

Scope: Construction Program Evaluation

I. Purpose

The purpose of this evaluation is to determine whether County is meeting requirements of the NPDES General Permit MCM 4.0 and if improvements can be made to better implement the permit requirements and overall process to protect water quality from construction activities in the unincorporated areas.

The evaluation would occur during FY 2007-08. The evaluation will include a final report submitted to the RWQCB as part of the Annual Report for Year 2 of the General Permit.

Recommendations in the final report will be addressed during Year 3 (FY08-09). The recommendations in the final report will outline suggestions for implementation, including schedule and responsibilities.

II. Background

An evaluation of the County's construction program is a Year 2 NPDES General Permit requirement. This requirement is addressed in the Storm Water Management Program, approved by the RWQCB in July 2006.

Specifically, the Storm Water Management Program states in Section 4.3 on page 4-14:

Evaluate Grading Ordinance Efficacy:

- 1) Compare the effectiveness of revised Grading Ordinance to the requirements of the construction minimum control measure and evaluate effectiveness. This will be based upon feedback from County inspectors, RWQCB staff, construction contractors, project owners and the public. This review will include records of violation cases and enforcement activities (year 2).*
- 2) If it is determined that changes need to be made to better comply with this minimum control measure, staff will make recommendations to the County Board of Supervisors to modify or revise Grading Ordinance as necessary so that it meets or exceeds all of the requirements in the General Permit (year 3).*

And in Section 4.3 pg 4-16:

Evaluate Land Use Permit Program Efficacy

- 1) Compare the effectiveness of existing zoning ordinance, policies, and procedures pursuant to the requirements of the construction minimum control measure and evaluate effectiveness (year 2).*
- 2) If it is determined that changes need to be made to better comply with this minimum control measure, then the relevant ordinance, policy, procedures, or*

standard conditions will be modified or developed as necessary so that they meet or exceed all of the requirements in the General Permit (year 3).

The *construction minimum control measure* requirements are defined in the NPDES General Permit D(2)(d) (page 10). These are:

- 1) Ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions, or other effective mechanisms, to ensure compliance, to the extent allowable under State, or local law;
- 2) Requirements for construction site operators to implement appropriate erosion and sediment control BMPs;
- 3) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- 4) Procedures for site plan review which incorporate consideration of potential water quality impacts;
- 5) Procedures for receipt and consideration of information submitted by the public; and
- 6) Procedures for site inspection and enforcement of control measures.

III. Scope

The scope outlines the steps to be used in this evaluation, based upon the Grading Ordinance and practices of Building & Safety and Development Review.

A. Grading Ordinance

The County's Grading Ordinance itself satisfies requirement (1) through (6) above..."Ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions, or other effective mechanisms, to ensure compliance, to the extent allowable under State, or local law." However, this should be described and expanded upon in the evaluation.

Erosion and Sediment Control Plan. Requirements (2) through (4) are all addressed through the Erosion and Sediment Control Plan. However, this requirement should be evaluated as to whether the plan requirements are adequate and most importantly, the actual field application of those requirements are adequate through inspection and enforcement procedures.

For example, questions that would be appropriate to address during the evaluation may include:

- Do we make submittal requirements available so that contractors know what to include on their ESCP to address both storm and non-storm water discharges?
- What is the ESCP review process prior to approval?
- Should/are the ESCPs signed by contractor or engineer, ie. self-certification process?
- How successful is monitoring and enforcement?

- Is our education and outreach adequate? For example, some communities have an established education/certification program, where contractors who successfully complete the course get a “green card” or onto some sort of approved list, which indicates their understanding of County construction BMPs and thereby minimizes the amount of time spent by inspectors onsite (i.e., less enforcement and follow-up) and improving the quality of construction site conditions overall.
- How do other municipalities address compliance? For example, the City of Santa Maria collects an erosion/sediment control bond to ensure compliance. If contractor fails to adequately install/maintain BMPs, the bond is used by the City to abate problems on as-needed basis.
- Is better training needed for staff or public?

