

To: **Stormwater Program Coordinators  
BASMAA Phase II Municipal NPDES Permittees (from Marin,  
Napa, Sonoma and Solano Counties)**

From: Terri Fashing, Chair, BASMAA Phase II Subcommittee

Subject: Operations and Maintenance Verification Plan to comply with  
E.12.h. Operation and Maintenance of Post-Construction  
Stormwater Management Measures and E.12.i. Post-Construction  
Best Management Practice Condition Assessment

Date: 2 September 2016

### **Summary**

Follow the instructions in this plan to comply with sections E.12.h and E.12.i of the 2013 Phase II Municipal Stormwater Permit. For background information on the compliance approach detailed in this plan, see letter dated July 29, 2016, from the Bay Area Stormwater Management Agencies Association (BASMAA) to Keith Lichten (Regional Water Quality Control Board (Regional Water Board)) and the Regional Water Board response letter dated August 23, 2016 (Attachments).

The Phase II Municipal Stormwater Permit Provision E.12.h. and E.12.i. requires each municipal permittee to implement an Operations & Maintenance (O&M) Verification Program for stormwater treatment and hydromodification management facilities on Regulated Projects. This includes an inventory and assessment of the maintenance condition of these same facilities.

This memorandum<sup>1</sup> summarizes the actions municipalities will implement to assure compliance with the two sub-provisions. The specifics of the actions listed are consistent with the compliance approach incorporated in the BASMAA Post-Construction Manual and with the direction provided by Regional Water Board staff in their August 23, 2016 response to the BASMAA Phase II Committee.

### **Compliance Plan**

*Legally Enforceable Mechanism.*

For each Regulated Project:

- The Stormwater Control Plan must state that the applicant accepts responsibility for interim O&M of the facilities until responsibility is formally transferred to a subsequent owner.
- The applicant must be required to prepare and submit an Operation and Maintenance Plan as directed and described in Chapter 5 of the BASMAA Post-Construction Manual.
- The municipality and the site owner must execute an O&M Agreement that “runs with the land” and will be binding on future owners.

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<sup>1</sup> This memo is based on a memo prepared by Dan Cloak Environmental Consulting for the Marin County Stormwater Pollution Prevention Program and for the Napa countywide Stormwater Pollution Prevention Program in June 2016.

- The municipality must implement their Enforcement Response Plan to ensure proper maintenance of BMPs and submittal of self-certification annual report where they are required.

Each municipality should have a policy or policies describing the timing of these steps relative to the development review process.

- The Stormwater Control Plan should be submitted with, and reviewed prior to approval of, any tentative map, site plan, grading and drainage plan, landscaping plan, or other application for project entitlements.
- Review and approval of the Operation and Maintenance Plan and execution of the O&M Agreement should be complete prior to building permits being made final and certificates of occupancy being issued. Some municipalities choose to implement these steps earlier in the process.

*Database or Equivalent Tabular Format*

Each municipality must maintain a list of approved Regulated Projects and **must share the list with the local mosquito and vector control agency** on an annual basis before the rainy season. The following must be tabulated:

- Name and address of the Regulated Project;
- Specific description of the location (or a map showing the location) of the installed treatment system(s) and hydromodification control(s) (if any);
- Date(s) that the treatment system(s) and hydromodification controls (if any) is/are installed;
- Description of the type and size of the treatment system(s) and hydromodification control(s) (if any) installed;
- Responsible operator(s) of each treatment system and hydromodification control (if any);
- Dates and findings of inspections (routine and follow-up) of the treatment system(s) and hydromodification control(s) (if any); and
- Any problems and corrective or enforcement actions taken.

It is recommended that the **O&M Plans, O&M Agreements, Stormwater Control Plans, and other project documentation be organized and filed so that this information and more detailed information about any specific project can be accessed readily if needed.**

The purpose of the list (or “database or equivalent tabular format”) is to organize and schedule inspections.

*Routine and follow-up inspections*

Permittees will determine the maintenance condition of structural post-construction BMPs with either:

1. A *self-certification program*, where permittees require annual reports from authorized parties demonstrating proper maintenance and operations of all structural post-construction treatment facilities. At a minimum, the self-certification annual reports must include field observations to determine the

effectiveness of the structural post construction BMPs in removing pollutants of concern from stormwater runoff and/or reducing Hydromodification impacts as designed, and a long-term plan for conducting regular maintenance of BMPs, including the frequency of such maintenance; **or**,

2. *A municipal inspection program*, where permittees inspect at a minimum frequency of all structural post-construction treatment facilities once every five years, with an average of 20% and a minimum of 15% to be inspected each year.

For proprietary facilities, Permittees will follow the manufacturer's recommendations for inspection and maintenance. Where it makes fiscal sense to do so, Permittees will use a contractor recommended or approved by the manufacturer.

For bioretention facilities, inspection consists of visual observations. Inspections can be done during dry weather, although it is helpful to observe performance during and following runoff events when possible.

**Attachments:**

Checklist for Evaluating Municipal O&M Verification Programs

BASMAA Operation and Maintenance Certification Program Letter to the San Francisco Bay Regional Water Quality Control Board, dated July 29, 2016

San Francisco Bay Regional Water Quality Control Board Letter on Compliance Approach to Phase II Small MS4 Permit Provisions E.12.h. and E.12.i, dated August 23, 2016

## **Checklist for Evaluating Municipal O&M Verification Programs**

### *Legally Enforceable Mechanism*

- Stormwater Control Plans are reviewed to ensure they include a commitment to interim O&M of newly constructed facilities
- Applicants for development approval are required to submit a Stormwater Facilities O&M Plan per Chapter 5 in the BASMAA Post-Construction Manual
- Applicants for development approval execute a Stormwater Facilities O&M Agreement
- Municipality has policies and procedures that integrate these requirements with the process of development review

### *Database or Equivalent Tabular Format*

- Municipality has a list of all Regulated Projects that have been approved
- The list tabulates the information required by the permit
- Detailed documentation of each Regulated Project can be accessed readily
- The list is provided to the local mosquito and vector control agency annually before the rainy season

### *Routine and follow-up inspections*

- For Municipal Inspection Programs: Municipality has an inspection frequency at a minimum of all facilities once every five years, with an average of 20% and minimum of 15% of facilities to be inspected each year
- For Self-Certification Program: Municipality manages and enforces an annual reporting program consistent with provision E.12.i of the permit.
- Staff assignments and budgets are adequate to conduct the inspections or to manage a self-certification annual reporting program
- Inspections are conducted and recorded in the database or equivalent tabular format