

ATTACHMENT C
ORDER R5-2013-XXXX
NPDES PERMIT CA0083500
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT, FRESNO COUNTY, CITIES OF
FRESNO AND CLOVIS, AND CALIFORNIA STATE UNIVERSITY FRESNO
MUNICIPAL SEPARATE STORM SEWER SYSTEM
FRESNO COUNTY

Adverse Impact means a detrimental effect upon water quality or beneficial uses caused by a discharge or loading of a pollutant or pollutants.

Anti-degradation Policy means the *Statement of Policy with Respect to Maintaining High Quality Water in California* (State Board Resolution No. 68-16), which protects surface and ground waters from degradation. In particular, this policy protects water bodies where existing quality is higher than that necessary for the protection of beneficial uses including the protection of fish and wildlife propagation and recreation on and in the water.

Applicable Standards and Limitations means all state, interstate, and federal standards and limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA), including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, and pretreatment standards under CWA Sections 301, 302, 303, 304, 306, 307, 308, 403 and 404.

Authorized Discharge means any discharge that is authorized pursuant to a National Pollutant Discharge Elimination System (NPDES) permit or meets the conditions set forth in this Order.

Automotive Service Facilities means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 5511, 7532-7534, or 7536-7539.

Basin Plan means either the *Water Quality Control Plan for the Sacramento River Basin and the San Joaquin River Basin, Fourth Edition (Revised October 2011)* or the *Water Quality Control Plan for the Tulare Lake Basin, Second Edition (Revised January 2004)*.

Best Management Practices (BMPs) means methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges including storm water. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution producing activities.

Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technologies (BCT) or Best Practicable Treatment or Control (BPTC): is a requirement of State Water Resources Control Board Resolution 68-16 - "Statement of Policy with Respect to Maintaining High Quality of Waters in California" (referred to as the "Antidegradation Policy"). BPTC is the treatment or control of a discharge necessary to assure that, "(a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained." Pollution is defined in CWC Section 13050(I). In general, an exceedance of a water quality objective in the Basin Plan constitutes "pollution".

Commercial Development means any development on private land that is not heavy industrial or residential. The category includes, but is not limited to hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, car wash facilities, mini-malls, business complexes, shopping malls, hotels, office buildings, public warehouses, and light industrial complexes.

Construction means clearing, grading, excavating, etc. that results in soil disturbance. Construction includes structure teardown. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility; emergency construction activities required to immediately protect public health and safety; interior remodeling with no outside exposure of construction material or construction waste to storm water; mechanical permit work; or sign permit work.

Control means to minimize, reduce, eliminate, or prohibit by technological, legal, contractual or other means, the discharge of pollutants from an activity or activities.

Dechlorinated/Debrominated Swimming Pool Discharge means swimming pool discharges which have no measurable chlorine or bromine and do not contain any detergents, wastes, or additional chemicals not typically found in swimming pool water. The term does not include swimming pool filter backwash.

Development means any construction, rehabilitation, redevelopment or reconstruction of any public or private residential project (whether single-family, multi-unit or planned unit development); industrial, commercial, retail and other non-residential projects, including public agency projects; or mass grading for future construction. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Director means the Director of a municipality and Person(s) designated by and under the Director's instruction and supervision.

Discharge means when used without qualification the discharge of a pollutant.

Discharger means any agency named in this Order as being responsible for permit conditions within its jurisdiction.

Discharging Directly means outflow from a drainage conveyance system that is composed entirely or predominantly of flows from the subject property, development, subdivision, or industrial facility, and not commingled with the flows from adjacent lands.

Discharge of a Pollutant means any addition of any pollutant or combination of pollutants to waters of the State or waters of the United States from any point source or, any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation. The term discharge includes additions of pollutants into waters of the State and waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works.

Disturbed Area means an area that is altered as a result of clearing, grading, and/or excavation.

Environmentally Sensitive Area (ESA) means an area defined by the California Department of Fish and Game (DFG), Environmentally Sensitive Areas Program, as an area that contains an important example of California's biological diversity. The most current ESA maps, reports, and descriptions can be downloaded from the DFG website at <ftp://maphost.dfg.ca.gov/outgoing/whdab/sna/>. These areas are identified using the following biological criteria only, irrespective of any administrative or jurisdictional considerations:

- a. Areas supporting extremely rare species or habitats;
- b. Areas supporting associations or concentrations of rare species or habitats; and
- c. Areas exhibiting the best examples of rare species and habitats in the state.

