

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
San Diego Region**

Errata Sheet

**Tentative Order No. R9-2015-0001
NPDES No. CAS0109266**

**AN ORDER AMENDING ORDER R9-2013-0001, NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
AND WASTE DISCHARGE REQUIREMENTS FOR
DISCHARGES FROM THE MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
DRAINING THE WATERSHEDS WITHIN THE SAN DIEGO REGION**

The following changes are proposed to the revised version of Tentative Order No. R9-2015-0001 and its Attachments included as Supporting Document No.1 for Item No. 10 on the San Diego Water Board February 11, 2015 Board Meeting Agenda.

1. Tentative Order No. R9-2015-0001 Errata

Findings

a) Revise Finding 7. *Regional Water Board Agreement* as follows:

“Both the Santa Ana Water Board and the San Diego Water Board Phase I MS4 permits for Orange County Copermittees, including Cities, require amendments to make the designations effective. To avoid gaps or duplication in regulation for the Cities, the agreement, dated ~~January XX, 2015~~ February 10, 2015, is effective on the later effective date of this Order or the Santa Ana Water Board’s reissuance (Tentative Order No. R8-2015- 0001)”

b) Delete Finding 15 on Prior Lawful Approval and renumber subsequent findings appropriately.

c) Delete Finding 16.g. language related to Prior Lawful Approval.

2. Attachment No. 1 to Tentative Order No. R9-2015-0001 Errata

Order No. R9-2013-0001, Findings

a) Revise Finding 29. *Regional Water Board Designation* to correct the date of the agreement as follows:

“...The Santa Ana Water Board and the San Diego Water Board have entered into an agreement dated ~~January XX, 2015~~ February 10, 2015, whereby the

Cities of Laguna Woods and Laguna Hills are largely regulated by the San Diego Water Board under this Order, including those portions of the Cities of Laguna Woods and Laguna Hills not within the San Diego Water Board's jurisdiction, upon the effective date of this Order or Santa Ana Water Board Order No. R8-2015-0001, whichever is later..."

Order No. R9-2013-0001, Provision B.1 Watershed Management Areas

b) Revise Footnote 1 to Table B.1 to correct the date of the agreement as follows:

"By agreement dated ~~January XX, 2015~~ February 10, 2015, pursuant to Water Code section 13228, the Phase I MS4 discharges within the jurisdiction of the City of Laguna Hills and the City of Laguna Woods located in the Santa Ana Region are regulated by San Diego Water Board Order No. R9-2013-0001 as amended by Order No. R9-2015-0001, upon the later effective date of Order No. R9-2015-0001 or Santa Ana Water Board Tentative Order No. R8-2015-0001..."

c) Revise Footnote 2 to Table B.1 to correct the date of the agreement as follows:

"...By agreement dated ~~January XX, 2015~~ February 10, 2015, pursuant to Water Code section 13228, Phase I MS4 discharges within the City of Lake Forest located within the San Diego Water Board Region are regulated by the Santa Ana Water Board Order No. R8-2015-0001 (NPDES No. CAS618030) upon the later effective date of this Order or Santa Ana Water Board Tentative Order No. R8-2015-0001..."

Order No. R9-2013-0001, Provision E.3.e(1)(b)

d) Delete proposed Provision E.3.e(1)(b) language defining Prior Lawful Approval, and renumber subsequent provisions appropriately.

3. Attachment No. 2 to Tentative Order No. R9-2015-0001 Errata

Order No. R9-2013-0001, Attachment F, Fact Sheet, Section I, Fact Sheet Format

a) Revise the following language on page F-3 of the Fact Sheet:

" b. Designate the San Diego Water Board to regulate all Phase I MS4 discharges within the jurisdiction of the Cities of Laguna Woods and Laguna Hills and agree to the designation of the Santa Ana Water Board to regulate all Phase I MS4 discharges within the jurisdiction of the City of Lake Forest, subject to the terms of the February 10, 2015 agreement between San Diego Water Board and the Santa Ana Water Board described in Finding 29 of this Order, upon the later effective date of Order No. R9-2015-0001 or Order No. R8-2015-0001 (superseding Order No. R8-2009-0030);.."

b) Delete the following proposed language on page F-4 of the Fact Sheet:

~~g. — Include additional language that clarifies the term “prior lawful approval” for the implementation of appropriate structural BMP requirements to Priority Development Projects.~~

Order No. R9-2013-0001, Attachment F, Fact Sheet, Section II, Contact Information, Copermittees

c) Revise the language associated with the asterisk on the City of Lake Forest bullet on page F-6 of the Fact Sheet (green highlight) as follows:

Orange County Copermittees

▪ City of Lake Forest*

“* While not listed in the above table, the City of Lake Forest remains a Copermittee under this Order until the later effective date of this Order or Santa Ana Water Board Tentative Order No. R8-2015-0001. Thereafter, the City of Lake Forest will no longer be considered a Copermittee under this Order because its Phase I MS4 discharges will be regulated by the Santa Ana Water Board pursuant to Water Code section 13328 designation. The requirements of this Order that apply to the City of Lake Forest for the duration of this Order, consistent with the Water Code section 13228 agreement dated ~~January XX, 2015~~ February 10, 2015, are described in Finding 29 and Footnote 2 to Table B-1.”

