

Draft Permit Attachment B:
Standard Provisions of the Order

STANDARD PROVISIONS

A. General Requirements

1. The Co-Permittees shall comply with all provisions and requirements of this Order.
2. Should a Co-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. R1-2009-0050, 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 Co-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, 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), Water Code §§ 13261, 13263, 13323 13300, 13301, 13304, 13340, 13350, 13381,13385].
2. A copy of this Order shall be maintained by each Co-Permittee so as to be available during normal business hours to Co-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)]

1. Each Co-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), Water Code §§ 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 Water Code;
 - (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), Water Code § 13263(f)]

1. The Co-Permittees shall at all times properly operate and maintain all facilities and systems of treatment that are installed or used by the Co-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 Co-Permittee only when necessary to achieve compliance with the conditions of this Order.

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

1. 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 Water Code and Title 23 of the California Code of Regulations 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 Water Board or amendments to the Basin Plan, including total maximum daily loads (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 Co-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. For purposes of this Order, minor modifications may only:
 - (a) Correct typographical errors; or
 - (b) Require more frequent monitoring or reporting by the Co-Permittees.

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 Co-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 Co-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 Co-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 Co-Permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the Co-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. Property Rights [40 CFR 122.41(g)]

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

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

1. It shall not be a defense for a Co-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.

N. Rescission of Board Order

1. Regional Water Board Order No. R1-2003-0062 is hereby rescinded, except for purposes of enforcement.

O. Order Expiration and Reapplication

1. This Order expires on October 1, 2014.
2. If a new order is not adopted by October 1, 2014, then the Co-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 Code of Regulations, the Co-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 Co-Permittees shall include the final results of any studies that may have a bearing on the limits and requirements of the next permit.

P. Retention of Records

1. The Co-Permittees shall retain records of all monitoring information, including all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least five (5) years from the date of the sample, measurement, report or application.

Q. 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
 - (1) The operator of a large or medium MS4 or an MS4 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:
 - (A) The status of implementing the components of the SWMP that are established as permit conditions;

- (B) 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);
- (C) 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);
- (D) A summary of data, including monitoring data that is accumulated throughout the reporting year;
- (E) Annual expenditures and budget for year following each annual report;
- (F) A summary describing the number and nature of enforcement actions, inspections, and public education programs; and
- (G) Identification of water quality improvements or degradation.