General Construction Permit means the general NPDES permit adopted by the State Board which authorizes the discharge of storm water from construction activities under certain conditions.

General Industrial Permit means the general NPDES permit adopted by the State Board which authorizes the discharge of storm water from certain industrial activities under certain conditions.

Hydromodification – means the change in the natural watershed hydrologic processes and runoff characteristics (i.e., interception, infiltration, overland flow, interflow and groundwater flow) caused by urbanization or other land use changes that result in increased stream flows and sediment transport. In addition, alteration of stream and river channels, installation of dams and water impoundments, and excessive stream bank and shoreline erosion are also considered hydromodification, due to their disruption of natural watershed hydrologic processes.

Illicit Connection means any man-made conveyance that is connected to the storm drain system without a permit, excluding roof drains and other similar type connections. Examples include channels, pipelines, conduits, inlets, or outlets that are connected directly to the storm drain system.

Illicit Discharge means any discharge to the storm drain system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. The term illicit discharge includes all non storm-water discharges except discharges pursuant to an NPDES permit, discharges that are identified in **Discharge Prohibitions** of this Order, and discharges authorized by the Regional Board.

Illicit Disposal means any disposal, either intentionally or unintentionally, of materials or wastes that can pollute storm water.

Industrial/Commercial Facility means any facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, and any facility involved and/or used in providing professional and nonprofessional services. This category of facilities includes, but is not limited to, any facility defined by the SIC Code. Facility ownership (federal, state, municipal, private) and profit motive of the facility are not factors in this definition.

Infiltration means the downward entry of water into the surface of the soil.

Inspection means entry and the conduct of an on-site review of a facility and its operations, at reasonable times, to determine compliance with specific municipal or other legal requirements. The steps involved in performing an inspection, include, but are not limited to:

- a. Pre-inspection documentation research;
- b. Request for entry;
- c. Interview of facility personnel;
- d. Facility walk-through.
- e. Visual observation of the condition of facility premises;
- f. Examination and copying of records as required;
- g. Sample collection if necessary or required;

- h. Exit conference to discuss preliminary evaluation; and,
- i. Report preparation, and if appropriate, recommendations for coming into compliance.

In the case of restaurants, a Discharger may conduct an inspection from the curbside, provided that such curbside inspection provides the Discharger with adequate information to determine an operator's compliance with BMPs that must be implemented per requirements of this Order and the SWMP.

Local SWPPP means the Storm Water Pollution Prevention Plan required by the local agency for a project that disturbs one or more acres of land.

Low Impact Development (LID) – A storm water management and land development strategy that emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions.

Maximum Extent Practicable (MEP) – The technology-based standard established by Congress in CWA section 402(p)(3)(B)(iii) that operators of MS4s must meet. Technologybased standards establish the level of pollutant reductions that dischargers must achieve; typically by treatment or by a combination of source control and treatment control BMPs. MEP generally emphasizes pollution prevention and source control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense). MEP considers economics and is generally, but not necessarily, less stringent than BAT. A definition for MEP is not provided either in the statute or in the regulations. Instead the definition of MEP is dynamic and will be defined by the following process over time: Municipalities propose their definition of MEP by way of their storm water quality management programs (SWQMP). The Dischargers' total collective and individual activities conducted pursuant to the storm water management programs (SWQMP) becomes their proposal for MEP as it applies both to their overall effort, as well as to specific activities (e.g., MEP for street sweeping, or MEP for MS4 maintenance). In the absence of a proposal acceptable to the Central Valley Water Board, the Central Valley Water Board defines MEP. In a memo dated February 11, 1993, entitled "*Definition of Maximum Extent Practicable*," Elizabeth Jennings, Senior Staff Counsel, SWRCB addressed the achievement of the MEP standard as follows:

"To achieve the MEP standard, municipalities must employ whatever Best Management Practices (BMPs) are technically feasible (i.e., are likely to be effective) and are not cost prohibitive. The major emphasis is on technical feasibility. Reducing pollutants to the MEP means choosing effective BMPs, and rejecting applicable BMPs only where other effective BMPs will serve the same purpose, or the BMPs would not be technically feasible, or the cost would be

prohibitive. In selecting BMPs to achieve the MEP standard, the following factors may be useful to consider:

- a. Effectiveness: Will the BMPs address a pollutant (or pollutant source) of concern?*
- b. Regulatory Compliance: Is the BMP in compliance with storm water regulations as well as other environmental regulations?*
- c. Public Acceptance: Does the BMP have public support?*
- d. Cost: Will the cost of implementing the BMP have a reasonable relationship to the pollution control benefits to be achieved?*
- e. Technical Feasibility: Is the BMP technically feasible considering soils, geography, water resources, etc?*

The final determination regarding whether a municipality has reduced pollutants to the maximum extent practicable can only be made by the Regional or State Water Boards, and not by the municipal discharger. If a municipality reviews a lengthy menu of BMPs and chooses to select only a few of the least expensive, it is likely that MEP has not been met. On the other hand, if a municipal discharger employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit derived, it would have met the standard. Where a choice may be made between two BMPs that should provide generally comparable effectiveness, the discharger may choose the least expensive alternative and exclude the more expensive BMP. However, it would not be acceptable either to reject all BMPs that would address a pollutant source, or to pick a BMP base solely on cost, which would be clearly less effective. In selecting BMPs the municipality must make a serious attempt to comply and practical solutions may not be lightly rejected. In any case, the burden would be on the municipal discharger to show compliance with its permit. After selecting a menu of BMPs, it is the responsibility of the discharger to ensure that all BMPs are implemented.”

Method Detection Limit (MDL) means the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B.

Minimum Level (ML) is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

Municipal Separate Storm Sewer System (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, alleys, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned by a State,

city, county, town or other public body, that is designed or used for collecting or conveying storm water, which is not a combined sewer, and which is not part of a publicly owned treatment works, and which discharges to waters of the State and/or waters of the United States.

National Pollutant Discharge Elimination System (NPDES) means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA §307, 402, 318, and 405.

Natural Drainage Systems means unlined or unimproved (not engineered) creeks, streams, rivers or similar waterways.

New Development means land disturbing activities; structural development, including construction or installation of a building or structure, creation of impervious surfaces; and land subdivision.

Non-Storm Water Discharge means any discharge to a storm drain that is not composed entirely of storm water.

Nuisance means anything that meets all of the following requirements: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.; (3) occurs during, or as a result of, the treatment or disposal of wastes.

Parking Lot means land area or facility for the parking or storage of motor vehicles used for businesses, commerce, industry, or personal use, with a lot size of 5,000 square feet or more of surface area, or with 25 or more parking spaces.

Pollutants means those substances defined in CWA §502(6) (33.U.S.C.§1362(6)), and incorporated by reference into California Water Code §13373.

Potable Water Distribution Systems Releases means sources of flows from drinking water storage, supply and distribution systems including flows from system failures, pressure releases, system maintenance, distribution line testing, fire hydrant flow testing; and flushing and dewatering of pipes, reservoirs, vaults, and minor non-invasive well maintenance activities not involving chemical addition(s). It does not include wastewater discharges from activities that occur at wellheads, such as well construction, well development (i.e., aquifer pumping tests, well purging, etc.), or major well maintenance.

Project means all development, redevelopment, and land disturbing activities. The term is not limited to "Project" as defined under CEQA (Pub. Resources Code §21065).

Rain Event means any rain event greater than 0.1 inch in 24 hours except where specifically stated otherwise.

Receiving Waters means all surface water bodies in the Central Valley Region that are identified in the Basin Plan.

Receiving Water Limitations (RWLs) - Waste discharge requirements issued by the Regional Board typically include both: (1) "Effluent Limitations" (or "Discharge Limitations") that specify the technology-based or water-quality-based effluent limitations; and (2) "Receiving Water Limitations" that specify the water quality objectives in the Basin Plan as well as any other limitations necessary to attain those objectives. In summary, the "Receiving Water Limitations" provision is the provision used to implement the requirement of CWA section 301(b)(1)(C) that NPDES permits must include any more stringent limitations necessary to meet water quality standards.