Order No. R9-2013-0001, Attachment F, Fact Sheet, Section VIII, Provision B., Water Quality Improvement Plan, section B.1 Watershed Management Areas

d) Revise language on page F-49 of the Fact Sheet as follows:

“...the San Diego Water Board and the Santa Ana Water Board have entered into an agreement dated ~~January XX, 2015~~ February 10, 2015, whereby the San Diego Water Board is designated to regulate Phase I MS4 discharges within the jurisdiction of the Cities of Laguna Woods and Laguna Hills including areas in the Santa Region upon the later effective date of this Order or Tentative Order No. R8-2015-0001...”

e) Revise language on page F-50 of the Fact Sheet as follows:

“...In an effort to address these concerns, the San Diego Water Board and the Santa Ana Water Board have entered into an agreement dated ~~January XX, 2015~~ February 10, 2015, whereby the Santa Ana Water Board is designated to regulate Phase I MS4 discharges within the jurisdiction of the City of Lake Forest within the

San Diego Region upon the later date of this Order or Santa Ana Water Board Tentative Order No. R8-2015-0001...”

**Order No. R9-2013-0001, Attachment F, Fact Sheet, Section VIII,
Provision E., Jurisdictional Runoff Management Programs, section E.3,
Development Planning**

f) Delete the following proposed language on Fact Sheet pages F-106 and F-107:

~~“...Provision E.3.e.(1) provides clarification regarding the meaning of the term “prior lawful approval” used in this Order. Clarification about how the San Diego Water Board intends the term to be interpreted is reasonable and appropriate and will provide guidance and certainty about the permit requirement for the Copermitees, the land development community, and the general public.~~

~~Provision E.3.e.(1) requires Copermitees to implement the land development requirements of Provision E.3 for projects that have not received prior lawful approval from the Copermitee by the effective date of the BMP Design Manual pursuant to Provision E.3.d. For projects that have received prior lawful approval from the Copermitee by the effective date of the BMP Design Manual, then the Copermitee may allow previous land development requirements to apply. For private development projects, prior lawful approval is a development approval or construction permit that complies with the Priority Development Project requirements of the Fourth Term MS4 permits (Order Nos. R9-2007-0001 for San Diego County, R9-2009-0002 for Orange County, and R9-2010-0016 for Riverside County), and includes the design of the storm water drainage system for the project in its entirety as accepted by the Copermitee. Alternatively, prior lawful approval is a development approval or construction permit that confers a vested right for a Priority Development Project to proceed under storm water structural BMP requirements of prior MS4 permits. If a Copermitee confers prior lawful approval to a Priority Development Project based on one of the two aforementioned conditions, then the Copermitee must ensure that 1) any subsequent project approvals must be issued within 5 years of the effective date of the BMP Design Manual, and 2) BMP installation under subsequent approvals must remain in substantial conformity with the design of the storm water drainage system included in the initial approval.~~

~~For public projects, prior approval allowing implementation of Fourth Term MS4 Permit structural BMP requirements in lieu of the requirements of this Order is acceptable if the storm water drainage system for the project, in its entirety, has been stamped by the City or County Engineer by the effective date of the BMP Design Manual....”~~

~~The San Diego Water Board recognizes that Copermitees will need to determine whether or not a project has prior lawful approval for purposes of implementing~~

February 11, 2015

Item No. 10

Errata Sheet

~~the requirements of Provision E.3 of this Order based on the circumstances of each project. Nevertheless, the San Diego Water Board expects each Copermittee to require the implementation of Provision E.3 of this Order wherever it can lawfully do so. Some projects will have received prior lawful approval by the effective date of the BMP Design Manual and hence the requirements of the Fourth Term MS4 permits will apply to those projects. The San Diego Water Board expects that very few Priority Development Projects, if any, will be allowed to implement BMP requirements from earlier term MS4 permits. In cases where BMP requirements from the Fourth Term (or earlier) MS4 permits govern the structural BMP design requirements of a Priority Development Project, the San Diego Water Board expects the Copermittees to be able to demonstrate, in a programmatic audit or other means, that a project has prior lawful approval within the meaning of Provision E.3.e.(1) of this Order. In any event, the San Diego Water Board expects the Copermittees to only approve Priority Development Projects that have adequate structural BMPs that are protective of water quality.~~