**MRP 3.0 C.4/C.5 External Work Group Meeting**
**February 11, 2020 10:00am – 12:00noon**
**DRAFT Meeting Summary**

1. **Introductions/Changes to the Agenda**
   - Introductions were made. A list of attendees are below.

| Name | Agency | 2/11/20 |
|------|--------|---------|
| Beth Baldwin | ACCWP | ✓ |
| Samantha Malanche | Berkeley | by phone |
| Michele Mancuso | Contra Costa County | ✓ |
| Kara Kelly | Oakland | ✓ |
| Mary Morse | San Jose | by phone |
| Chris Donaldson | San Jose | by phone |
| Kristin Kerr | SCVURPPP/SMCWPPP | ✓ |
| Andrew Wemmer | South San Francisco | ✓ |
| Julie Choun | Sunnyvale | ✓ |
| Michael Dunning | Union Sanitary District (on behalf of Fremont) | ✓ |
| Elyse Heilshorn | Regional Water Board | ✓ |
| Derek Beauduy | Regional Water Board | ✓ |
| Zach Rokeach | Regional Water Board | ✓ |
| Joseph Martinez | Regional Water Board | by phone |

2. Water Board Staff provided an overview of their experience and observations related to C.4 and C.5 Programs. The changes to C.4 will be minimal and the changes to C.5 will focus on RV/homeless illicit discharge issues. Urban firefighting discharge requirements will be incorporated into C.15.

3. The following Permittees provided overviews of their C.4 programs including who conducts stormwater inspections and how the facility list is created: Michele Mancuso, Contra Costa County; Andrew Wemmer, South San Francisco; and Michael Dunning, Union Sanitary District (for City of Fremont). There was discussion with all meeting attendees regarding the long standing business inspection programs (>25 years), enforcement activities and outreach materials. Water Board staff feel the larger agencies may have good programs but are worried about the smaller cities. There was discussion about the outreach material, template forms, data management systems, guidance materials and committee meetings available from the Countywide Programs to assist the smaller cities with implementation.

4. The C.4 Matrix of Water Board staff issues and perspectives from November 11th was reviewed. Water Board staff comments were generally related to the following items:
   - *Add basis for finding businesses, criteria for selecting high priority sites, BIP requirement to list entities performing inspections, plan summary*
   - *Terminology (violation, potential discharge, actual discharge)*

- *Facilities responsible for all discharges generated onsite*
- *Language consistent with IGP*
- *Additional business categories for inspection*
- *Reporting business inspection list*
- *Additional reporting requirements*

For many of the comments it was identified that the information is available in the Business Inspection Plans (BIPs), Enforcement Response Plans (ERP) and data tracking systems. The Water Board concerns may be related to implementation by individual permittees and not Permit requirements.

5. The C.5 Matrix was reviewed. Water Board staff comments were generally related to the following items:
   - *Central contact web url*
   - *Additional reporting requirements*
   - *Update MS4 maps*
   - *Mobile business source control program*

Water Board staff explained the mobile business reporting comments were related to guidance they received that they may not be allowed to ask for annual information periodically (e.g., mobile business reporting in years 2 and 4 of the permit term). Water Board staff may require annual reporting for mobile business inspections and enforcement actions and periodic, one time or upon request reporting for mobile business program discussions.

6. Water Board staff will be reviewing and discussing the matrix items internally. Water Board staff will provide a revised matrix, in a month or so. This will allow further discussions while the Water Board staff are developing MRP language.

