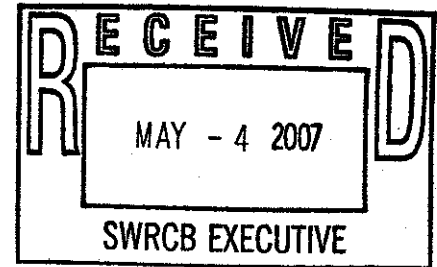


# COALITION FOR PRACTICAL REGULATION

"Cities Working on Practical Solutions"



Construction General  
Permit - Stormwater  
Deadline: 5/4/07 5pm



- ARCADIA
- ARTESIA
- BALDWIN PARK
- BELL
- BELL GARDENS
- BELLFLOWER
- BRADBURY
- CARSON
- CERRITOS
- COMMERCE
- COVINA
- DIAMOND BAR
- DOWNEY
- GARDENA
- HAWAIIAN GARDENS
- INDUSTRY
- IRWINDALE
- LA CANADA FLINTRIDGE
- LA MIRADA
- LAKEWOOD
- LAWDALE
- MONROVIA
- MONTEREY PARK
- NORWALK
- PALOS VERDES ESTATES
- PARAMOUNT
- PICO RIVERA
- POMONA
- RANCHO PALOS VERDES
- ROSEMEAD
- SANTA FE SPRINGS
- SAN GABRIEL
- SIERRA MADRE
- SIGNAL HILL
- SOUTH EL MONTE
- SOUTH GATE
- SOUTH PASADENA
- VERNON
- WALNUT
- WEST COVINA
- WHITTIER

May 4, 2007

Via Fax and E-mail

Ms. Song Her, Clerk to the Board  
 State Water Resources Control Board  
 1001 I Street, 24th Floor  
 Sacramento, CA 95814  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)  
 (916) 341-5620 (fax)

Subject: Comment Letter - Draft Construction Permit

Dear Chair Doduc and Members of the Board:

I am writing on behalf of the Coalition for Practical Regulation (CPR) to provide comments on the Draft Construction General Permit. CPR is an *ad-hoc* group of 41 cities within Los Angeles County that have come together to address water quality issues. As municipal permittees, our member cities are very interested in the Draft Permit and in your Board's proposed approach to improving water quality policy through the reissuance of the statewide General Construction Permit. New approaches reflected in this Permit will likely have repercussions throughout the stormwater program, including MS4 implementation. Thank you for the opportunity to provide these comments.

CPR is providing comments from two perspectives. First, municipal projects are subject to the Construction General Permit requirements, such as police and fire stations, parks and civic center construction. The costs of these projects are always a concern to local government, as funds are limited and construction costs have increased dramatically in the last several years. Also, Cities are responsible for checking and inspecting current Construction General Permit requirements in our communities. Additional regulations will impact staffing levels. CPR appreciates several elements of the proposed draft. First, we agree with the goal of creating a risk-based permit that allocates responsibilities with respect to anticipated risk to water quality. Also, we support the objective of better performance measures. Further, we agree with the goal of a standard that would avoid or minimize hydromodification. However, we have concerns about the proposed implementation of each of these elements in the Draft Permit.

## CPR Comment Letter on Draft Construction Permit

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### Risk Based Permits

First, we are concerned about the actual implementation of the risk-based permit concept. While basing permit requirements for projects on relative risk is a reasonable approach, there needs to be greater differentiation of requirements for medium and high risk projects. At the April 17, 2007 State Water Board workshop on the Draft Construction General Permit, staff acknowledged that there may need to be greater differentiation in the requirements between medium and high-risk projects in the Permit. We agree.

### Action Levels and Numeric Effluent Limitations

While an improvement in performance measures is an important goal, we question the need for both Action Levels (ALs) and Numeric Effluent Limitations (NELs) at this time. The Blue Ribbon Panel assembled by the State Water Board noted that the Board could consider phased implementation of numeric limits and action levels. A logical approach to phased implementation would be to include Action levels in this iteration of the Construction General Permit and add Numeric Effluent Limits in the next iteration of the Permit if Action Levels do not result in sufficient increases in performance. The permit should be fully consistent with the recommendations of the State Water Board Blue Ribbon Panel.

### Hydromodification

CPR is greatly concerned about the hydromodification requirements included in the Draft Permit. We do not believe that the application of hydromodification requirements is appropriate in areas such as metropolitan Los Angeles, where "streams" are mostly concrete-lined flood control channels. Furthermore, the hydromodification requirements are excessive and may lead to conflicts with hydromodification requirements in MS4 permits. If the intent of including hydromodification in the Construction General Permit is to alert permittees not covered by MS4 permits that they need to address hydromodification, then projects in areas covered by MS4 permits should be exempted from hydromodification requirements in this permit.

