

STANDARD PROVISIONS

A. General Requirements

1. The Permittees shall comply with all provisions and requirements of this Order.
2. Should a Permittee discover that it failed to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or correct information.
3. This Order includes Monitoring and Reporting Program No. R1-2008-0106, which is incorporated into this Order and is enforceable.

B. Public Review

1. All documents submitted to the Regional Water Board in compliance with the terms and conditions of this Order shall be made available to members of the public pursuant to the Freedom of Information Act (5 U.S.C. § 552), as amended, and the Public Records Act (California Government Code § 6250 et seq.).
2. All documents submitted to the Regional Water Board Executive Officer for approval shall be made available to the public on the Regional Water Board's website for a 30-day period to allow for public comment.

C. Duty to Comply [40 Code of Federal Regulations (CFR) 122.41(a)]

1. Each Permittee must comply with all of the terms, requirements, and conditions of this Order. Any violation of this order constitutes a violation of the Clean Water Act (CWA), its regulations and the California Water Code (CWC), and is grounds for enforcement action, Order termination, Order revocation and reissuance, denial of an application for reissuance, or a combination thereof [40 CFR 122.41(a), CWC § 13261, 13263, 13323 13300, 13301, 13304, 13340, 13350, 13381,13385].
2. A copy of this Order shall be maintained by each Permittee so as to be available during normal business hours to Permittee employees, Regional Water Board staff and members of the public.
3. Any discharge of wastes at any point(s) other than specifically described in this Order is prohibited, and constitutes a violation of the Order.

D. Duty to Mitigate [40 CFR 122.41 (d)]

Each Permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

E. Inspection and Entry; Investigations; Responsibilities [40 CFR 122.41(i), CWC § 13225 and § 13267]

1. The Regional Water Board, U.S. EPA, and other authorized representatives shall be allowed:
 - (a) Entry upon premises where a regulated facility is located or conducted, or where records are kept under conditions of this Order;
 - (b) Access to copy any records, at reasonable times that are kept under the conditions of this Order;
 - (c) To inspect at reasonable times any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
 - (d) To photograph, sample, and monitor at reasonable times for the purpose of assuring compliance with this Order, or as otherwise authorized by the CWA and the CWC;
 - (e) To review any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement to investigate the quality of any waters of the State within its region; and,
 - (f) To require as necessary any state or local agency to investigate and report on any technical factors involved in water quality control or to obtain and submit analyses of water.

F. Proper Operation and Maintenance [40 CFR 122.41 (e), CWC § 13263(f)]

1. The Permittees shall at all times properly operate and maintain all facilities and systems of treatment (and related appurtenances) that are installed or used by the Permittees to achieve compliance with this Order. Proper operation and maintenance includes:
 - (a) adequate laboratory controls; and
 - (b) appropriate quality assurance procedures.
2. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Permittee only when necessary to achieve compliance with the conditions of this Order.

G. Signatory Requirements [40 CFR 122.41(k) & 122.22]

Except as otherwise provided in this Order, all applications, reports, or information submitted to the Regional Water Board shall be signed by the Director of Public

Works, City Engineer, or authorized designee and certified as set forth in 40 CFR 122.22.

H. Reopener and Modification [40 CFR 122.41(f) & 122.62]

1. This Order may only be modified, revoked, or reissued, prior to the expiration date, by the Regional Water Board, in accordance with the procedural requirements of the CWC and CCR Title 23 for the issuance of waste discharge requirements, 40 CFR 122.62, and upon prior notice and hearing, to:
 - (a) Address changed conditions identified in the required reports or other sources deemed significant by the Regional Water Board;
 - (b) Incorporate applicable requirements or statewide water quality control plans adopted by the State Board or amendments to the Basin Plan, including TMDLs;
 - (c) Comply with any applicable requirements, guidelines, and/ or regulations issued or approved pursuant to CWA § 402(p); and/ or,
 - (d) Consider any other federal, or state laws or regulations that became effective after adoption of this Order.
2. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
 - (a) Violation of any term or condition contained in this Order;
 - (b) Obtaining this Order by misrepresentation, or failure to disclose all relevant facts; or,
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
3. The filing of a request by the Permittees for a modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
4. This Order may be modified to make corrections or allowances for changes in the permitted activity listed in this section, following the procedures at 40 CFR 122.63, if processed as a minor modification. Minor modifications may only:
 - (a) Correct typographical errors; or
 - (b) Require more frequent monitoring or reporting by the Permittee.

