

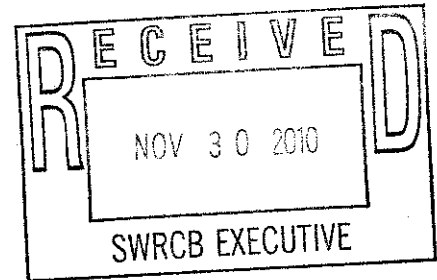
PUBLIC WORKS  
DEPARTMENT

Public Comment  
Effective Assessment Doc  
Deadline: 11/30/10 by 12 noon

CITY OF BURBANK  
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November 30, 2010

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



**Comment Letter – Effectiveness Assessment Document**

Dear Ms. Townsend:

Thank you for the opportunity to provide comments on the Draft Guidance for Assessing Effectiveness of Municipal Storm Water Programs and Permits (State Board Guidance Document).

Under AB739, Chapter 610, Statutes of 2010, the State Water Board is charged with the development of a comprehensive Effectiveness Assessment Document "for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division," and that promotes "the use of quantifiable measures for evaluating the effectiveness of municipal stormwater management programs and provides for the evaluation of, at a minimum, all of the following:

(1) Compliance with stormwater permitting requirements, including all of the following:

- (A) Inspection programs;
- (B) Construction controls;
- (C) Elimination of unlawful discharges;
- (D) Public education programs;
- (E) New development and redevelopment requirements;

(2) Reduction of pollutant loads from pollution sources;

(3) Reduction of pollutants or stream erosion due to stormwater discharge;

(4) Improvements in the quality of receiving water in accordance with water quality standards.

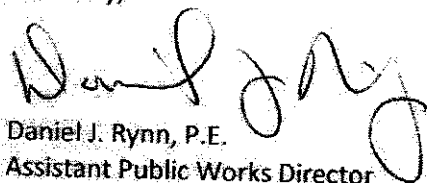
(c) The state board and the regional boards shall refer to the guidance document developed pursuant to subdivision (a) when establishing requirements in municipal stormwater programs and permits."

In short, the framework is aiming to assess the effectiveness of the Municipal Storm Separate Sewer System (MS4) program implementation as a whole, with the assessments moving from counting "outputs" (i.e., how many inspections were conducted) to looking at "outcomes" (i.e., was water quality improved?).

As you may be aware, the California State Commission on Mandates (Mandates Commission) in March 2010 found the effectiveness assessment provisions of the San Diego Permit to constitute an unfunded state mandate. We acknowledge that the Mandates Commission decision applies only to the San Diego Permit, but its potential precedent is clear. Any assertion that the San Diego decision will be overturned by the courts would be both speculative and premature since any such decision could follow the completion of the State Board Guidance Document by as much as two years. Moreover, while this or other similar decisions would not, in themselves, lessen the Water Boards' authority to require detailed assessment provisions under the California Water Code, it is extremely unlikely that the State would be willing or able to compensate permittees for conducting assessment activities. We would therefore urge that the risks of incorporating prescriptive assessment language into MS4 permits be clearly articulated to Water Board staff in the State Board Guidance Document.

We appreciate this opportunity to provide comments on the draft Guidance Document. Please feel free to contact me at (818) 238-3940 or [drynn@ci.burbank.ca.us](mailto:drynn@ci.burbank.ca.us) if you have any questions regarding these comments.

Sincerely,



Daniel J. Rynn, P.E.

Assistant Public Works Director

City of Burbank

Public Works Department