



DEPARTMENT
OF UTILITIES

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September 13, 2005

Via e-Mail

Bruce Fujimoto
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

**Subject: NUMERIC EFFLUENT LIMITATIONS FOR
STORMWATER DISCHARGES**

Dear Bruce:

This comment letter is submitted on behalf of the Sacramento Stormwater Quality Partnership (SSQP), which includes the County of Sacramento and the Cities of Sacramento, Rancho Cordova, Folsom, Elk Grove and Citrus Heights. These agencies are co-permittees in the Sacramento Area NPDES Municipal Stormwater Permit, issued and enforced by the Central Valley Regional Water Quality Control Board. We appreciate the opportunity to comment on the State Board's investigation of the feasibility of establishing numeric effluent limitations (NELs) for stormwater discharges. We have the following concerns and suggestions:

Statewide Stormwater Policy

The SSQP strongly supports the Boards efforts to date to develop a Statewide Stormwater Policy. One of the major challenges with existing stormwater regulations is that they have been developed, implemented and enforced on a piece meal basis, resulting in inconsistency and lack of cohesion throughout the state. Any discussion of the development of NELs outside of a Statewide Stormwater Policy will have a tendency to further exacerbate current challenges.



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Good Science

The SSQP emphasizes the need to establish any standards in a transparent, scientifically defensible manner, along with the establishment of a reasonable time frame for compliance and contingency plan for lack of compliance despite best efforts. It must be remembered that, for the most part, the technology does not currently exist, even given BAT, BCT requirements, to reduce the concentration of most pollutants in stormwater to current Basin Plan levels.

The following bullets outline some of the difficulty of establishing scientifically defensible NELs.

- The requirement of extensive, long term, consistent and coordinated monitoring.
- Challenge of different pollutants of concern for different industries.
- Cost and responsibility for funding

Iterative process

USEPA Guidance on and Congressional intent in writing the 1987 amendment to the CWA are that the approach to stormwater pollution control is to be iterative in nature. In place of NELs, it would be far more appropriate to use EPA, or some other benchmarks as goals to be met by an iterative process over a realistic time frame.

Beneficial Uses

It is counter productive to discuss establish NELs without first reviewing the appropriateness of Beneficial Use Designations of creek and channel receiving waters and wet weather Beneficial Use Designations. *Many States have not conducted in-depth analyses of appropriate uses and criteria for all water bodies but have designated general fishable/swimmable use classifications and statewide criteria on a best professional judgment basis to many waters... ..It is possible that these generally applied standards, although meeting the minimum requirements of the CWA and WQS regulation, may be inappropriate (either over or under protective) for a specific water body that has not had in-depth standards analysis. (USEPA WQS Handbook 9/15/93)*

Policy Questions

The following are questions that should be considered when thinking about implementing NELs:

- Would NELs apply if there were no beneficial use impairment in the receiving water?
- Where is the point of compliance?

- What about uncontrollable sources or stormwater from off site?
- Would municipalities be responsible for compliance of industries and other dischargers within their jurisdiction?

Municipal Perspective

Even though municipal stormwater discharge is considered a point source because it usually is finally transferred to a receiving water through a pipe, the discharge originates from a wide array of non-point sources throughout the watershed. Municipalities have limited control, outside of their own operations, over what goes into their systems. Instead of NELs, our program would be willing to accept benchmarks or goals as long as they are understood as such and compliance is achieved through the iterative process over a reasonable time frame. For some pollutants, like bacteria, there is no confidence that NELs could ever be consistently met, barring direct treatment or diversion.

Thank you for the opportunity for input to this process. Please contact me at 916-808-1434 if you have any questions about our comments.

Sincerely,



Bill Busath – Supervising Engineer