I. Severability

1. The provisions of this Order are severable; and if any provision of this Order or the application of any provision of this Order to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Order shall not be affected.

J. Duty to Provide Information [40 CFR 122.41(h)]

1. The Permittees shall furnish, within a reasonable time, any information the Regional Water Board or U.S. EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order.
2. The Permittees shall also furnish to the Regional Water Board, upon request, copies of records required to be kept by this Order.

K. Twenty-Four Hour Reporting [40 CFR 122.41(l)(6)]

1. The Permittees shall report to the Regional Water Board any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time any Permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
2. The Regional Water Board may waive the required written report on a case-by-case basis.

L. Bypass [40 CFR 122.41(m)]

1. Bypass (the intentional diversion of waste streams from any portion of a treatment facility) is prohibited. The Regional Water Board may take enforcement action against Permittees for bypass unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.);
 - (b) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that could occur during normal periods of equipment downtime or preventive maintenance;
 - (c) The Permittee submitted a notice at least ten days in advance of the need for a bypass to the Regional Water Board; or,

- (d) Permittees may allow a bypass to occur that does not cause effluent limitations to be exceeded, but only if it is for essential maintenance to assure efficient operation. In such a case, the above bypass conditions are not applicable. The Permittee shall submit notice of an unanticipated bypass as required.

M. Upset [40 CFR 122.41(n)]

1. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. A Permittee that wishes to establish the affirmative defense of an upset in an action brought for non compliance shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and that the Permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was being properly operated by the time of the upset;
 - (c) The Permittee submitted notice of the upset as required; and,
 - (d) The Permittee complied with any remedial measures required.
3. No determination made before an action for noncompliance, such as during administrative review of claims that non-compliance was caused by an upset, is final administrative action subject to judicial review.
4. In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

N. Property Rights [40 CFR 122.41(g)]

This Order does not convey any property rights of any sort, or any exclusive privilege.

O. Need to Halt or Reduce Activity not a Defense [40 CFR 122.41(c)]

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.

P. Rescission of Board Order

Regional Water Board Order No. R1-2003-0062 is hereby rescinded.

Q. Order Expiration and Reapplication

1. This Order expires on December 11, 2013.
2. If a new order is not adopted by December 11, 2013, then the Permittees shall continue to implement the requirements of this Order until a new one is adopted.
3. In accordance with Title 23, Chapter 3, Subchapter 9 of the California Administrative Code, the Permittees shall file a report of waste discharge no later than 180 days before the expiration date of this Order as application for reissuance of this permit and waste discharge requirements. The application shall be accompanied by a Storm Water Management Program (SWMP), and a summary of all available water quality data for the discharge and receiving waters, including conventional pollutant data from at least the most recent three years, and toxic pollutant data from at least the most recent five years, in the discharge and receiving water. Additionally, the Permittees shall include the final results of any studies that may have a bearing on the limits and requirements of the next permit.

R. MS4 Annual Reporting Program [40 CFR 122.42(c)]

1. The Annual Program Reporting shall include the following information:
 - (a) *Municipal separate storm sewer systems.*

The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Director under 40 CFR 122.26(a)(1)(v) of this part must submit an annual report by the anniversary of the date of the issuance of the permit for such system. The report shall include:

 - (1) The status of implementing the components of the storm water management program that are established as permit conditions;
 - (2) Proposed changes to the SWMP that are established as permit condition. Such proposed changes shall be consistent with 40 CFR 122.26(d)(2)(iii);
 - (3) Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under 40 CFR 122.26(d)(2)(iv) and (d)(2)(v);
 - (4) A summary of data, including monitoring data that is accumulated throughout the reporting year;
 - (5) Annual expenditures and budget for year following each annual report;
 - (6) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
 - (7) Identification of water quality improvements or degradation.