# Attachment

Topics for discussion

**Provision C.4 Commercial and Industrial Site Controls**

| MRP Subprovision | WB Comment | Initial Municipal Response | Tentative Agreements | Next Steps | Priority (H/M/L) |
|---|---|---|---|---|---|
| | a) Ensure all polluting sites are inspected.<br>b) Improve C.4 language to assure that all sites that should be inspected are inspected and issues are corrected. | What groups of businesses does WB think are falling through the cracks? WB can review the facility lists to see the business types and the BIPs for explanation of how list is compiled. | Not a Permit issue but implementation issue for individual municipality | | |
| C.4 Industrial and Commercial Site Controls-general | Better define the universe of Industrial and Commercial Sites to inspect. | See row above. | Not a Permit issue but implementation issue for individual municipality | | |
| C.4 Industrial and Commercial Site Controls-general | Depending on who does the post-construction stormwater BMP inspections in a given municipality (e.g. env. health vs. building inspector), some businesses may fall through the cracks, on account of which businesses they prioritize. | The term "post-construction stormwater BMP inspections" typically refer to C.3.h permanent stormwater treatment systems and are not related to C.4 facility/business BMP inspections.<br><br>Who conducts C4 SW inspections is not necessarily related to how the SW Facility Inspection List is compiled. BIPs will discuss how businesses are identified for stormwater inspections. | | | |
| C.4.b (ii)(2) Business Inspection Plan | Add basis for finding businesses, and criteria for selecting high priority sites. If multiple entities or agencies inspect businesses, the BIP should address: List the agencies and entities that inspect businesses and the type of businesses they inspect. How does the Permittee identify and inspect any businesses not inspected by the listed agencies and entities? See additional detailed questions in cell below. | BIPs should already address these items. | RWB will review BIPs to see if there are deficiencies | | |
| C.4.b.ii. Business Inspection Plan | Ideas to consider: Identify potential/actual problem businesses with stormwater pollution potential (restaurants and supermarkets should probably get extra scrutiny). Submit a brief a plan summary towards the beginning of the permit term. The plan summary could be a one-time one to three paragraph plan summary of how they manage these priority business inspections. The plan summary would not need to be reported with each annual report after the first FY, unless something in it changes. Information we might ask for in the plans: | ERPs address "escalating enforcement tools" for "sites with a history of potential and/or actual non-stormwater discharges". BIPs address prioritizing inspections "using criteria such as …..potential and actual discharge history of the facility...". No need to develop a separate plan. | RWB staff may want to have an outline of the BIP in the Permit | | |
| C.4.b.ii. Business Inspection Plan | • How do you deal with your priority businesses? | Information already available in BIPs | | | |
| C.4.b.ii. Business Inspection Plan | • Who inspects them? | Information already available in BIPs | | | |
| C.4.b.ii. Business Inspection Plan | • How do you deal with those that fall between the cracks? (Sites that present a potential problem, but are not the types of businesses normally inspected.) | Who conducts C4 SW inspections is not necessarily related to how the SW Facility Inspection List is compiled. BIPs will discuss how businesses are identified for stormwater inspections. | Coordination of different entities is concern. Should be addressed in BIP. | | |
| C.4.b.ii. Business Inspection Plan | • Where and how do you find these problem sites? | Information already available in BIPs | | | |
| C.4.b.ii. Business Inspection Plan | • What are the mechanisms that you use to get these priority businesses to achieve stormwater pollution prevention? | Information already available in ERPs | | | |
| C.4.b.ii. Business Inspection Plan | • Are notices of violation issued when warranted? Are citations issued when warranted? | Information already available in ERPs | | | |
| | c) Clarify "violation". | Violation is currently not used in MRP 2.0. WB staff removed the term violation which was used in MRP 1.0. See MRP 2.0 Fact Sheet page A-52. "During the Previous Permit term, annual reports showed few violations for the corresponding number of inspections completed. This did not match with the field inspection experience of Water Board staff. Further investigation showed that some Permittees do not consider potential discharges to be violations........This Permit now requires reporting of all potential and actual non-stormwater discharges based on the enforcement levels in each Permittee's ERP, so that Water Board staff can evaluate whether Permittees are conducting appropriate follow-up." | better define potential but don't change terminology | | |

