessary encourage USEPA to coordinate implementation of the Federal Insecticide, Fungicide, and Rodenticide Act and the Clean Water Act and to accommodate water quality concerns within its pesticide registration process.*
- b. The Department shall track California Department of Pesticides Regulation (DPR) pesticide evaluation activities as they relate to surface water quality, and when necessary, encourage DPR to coordinate implementation of the California Food and Agriculture Code with the California Water Code to accommodate water quality concerns within its pesticide evaluation process.*
- c. The Department shall assemble and submit information (such as monitoring data) as needed to assist DPR and County Agricultural Commissioners in ensuring that pesticide applications comply with water quality standards.*
- d. As appropriate, the Department shall submit comment letters on USEPA and DPR re-registration, re-evaluation, and other actions relating to pesticides of concern for water quality.*
- e. In each Annual Report the Department shall list its specific participation efforts, information submitted, and how regulatory actions were submitted. If the Department chooses to participate in a regional effort to comply with these requirements, it may reference a regional report that summarizes regional participation efforts, information submitted, and how regulatory actions were affected.*

Mercury and PCBs Modifications

Mercury and PCBs Control

The draft Caltrans NPDES permit's Attachment IV TMDL Requirements under R2 – San Francisco Bay Regional Water Board states that the San Francisco Bay Regional Water Board TMDLs for San Francisco Bay PCBs and Mercury are directly enforceable through the Caltrans Order. This attachment contains a number of requirements that are similar to those contained in the MRP. We support the inclusion of these requirements in the Caltrans NPDES permit.

In a number of cases a mercury and PCBs requirement is listed under the WLAs/Deliverables/Action Required column of the TMDL table, but under the Compliance Date Due Date the term "none specified" is used. It would be more accurate and we recommend replacing this language with the words "see below" because the requirements listed are supposed to be implemented and progress reported by the due dates shown in the subsequent sections included in the table.

Ms. Jeanine Townsend
March 10, 2011
Page 4 of 4

This TMDL table also uses the words "None Specified" for WLA under the mercury and PCBs section. The Basin Plan's Table 7.2.2-2 Individual Wasteload Allocations for Mercury in Urban Stormwater Dischargers and Table 7.2.3-5 County-Based Watershed Wasteload Allocations for Stormwater Runoff clearly require that Caltrans will be responsible for a still-to-be-determined portion of the WLA assigned to stormwater dischargers (mercury) or counties (PCBs). We believe it would be more accurate and recommend that "None Specified" be replaced with "To Be Determined as described in the Basin Plan."

We appreciate your consideration of our comments. I can be reached at (415) 508-2134 or via email at mfabry@ci.brisbane.ca.us.

Sincerely,

A handwritten signature in black ink that reads "Matthew Fabry". The signature is written in a cursive style with a long, sweeping tail on the "y".

Matthew Fabry, P.E.
Program Coordinator
San Mateo Countywide Water Pollution Prevention Program