### Storm Forecasting

We suggest that the Board direct staff to reconsider the use of 30% probability of rain as a trigger for developing and implementing Rain Event Action Plans in the permit. The low end of the NOAA "chance" category is 30% and any rainfall that does occur is likely to be scattered. A better trigger would be 60%, the level of probability when rainfall is considered "likely."

### Advanced Treatment Trigger and Sizing

The Cities are extremely concerned about the requirements for Advanced Treatment for both municipal and private sector construction projects. We question the use of 10% by weight of a

**CPR Comment Letter on Draft General Construction Permit**

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0.02 mm particle size as a trigger for the use of Advanced Treatment Systems. If fines of 0.02 mm or less in soils are more than 10% by weight, the current Draft Permit requires dischargers to either comply with specified source control requirements or use an ATS. These alternative source control requirements specify that areas of active construction must be limited to five acres at any one time. Limiting the areas of active construction to 5 acres or less at any one time in order to avoid ATS is impractical for many projects.

In addition, the alternative source control requirements specify that stabilized construction entrances be provided and that all vehicle and foot traffic be limited to those entrances. Limiting foot traffic to only stabilized entrances is not practical, especially in a multi-building residential construction project. In our region, we have many clayey and silty soils, so adequate control of this size particle might not be reasonable nor practicable. It appears that as the Draft Permit is currently worded, ATS would be required for most construction sites in our area, including low risk sites due to the nature of our soils. A more appropriate trigger should be developed in consultation with permittees and soil scientists.

Furthermore, requiring ATS to be sized to capture and treat within 48 hours runoff from storms up to 1.5 times the 10-year 24-hour storm event is excessive. That volume is close to the volume from a 100-year storm event. In addition, it appears that back-up storage and/or a water transport system may be needed for an ATS if water becomes toxic or the system is overwhelmed during large storm events. This is not practical for small construction sites. ATS, if required, should only be required for very large construction sites.

**Municipal Project Section**

As stated above, local governments are hard pressed to secure funding for municipal projects, such as police and fire stations, libraries, senior centers and parks. We are not aware of any analysis of the likely costs of these new construction regulations, as opposed to the benefits to water quality. As the Board is aware the costs of these municipal construction projects have increased dramatically over the last five years. Local governments also have to comply with labor compensation and bidding standards that are not required in the private sector. As a result, municipal projects generally costs 30% more than comparable private sector projects. Requiring Advanced Treatment for municipal projects will only increase the funding gap experienced by most Cities. We believe that the Board should consider creating a separate section of the Permit for municipal construction projects that builds upon and improves current erosion control standards, while you direct the staff to complete a cost-benefit study. We would be pleased to work with State Board staff to suggest cost-effective improvements to the current permit.

Although CPR agrees, in theory, with the goals of this Draft Construction General Permit, we are concerned that this Draft may go too far in rigidly directing the regulated community to use specific means of compliance to achieve the performance standards. We ask that staff give serious consideration to the unintended consequences for municipalities and other permittees if the current Draft Permit were to be adopted and implemented. For instance, a 90-day public review period for new permit applications could have severe consequences of either delaying projects or asking for changes for projects that are far along or may have even been completed.

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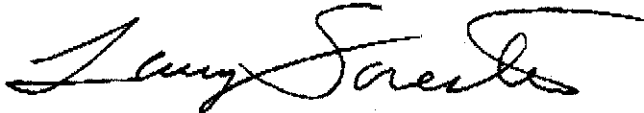
Small construction projects can often be completed within 90 days. If a public review period is necessary, it should be as short as possible. Cities typically provide public review of plans at the entitlement stage, such as subdivision maps, conditional use permits, specific plans and design review, so the proposed 90 day period is redundant in many cases.

Finally, we are concerned that the Construction General Permit may be interpreted by the Regional Boards to involve maintenance projects, including the reconstruction of streets. We respectfully request that the proposed Construction General Permit provide clear and unambiguous language that exempts street construction and maintenance projects. The existing permit states that "Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility." (Page 2). This language has been omitted in the proposed Construction General Permit.

Thank you again for the opportunity to provide these comments.

Sincerely,

COALITION FOR PRACTICAL REGULATION



Larry Forester  
Councilman, City of Signal Hill  
On Behalf of the Coalition for Practical Regulation (CPR)

cc: Steering Committee  
CPR Members  
Mr. Richard Watson  
Mr. Rich Montevideo