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| C.4 Industrial and Commercial Site Controls-general | Fact sheet/glossary: More clearly define "potential discharge" vs. "discharge." OR Move away from "discharge" and use exposure of materials to stormwater and BMP use and effectiveness to evaluate site compliance. Discharges can still be handled under C.5. | Keep current terms of "potential discharge" and "actual discharge". Permittee documents/training materials/inspection forms/data tracking systems incorporate these terms. These terms were introduced by WB staff in MRP 2.0 to replace "violation".<br><br>Potential discharge for C.4 is defined in Permit Fact Sheet page A-52: "Examples of potential discharges include housekeeping issues, evidence of actual nonstormwater discharges that are not ongoing during an inspection, lack of BMPs, inadequate BMPs, and inappropriate BMPs." This term could be added to the glossary if needed.<br><br>Discharges that are handled under C.5 are typically defined by how they are found and tracked and not how the discharge (actual/potential) is defined. | | | |
| C.4 Industrial and Commercial Site Controls-general | ADD: Facilities are responsible for all discharges generated onsite, including discharges generated by a third party or mobile business. It is the facility's responsibility to assure that all activities on their site or associated with their business do not contribute pollution above water quality criteria. | Do not add language to the MRP. Agree that facilities are responsible for all discharges onsite. However, municipalities want flexibility to issue enforcement actions to a third party, a facility or both. Also by adding specific language that "facilities" are responsible there may be an issue with the flexibility of enforcing on the facility property owner, business owner, business operator, etc. | can be part of outreach materials | | |
| C.4.a.ii Legal Authority, Implementation Level | "...pollution abatement at all industrial and commercial sites which may be reasonably considered to actually or potentially cause or contribute to, . . . [Alternate language consistent with IGP:] "or be a source of" pollution". | What is not working with current language? Is there any substantive reason to change other than consistency? "Cause or contribute to" is broad enough to include being a source. Potential administrative burden if ordinances/documents need to be changed for small language change. | will ask management | | |
| C.4 b (ii) 1. | Instead of: "may produce pollutants when exposed to stormwater" use "may be a source of pollutants to stormwater." This language is consistent with the state general permit. | What is not working with current language? Any substantive reason to change other than consistency. Potential administrative burden if ordinances/documents need to be changed for small language change. | will ask management | | |
| C.4.a.ii Legal Authority, Implementation Level | "BMPs at industrial and commercial facilities to address pollutant sources associated with. . .<br><br>outdoor wash areas [ADD: including washing vehicles and restaurant equipment and mats];<br><br>outdoor drainage. . ." ADD: Applicable items from list of specifics in C.3.i (1). | Programs have been addressing restaurant mat washing and vehicle washing in BMPs for more than a decade. Outdoor wash area is broad in legal authority - don't want to be specific. If needed can add these examples to the glossary for fact sheet.<br><br>C.3.c.i.1 source control requirements should not be added to the legal authority in this section. Inspectors look for these items in the field. Already required by the MRP in C.3 so to avoid duplication do not add in this Provision. | don't need to be specific | | |
| C.4.b (ii) (1)(b) | Add: restaurants,<br><br>grocery/produce/meat stores,<br><br>shopping centers/plazas/strip malls with common garbage dumpsters | Permittees are performing SW inspections at restaurants already.<br><br>Why add grocery/produce/meat stores as mandatory category? These may or may not need inspection depending on type of store (e.g. Safeway vs corner market).<br><br>Why add shopping centers/plazas/strip malls? These may already be inspected if have a business that is on the inspection list (e.g. restaurant, etc.). Those that may not need inspections, (e.g. plaza with only offices) would be complaint driven. | | | |
| C.4.b (iii) Reporting- List of Facilities | Provide a link to the facilities list or append the facilities list to the AR. Provide list of facilities in spreadsheet form upon request? (Send us a file) | Request not to include list in the AR. The list can be provided to WB upon request and is available in the BIP. Could provide the total number of facilities in AR instead. | may be acceptable to not include list in AR | | |
| C.4.d.iii. ERP, Inspections, Reporting | (2)(c) in the AR:<br><br>Number of sites with enforcement actions,<br><br>number of sites with repeat enforcement actions,<br><br>number of sites with unresolved enforcement actions, and without a compliance schedule, by 10 days or a reasonable time, from the initial inspection.<br><br>Reduce reporting for each enforcement level.<br><br>Ask for sites that did not resolve issues in a reasonable time and highest level of enforcement implemented. | WB has commented they would like to reduce reporting burden when possible. The requests are increasing the reporting burdens and systems have not been set up to track information. Reporting number of sites w/enforcement actions may be difficult depending on the sophistication of data management systems. Excel tracking templates were developed to provide the number of sites inspected and number/type of enforcement actions. More difficult to autocalculate if multiple enforcement actions given to a site.<br><br>Currently report the number of enforcement actions and number of enforcement actions corrected in a timely manner. Is it necessary to report the number of enforcement action not corrected in a timely manner?<br><br>Keep summary of number of each enforcement level. It is a greater level of effort to report individual sites that did not resolve issues in reasonable time and highest level of enforcement. If the WB is interested in site specific information Staff can request the data tracking tables. | | | |