Redevelopment means land-disturbing activity that result in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

Regional Administrator means the Regional Administrator of the Regional Office of the U.S. Environmental Protection Agency (EPA) or the authorized representative of the Regional Administrator.

Reporting Level (RL)

The RL is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the RL depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied in the computation of the RL.

Restaurant means a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812).

Retail Gasoline Outlet means any facility engaged in selling gasoline and lubricating oils.

Runoff means any runoff including storm water and dry weather flows from a drainage area that reaches a receiving water body or subsurface.

Screening means using proactive methods to identify illicit connections through a continuously narrowing process. The methods may include: performing baseline monitoring of open channels, conducting special investigations using a prioritization approach, analyzing maintenance records for catch basin and storm drain cleaning and operation, and verifying all permitted connections into the storm drains. Special investigation techniques may include: dye testing, visual inspection, smoke testing, flow monitoring, infrared, aerial and thermal photography, and remote control camera operation.

Sidewalk Rinsing means pressure washing of paved pedestrian walkways with average water usage of 0.006 gallon per square foot, with no cleaning agents, and properly disposing of all debris collected.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Source Control BMP means any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent storm water pollution by reducing the potential for contamination at the source of pollution.

State Storm Water Pollution Prevention Plan (State SWPPP) means a plan, as required by a State General Permit, identifying potential pollutant sources and describing the design, placement and implementation of BMPs, to effectively prevent non-storm water discharges and reduce pollutants in storm water discharges during activities covered by the General Permit.

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm Water Discharge Associated with Industrial Activity means industrial discharge as defined in 40 CFR 122.26(b)(14)

Structural BMP means any structural facility designed and constructed to mitigate the adverse impacts of storm water and urban runoff pollution (e.g. canopy, structural enclosure). The category may include both Treatment Control BMPs and Source Control BMPs.

SUSMP or Development Standards means Standard Urban Stormwater Mitigation Plans. They are standards which the Discharger must develop and implement for new development and significant redevelopment projects to control the discharge of storm water pollutants in post construction storm water.

Total Maximum Daily Load (TMDL) means the sum of the individual waste load allocations for point sources and load allocations for nonpoint sources and natural background.

Treatment means the application of engineered systems that use physical, chemical, or biological processes to remove pollutants. Such processes include, but are not limited to, filtration, gravity settling, media absorption, biodegradation, biological uptake, chemical oxidation and UV radiation.

Treatment Control BMP means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media absorption or any other physical, biological, or chemical process.

U.S. EPA Phase I Facilities means facilities in specified industrial categories that are required to obtain an NPDES permit for storm water discharges, as required by 40 CFR 122.26(c). These categories include facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards (40 CFR N); manufacturing facilities; oil and gas/mining facilities; hazardous waste treatment, storage, or disposal facilities; landfills, land application sites, and open dumps; recycling facilities; steam electric power generating facilities; transportation facilities sewage of wastewater treatment works; and light manufacturing facilities.

Vehicle Maintenance/Material Storage Facilities/Corporation Yards means any Permittee owned or operated facility or portion thereof that conducts industrial activity, operates equipment, handles materials, and provides services similar to Federal Phase I facilities; performs fleet vehicle service/maintenance on ten or more vehicles per day including repair, maintenance, washing, and fueling; performs maintenance and/or repair of heavy industrial machinery/equipment ; and stores chemicals, raw materials, or

waste materials in quantities that require a hazardous materials business plan or a Spill Prevention, Control, and Countermeasures (SPCC) plan.

Water Quality Standards and Water Quality Objectives means water quality criteria contained in the Basin Plan, the National Toxics Rule, the California Toxics Rule, and other State or federally approved surface water quality plans. Such plans are used by the Central Valley Water Board to regulate all discharges, including storm water discharges.

Waters of the State means any surface water or groundwater, including saline waters, within boundaries of the State.

Waters of the United States means:

- a. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b. All interstate waters, including interstate wetlands;
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 1. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 3. Which are used or could be used for industrial purposes by industries in interstate commerce;
- d. All impoundments of waters otherwise defined as waters of the United States under this definition;
- e. Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- f. The territorial sea; and
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraph (a) through (f) of this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.22(m), which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the

purposes of the CWA, the final authority regarding CWA jurisdiction remains with U.S. EPA.

Wet Season means the calendar period beginning October 1 through April 15.