

MS4 Permit Questionnaire/Audit



**STRATEGIC PLAN AND TIMELINE FOR
DOCUMENTING MS4 PERMIT COMPLIANCE**

Permit Assessment Questionnaire



- Addresses Permittee interpretations of MS4 permit that differ from Co Department of Public Health & Environment, Water Quality Control Division (the Division)
- In lieu of 'audit'
- Consists of questions to get at differing interpretations, with a 6 month window to correct
 - ❖ All "YES" answers certify that a program is compliant with the MS4 Permit requirements
 - ❖ A "NO" answer requires action on part of Permittee to correct or submit a "Notice of Non-compliance" to Division
- SEMSWA has to resolve one major issue in Program 5, will revise minor administrative issues in program documents, and will clarify and augment enforcement capabilities
- A Plan within the Timeline will get us to all "YES" answers

Getting to YES

• Strategic Plan

- ❖ **Board Resolution #1:**
Prohibit Illegal Discharges
- ❖ **Board Resolution #2:**
Authority to Enforce
- ❖ **Board Resolution #3:**
Establish Enforcement Penalties
- ❖ **Board Resolution #4:**
Revise Stormwater Management Manual
- ❖ **Series of Enforcement Implementation Procedures**
Regarding when to use, how to use, escalation of penalties

• Proposed Timeline

- ❖ **Board Study Session:** July 25th Board Meeting
- ❖ **Staff Finalize Resolutions:** August
- ❖ **Board Consideration/Possible Adoption of Resolutions:** August 22nd Board Meeting and Public Hearing
- ❖ **Staff Finalize Implementation documents:** September
- ❖ **Board Study Session on Implementation documents :** September 26th Hearing
- ❖ **Submit Questionnaire to State:** October 12th

Resolution No. 1

• Prohibit Illegal Discharges

- ❖ Identifies what is considered 'stormwater' and allowed to be discharged, which then provides a definition for 'non-stormwater', albeit illegal to discharge to an MS4 system
- ❖ Matches the Division's Allowable list and therefore can change with the Division's list without Board action
- ❖ Provides the basis for answering the question: "Where does it say I have to stop discharging?"
- ❖ Provides the foundation for the following Resolutions that authorize SEMSWA 'power to enforce' (Res #2) and what those enforcement tools are (Res #3)

Resolution No. 2

- **Authority to Enforce**

- ❖ Previously through City Ordinances that referenced Program Manuals: IDDE (P3); GESC (P4); Stormwater Management (SMM) (P5)
- ❖ IIGA with City anticipated delegation of enforcement to SEMSWA with transfer of MS4 Permit from City to SEMSWA
- ❖ SEMSWA adopted GESC Manual and SMM to establish standards and criteria to meet permit requirements
- ❖ SEMSWA's IDDE Manual outlines internal procedures for a program to detect and eliminate illegal discharges to meet permit requirements

Resolution No. 2 continued

- **Resulting in:**

- ❖ City Ordinances referencing GESC and SMM no longer required to enforce permit requirements
- ❖ IDDE Ordinance STILL necessary for full capability of enforcement, including 'hammer' and 'abatement' (cleanup) assistance from Code Enforcement and 'escalation of enforcement' assistance from Municipal Court, as appropriate
- ❖ SEMSWA staff to work with City Legal and staff regarding revision of IDDE Ordinance to meet Questionnaire elements using 'model' ordinance (already vetted with other MS4s)
- ❖ Need for establishment of allowable penalties for violations to standards and criteria, and if discharge prohibited and not eliminated (Res #3)

Resolution No. 3

- **Establishment of Enforcement Penalties**

- ❖ For IDDE (P3), GESC (P4) and Permanent WQ BMPs (P5)
- ❖ Establishes legal steps the Board authorizes SEMSWA staff to take to meet the intent of Resolution No. 2
- ❖ Specific tools SEMSWA can use to enforce standards and criteria in GESC Manual and SMM, and prohibition of illegal discharges (Res #1) as investigated per the IDDE Manual
- ❖ Specific enough to enable us to enforce our programs: “Who and what gives you the authority to shut down my project?”
- ❖ But not specific on enforcement *implementation* procedures, like escalation scenarios, which may need to be adjusted for field conditions; these contained in Enforcement Implementation documents

Resolution #4

- **Revision to Stormwater Management Manual**

- Division has determined that there ‘are no exemptions to water quality’
- Manual contains variances/exemptions for implementing permanent water quality BMPs for 2.5 acre lot residential development, some roadway construction, and other cases that the agencies determine that WQ is not necessary
- SEMSWA staff have not been granting exemptions, rather taking an approach that requires a discussion of ‘enhancement’ methods as simple as routing flows over grass to get infiltration of pollutants: “every site can get some WQ”
- We will reference a “Water Quality Matrix” in the Resolution and explain the ‘enhancement’ approach rather than an exemption approach

Timetable



- Meetings with City re IDDE Ordinance: on-going with goal of having Ordinance considered for adoption by October 1st
- August 22nd: Board Meeting/Public Hearing to consider possible adoption of Resolutions 1, 2, 3 and 4
- September 26th: Board Study Session on Enforcement Implementation Procedure Documents (no action)
- October 12th: Questionnaire submitted to Division
- QUESTIONS?