**Provision C.4 Commercial and Industrial Site Controls**

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|---|---|---|---|---|---|
| C.4. Staff Training | ADD: C.4.e.iii Reporting (5) List any other agencies or entities performing inspections for the entity submitting the annual report form. List the number of inspectors from each agency or entity, including the entity submitting the AR. | Specify other agencies/entities performing stormwater inspections. | will work on how to define different entities | | |

**Provision C.5 Illicit Discharge Detection and Elimination**

| MRP Subprovision | Topic | Initial Municipal Response | Tentative Agreements | Next Steps | Priority (H/M/L) |
|---|---|---|---|---|---|
| | Recreational Vehicles – Homeless population waste issues in general (Yes, this is a big complicated issue, especially with RVs not associated with designated parking areas.)<br><br>proposal to package this discussion with the C.5 discussion | Separate Workgroup. BASMAA has provided contact information for municipal staff interested in attending this Workgroup. | | | |
| | Firefighting Foam BMPs | Separate Workgroup. BASMAA has provided contact information for municipal staff interested in attending this Workgroup. | will be in C.15 | | |
| C.5.c. Spill dumping, complaint response | Add a required central contact web url for the public and Permittee staff to report spills, dumping and stormwater and IDDE complaints. That is, remove words "as feasible" in C.5.c.ii(1) and "if used" in C.5.c.ii(2). C.5.c.ii(2) - change to: "website shall be updated within 60 days of any contact or other information changes." Or other appropriate language. | Too prescriptive for the different levels of internal IT capabilities and budget of agencies. Some permittees have an App (e.g. See It, Click It, Fix It) that may not be considered a web url. | intent was just to have information available on website; instead of 60 days say when feasible | | |
| C.5.d.i Tracking and Case Follow up | SWRCB Order 2006-0003-DWQ, [ADD]" Waste Discharge Requirements for Sanitary Sewer Systems" to clarify the statement. | Agree | | | |
| C.5.d.iii | Change number resolved in a timely manner to Commonly implemented response actions, BMPs, and effectiveness. For example, the response table can include check boxes for commonly used BMPs for different IDDE situations and actions. | WB has commented they would like to reduce reporting burden when possible. The requests are increasing the reporting burdens. Implemented response actions and BMPs are not information required to be tracked in C.5.d.ii. This would be a reporting burden to begin tracking this information and summarize. Tracking table is available to WB upon request.<br><br>Generally specific BMPs are not provided by an IDDE inspector. Illicit discharge material can inform the type of outreach material provided. For example, if residential wash water reached a storm drain the inspector would tell the Responsible Party (RP) that wash water is not allowed to go to the storm drain but the outreach material provided would have options such as wash car on landscape surface, take car to car wash, etc. The type of illicit discharge is in the tracking table and available upon request. Note the "major types of discharges/complaints" was reported in MRP 1.0 but removed by WB staff for MRP 2.0 | will review | | |
| C.5.f MS4 Maps | Update maps 1x/permit term, e.g. by year 4. Provide a link to the maps made publicly available or explain how maps are made publicly available. | MS4 maps were created by the Oakland Museum, that provide detailed watershed features for many bay area municipalities, including the location of municipal storm drains that are 24 inches or more in diameter. http://explore.museumca.org/creeks/<br><br>Updated maps will not be as user friendly as the creek maps created by the Oakland Museum. | purpose of providing maps to public and meeting 40 CFR requirements vs asset management (where are all storm drian maps) | | |