B&S Practice. Requirement (5) “Procedures for receipt and consideration of information submitted by the public” is addressed through B&S practice.

Appropriate questions to address may include:

- Is there a standard approach for tracking complaints unique to the water quality concerns?
- What is the protocol for addressing, i.e. how soon must staff respond? Is complainant called back?
- How are records kept and maintained?

It may be helpful to compare our construction program to other successful programs of similar-sized or larger communities to determine whether some of their ideas could be used in Santa Barbara, saving our staff time and money. For example, Ventura County has a standard set of plans in AutoCAD showing required design standards to be used for all erosion and sediment control submittals pertaining to water quality.

B. Land Use Permitting

The County’s discretionary permit review process provides two levels of authority for regulating discharges from construction activities – Grading Ordinance and Land Use Permitting. In cases where both a grading permit and a discretionary permit apply, there are two divisions of the Planning and Development Department, Building and Safety (enforcing the Grading Ordinance described above) and Development Review (enforcing the Zoning Ordinance), responsible for monitoring and enforcement of construction-related BMPs.

The discretionary review process compliments the Grading Ordinance by providing additional conditioning, monitoring, and enforcement authority through the Zoning Ordinance, while providing opportunity to protect construction site runoff where the Grading Ordinance does not apply. For example, some projects may not require a grading permit (i.e., redevelopment that does not meet the 50 cubic yard threshold) but would be subject to a land use permit.

Areas to address during evaluation include:

- Clear authority under Zoning Ordinance / Comp Plan implementation guidelines,
- Environmental Thresholds and Guidelines Manual Standard Conditions of Approval/Mitigation Measures
- CEQA guidelines
- Monitoring and Enforcement
- Violations
- Enforcement actions: correction notice, stop work order, collection of bonds, and establishing a time frame for developer to take corrective steps to resume work.
- Training / awareness by planning staff
- Training / awareness by public

C Interviews and TAC Oversight

The evaluation will include interviews with County B&S staff and P&D staff, interviews with RWQCB staff, interviews with construction contractors, project owners and the public. A reasonable representation of the latter will be asked to participate as a Technical Advisory Committee. This would include construction reps from SB Contractors Association, Home Builders Association Central Coast, Santa Maria Valley Contractors Association., and environmental reps such as Channelkeeper who have expressed concern over the County's effectiveness in implementing the construction program.

Interviews with staff may include the following types of questions:

- Are there any suggestions to improve the process and outcome?

Interviews with RWQCB staff may consist of the following types of questions:

- How are other regulated MS4s complying successfully with MCM 4.0?
- What experiences have RWQCB staff had working on construction enforcement violations in SB County (under the NPDES Construction General Permit) that would be relevant to this evaluation?

Interviews with construction contractors/environmental reps may include:

- What are areas you would like to see improvement?
- How does doing construction work in the County of SB differ from other cities, and other counties?
- Are recommendations in the report reasonable and appropriate?

E. Accela and Recordkeeping

Evaluation tools also include inspection records (Accela), especially those cases with violation and follow-up activities. These should be examined to help define effectiveness of program. For example, is more data is required upon permit intake? Or is data to define construction program adequate but not reflected in Accela reports?

E. Report

The evaluation would conclude with a report and workshop. The report will describe the recommendations in terms of importance, urgency, and level of effort, identifying constraints, if any, to implement (ie., need additional staff time, need to revise Grading Ordinance, need budget to pay for additional training, etc.). The workshop will present the findings of the report, and highlight contractor requirements for compliance with the Grading Permit. (note: there will be an October workshop on the NPDES Construction General Permit, sponsored by the RWQCB.)

Implementation of recommendations shall occur within FY 08/09 or sooner. If this schedule cannot be accomplished, then an explanation and estimated schedule should be identified.