



# **Overview of the Program's Model Business Inspection Plan and Enforcement Response Plan**

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# Municipal Regional Permits

1. SFB Order No. R2-2009-0074, NPDES Permit No. CAS612008
  - Adopted October 14, 2009
2. CV Order No. R2-2010-0102, NPDES Permit No. CAS083313
  - Adopted September 23, 2010

# C.4: Industrial and Commercial Site Controls

# Legal Authority

- Permittees shall have legal authority to oversee, inspect, and require compliance with pollution abatement at all industrial and commercial sites.
- Violations shall be corrected prior to next rain event or within 10 business days after the violations are noted. If more than 10 days are needed then a rationale shall be given.

# Inspection Plans

- Permittees shall develop and implement an inspection plan that includes a total number and list of industrial/commercial facilities requiring inspection and a process for prioritizing inspections and frequency of inspections.
- List of industrial/commercial facilities shall include all facilities that could reasonably be considered to cause or contribute to pollution of stormwater runoff.
- A list of types of businesses and their processes is provided in the MRP and shall be included in the inspection plans.

# Inspection Frequency and Reporting

- Permittees shall establish appropriate inspection frequencies for facilities based on their potential to pollute stormwater runoff.
- A database will be created for all facilities identified in the inspection plan.

# Enforcement Response Plan (ERP)

- The ERP shall contain timeframes for corrections of problems given the violation scenario and the enforcement tools that will be used.
- All violations must be corrected in a timely manner with the goal of correcting them before the next rain event but no longer than 10 business days after the violations are discovered. A rationale shall be given for violations requiring more than 10 days to correct.
- Permittees shall develop and implement an ERP.



# Model Business Inspection Plan

# History of Model Business Inspection Plan

- First drafted in 1999
- Revised in 2004 and 2005
- Last adopted version of the Model Plan was by the Management Committee in 2005 (recommended adoption by the Commercial Industrial Ad Hoc Workgroup)
- Program updating Model Plan for 2011

# Overview of Model Business Inspection Plan

- Inspection program organization and goals
- The Program's Ad hoc Industrial/Commercial Advisory Workgroup
- Implementation of the Inspection Plan
- Identified/Targeted Business Types & Inspection Frequency
- Inspection Types
- Enforcement
- Inspector Training
- Industry Outreach
- Annual Report forms and Reporting Protocol

# Recent Review by Water Board Staff

- City of Martinez and Town of Danville issued NOVs in January 2011 based on Audits during Summer of 2010
- Generally findings were the Business Inspection Plans weren't updated
- Municipalities are strongly recommended to updated plans when needed and review plans annually

# Proposed Revisions to the Model Business Inspection Plan

- Omit Ad Hoc Workgroup, enforcement activities (to be included in the ERP), and annual report forms
- Update all stormwater regulation and permit information with the new Municipal Regional Permit language
- Inclusion of the Municipal Operations Committee (MOC) and Appendix for the master facility database

# Model Enforcement Response Plan (ERP)

# History of Model ERP

- First draft of ERP in February 2010 in response to MRP adoption in December 2009 (due date for ERP was April 1, 2010)
- Second draft completed in March 2010 in response to MOC comments, Development Committee comments, and legal review by Attorney subcommittee
- Third and final draft finalized in March 2010 and approved by the Management Committee as a model

# Overview of Model ERP

- Purpose of ERP
- Inclusion of Municipal Code and stormwater regulatory requirements in the MRP for enforcement
- Legal Authority for inspections
- Levels of enforcement, penalties and required record keeping
- Flowchart for enforcement response



# Overview of Levels of Enforcement

- Level I: Verbal Warning/Warning Notice/Education
  - Issued if pollutant exposure, evidence of historical pollutant discharge, or a stated business practice that has potential to pollute is found
- Level II: Notice of Violation
  - Issued if an active non-stormwater pollutant discharge is found
- Level III: Formal Enforcement (Administrative Penalties, Cost Recovery)
  - Issued if a gross violation cannot be resolved through the warning or NOV enforcement actions
- Level IV: Legal Action and/or Referral to State and Federal Agencies
  - Conducted if inadequate measures taken by business do not satisfy Level III enforcement

# Recent Review by Water Board Staff

- Re-inspection expectations not adequate
- Non-compliance follow up (resolving violations) not adequate
- ERP too general, not specific for non-compliance issues
- Words used in flowchart not used in narrative (definitions needed for clarification)
- Reference to Business Inspection Plan and master facility list not included

# Proposed Revisions to the Model ERP

- Include non-compliance follow up protocol in Level I for property owners in violation
- Defining Minor and Major Violation (potential to pollute versus an active discharge)
- Insertion of Model Business Plan language for inspection frequency and business facility list
- Follow up language for Level IV enforcement

# Summary

- Inspection Programs including the legal authority to stop and enforce pollutant exposure/discharges are required as Provision C.4 in the MRP.
- Business Inspection Plan and an ERP are mandatory documents to be reviewed and updated regularly.
- The Water Board can audit your inspection program at any time.
- The Program is currently revising/updating the Model Business Inspection Plan and ERP in response to recent NOVs. They will be completed in spring 2011.
- Model Plans will be available to the co-permittees after approval of the Management Committee.
- Municipalities are required to modify the Model Plans to their individual inspection programs and keep them updated.

# Questions