| C.5.e. Control of Mobile Sources | Identifying and tracking mobile businesses is a significant challenge. Many are small businesses run out of a residence or operating in multiple cities. These businesses may obtain business licenses in one city or none. Maybe present an alternate approach: Instead of or in addition to directly permitting and inspecting the mobile businesses, the sites /municipalities that hire the mobile businesses are responsible for discharges from their property/facility (some municipalities already take this approach). | What concerns does the Water Board have?<br><br>This is enforcement through IDDE Program. Permittees may already have the approach of sites/municipalities hiring mobile businesses are responsible. (See discussion in C.4 comments). | | | |
| | What do permittees see as reasonable next steps? | Continue with current programs through IDDE Programs and continue outreach efforts. | | | |
| C.5.a, b. Legal authority, Enforcement Plan – Related to mobile businesses | Take minimal punitive actions during the MRP 3.0 permit term for mobile businesses so they are not afraid to register. Increase enforcement next permit term, after businesses are accustomed to being regulated. For example, no fines for a first offense, (unless major discharge of a hazmat non stormwater discharge). Just require registration and provide BMP info. Low level local fines at second or third offense. | Municipalities currently follow their ERP for all businesses, including mobile businesses, and issue appropriate enforcement actions. | clarify ERP to say who is held responsible for mobile discharges (i.e. facility can also be held responsible) | | |
| C.5.c.iii. Tracking, reporting | Change the dates. Twice per permit term (years 2 and 4) submit summary of Response actions, staff/department responsible for response actions, BMPs used. This can be a link or an attachment. Retain current annual reporting on this. | Does this assume the same information will be requested with new reporting dates? | may not be allowed to ask for Annual information periodically for NPDES permit; so ask for bean counting annually and more of a program discussion periodically or "upon request" | | |

**Provision C.5 Illicit Discharge Detection and Elimination**

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| C.5.e.ii (1) c Mobile sources, Inventory | Consider county level registration/licensed for mobile businesses operating within Region 2. The goal is to develop a reasonably complete inventory of mobile businesses. Permittees could submit lists to WB as Excel files. WB compiles and sends back to Permittees as a regional file. Permittees update the inventory, send the update to the county. The county submits the updated file with the AR each year, or 2x during the permit term. OR see above – The site owner/operator is also responsible for pollution from discharges from mobile business actions on a site. | Permittees already provide inventories (may be submitted with Countywide Program Annual Reports). | | | |
| C.5.e.ii (1)(d), and C.5.e.iii Outreach to mobile businesses | Increase outreach to mobile businesses encouraging registration with the county and distributing BMP information. Add outreach requirements to C.7? | Do not add outreach requirement to C.7. Keep all outreach requirements associated with Mobile Businesses in C.5 | | | |
| | AND/OR include site owners as responsible parties. | | | | |
| mobile businesses | Consider placing mobile businesses requirement in C.4? | Due to their nature, mobile business inspections and enforcement are more suited to C.5 IDDE Program. | | | |
| mobile businesses | idea from dale - have them place a standard placard (spelling?) on the side of mobile businesses | | | | |