

# The Draft Phase II Permit- The CASQA Phase II Perspective Summary of Key Issues

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# Presentation Outline

- Process
- Overarching Issues in CASQA's comment letter
  - Cumulative Impact
  - Redundancy
  - 6 Minimum Control Measures/ Unfunded Mandates
  - Timeline
  - Maximum Extent Practicable
  - Retrofit Requirements
  - Draft or Incomplete Areas
- Next Steps

# Background

- Existing Permit
  - Focuses on 6 MCM
- Key Differences
  - SWMP no longer required
  - More specificity
  - Tiered requirements; some differentiation between Traditional and Non-Traditional

# Background

- Key Differences, cont.
  - Industrial/Commercial
  - Monitoring
  - Trash Reduction
  - Watershed-based post construction
  - TMDL Implementation Requirements
  - SMARTS Reporting

# Process

- Phase II Subcommittee
  - Participants
  - Subgroups based on technical expertise
- Subcommittee comments reviewed by CASQA BOD/EPC  
July, 2011
- Comments submitted on August 8, 2011
- SWRCB received [insert number] comment letters

# Comment #1: Cumulative Impact

- Every provision ramped up
  - Bar set high
  - Beyond Phase I requirements in some cases
- Economics
  - Existing Phase IIs estimating costs to be 3 times current program costs
- Staffing – hiring freezes
- Reporting
- Redundancy
- Recommendation
  - Bar we can jump over
  - Prioritize and phase-in requirements

# Comment #1: Cumulative Impact

<b>Areas for Permit Renewal Prioritization (2010-2017 Permit Term)</b>	<b>Requirements to be Phased-In Over Several Future Permit Terms</b>
<b>Pollution Prevention/ Good Housekeeping</b>	
Require <u>new</u> flood mgt facilities to incorporate water quality and/or habitat enhancement features, if practicable	Retrofit existing flood mgt facilities to incorporate water quality and/or habitat enhancement features, if practicable
<b>Industrial/ Commercial</b>	
Inventory of commercial and industrial facilities	Establish inspection priorities and implement a program to inspect commercial and industrial facilities
<b>Post-Construction</b>	
Conduct a desktop watershed characterization	Refine watershed characterization with field assessment

# Comment #1: Cumulative Impact

<b>Areas for Permit Renewal Prioritization (2010-2017 Permit Term)</b>	<b>Requirements to be Phased-In Over Several Future Permit Terms</b>
<b>Receiving Water Monitoring</b>	
If receiving water monitoring requirements are not removed as an alternative to those requirements, provide option of contributing to SWAMP or join a regional monitoring program	Permittee-specific receiving water monitoring based on water quality priorities
<b>Program Effectiveness</b>	
Establish mechanisms for assessing program effectiveness per the CASQA PEA Guidance Manual	Identification of retrofit opportunities



# Comment #2: Redundancy

- Construction General Permit
- Industrial General Permit
- Economics/Costs
  - Businesses/developers charged more than once
  - State fees

# Comment #3: Beyond 6 MCM

- EPA has established 6 MCM as MEP for Phase II
- EPA is currently in the midst of a federal rulemaking process
- 40 CFR Section 122.34(e)(2), states, EPA strongly recommends that until it completes its current the evaluation, “no additional requirements beyond the minimum control measures be imposed on regulated small MS4s without the agreement of the operator of the affected small MS4”, except in limited cases

# Comment #3: Beyond MCM

- Monitoring
- Industrial/Commercial
- Trash Reduction

# Comment #4: Timeline

- Timeline is not realistic for achieving requirements
  - Example: Inventory Commercial/Industrial within the first year
- Need time to plan, prepare and budget for new requirements
  - Obtain necessary resources such as funding and staff – which requires educating decision-makers
  - Formation of regional groups

# Comment #5: Maximum Extent Practicable (MEP)

- NPDES Program est. on MEP standard
- On one hand, audit have indicated need for more specific provisions
- On the other, flexibility needed to address Phase IIs across the state

# Comment #5: MEP

- Example: IDDE requirement to identify 20% as high priority
- No apparent nexus with water quality improvement
- Recommendation: allow Phase IIs to identify high priority based on pre-defined criteria
  - Better utilization of scarce resources where real problems exist

# Comment #6: Retrofit Requirements

- Retrofitting is mentioned or implied in several places
  - Industrial/Commercial: Implement BMPs
  - Pollution Prevention: Retrofit of flood management facilities
  - PEA: Identify stormwater retrofit opportunities
- Phase Is are just now doing preliminary assessments of retrofit opportunities
- Area where Phase IIs could benefit greatly from future Phase I lessons learned
- Should only be considered in context of approved TMDLs

# Comment #7: Draft/Incomplete Areas

- Permit references several draft documents, including:
  - California Ocean Plan – currently in draft
  - Lake Tahoe BMP Rapid Assessment Methodology – not fully vetted
  - State Water Board Effectiveness Assessment Guidance – currently in draft
  - Attachment G: TMDL Requirements – incomplete at this time
- These documents need to go through the public process and be adopted



# Next Steps

- Presentations that follow will provide more detail on Industrial/Commercial, Post-Construction, & Monitoring
- Timeline
  - Comments received by SWRCB - August 8
  - New Draft to be issued by SWRCB – Target Nov, 2011
  - Short Comment Period – Planned at 30 days (will require quick turnaround)
  - Public Hearing – Late 2011, Early 2012
  - Adoption Date: Early Spring, 2012

# Next Steps

- Actions
  - Continue to work with SWRCB Staff
    - Rebecca and Jerry met with SWRCB staff to discuss comments earlier in month
    - Subcommittee to meet as needed to provide technical analysis and feedback
    - If you are interested in participating in the Phase II Subcommittee, contact either:  
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