

## **Item 7: Municipal Regional Stormwater NPDES Permit Appendix B: Proposed Significant Changes**

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### **Proposed Significant Changes in the Tentative Order to Reissue Municipal Regional Stormwater NPDES Permit No. CAS612008**

This document provides a summary of significant changes from the current Municipal Regional Stormwater Permit, Order No. R2-2015-0049 (as amended), in the Tentative Order to reissue the Permit. Changes are summarized below by Permit Provision.

#### **Provision C.1. Compliance with Discharge Prohibitions and Receiving Water Limitations**

- Updated to add linkage to provisions with new TMDL implementation requirements including Provision C.14 for the San Francisco Bay Beaches Bacteria TMDL and Pillar Point Harbor Beaches and Venice Beach Bacteria TMDL and Provision C.18 for the Pescadero-Butano Creeks Sediment TMDL. There is also an added linkage to proposed requirements in Provision C,14.a for the cities of Mountain View and Sunnyvale for their discharges that are causing or contributing to exceedances of bacteria water quality objectives in Stevens Creek and Sunnyvale East Channel, water bodies without bacteria TMDLs.

#### **Provision C.2. Municipal Operations**

- C.2.a to C.2.c: Requires submission of standard operating procedures (SOPs) once during the Permit term for Street and Road Repair and Maintenance, Sidewalk/Plaza Maintenance and Pavement Washing, and Bridge and Structure Maintenance and Graffiti Removal.
- C.2.b: Includes sanitizing procedures in best management practices (BMPs) for cleaning areas of human habitation.
- C.2.f: Requires submission of corporation yard Stormwater Pollution Prevention Plans once during the Permit term.
- C.2.g: Addresses storm drain inlet marking requirements. There is no change to the requirement, but it has been moved to this location from Provision C.7 (Public Information and Outreach).
- C.2.h: Adds a staff training section with a specific list of stormwater BMPs/SOPs on which to provide training at minimum every five years and report on annually.

#### **Provision C.3. New Development and Redevelopment**

- C.3.b: Modifies the Regulated Project definitions to include Other Development Projects/Other Redevelopment Projects/projects between 5,000 square feet and 10,000 square feet of impervious surface; adds a new Regulated Project definition for Road Reconstruction Projects targeting projects that would significantly rebuild existing roads, but excluding routine maintenance; adds a new Regulated Project

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definition for Large Detached Single-Family Home Projects, with a 10,000 square foot impervious surface threshold.

- C.3.d: Allows collectively submitted permittee proposals for Tree Runoff Reduction and Tree-Based Stormwater Treatment Systems. Clarifies there is not a currently accepted approach for tree runoff reduction.
- C.3.e: Retains Special Projects Categories A and B without change. Narrows the focus of Special Projects Category C to affordable housing from large transit-oriented developments.
- C.3.g: Includes an updated hydromodification management (HM) standard for the Contra Costa Permittees, and, building on work during the current permit, requires them to submit a technical report detailing how they will implement that HM standard.
- C.3.j: Transitions from green infrastructure (GI) planning to GI implementation. Sets expectations for: programmatic implementation consistent with the GI Plans submitted during the prior Permit term; minimum implementation of GI treatment controls via the retrofit of impervious surfaces; and associated reporting. Includes the formation of a work group that will inform long-term GI goals, intended to inform GI retrofit expectations in future Permit terms.

### **Provision C.4. Industrial and Commercial Site Controls**

- C.4.b: Includes fueling areas, restaurants, and supermarkets in Business Inspection Plans.
- C.4.b: For Permittees that rely on multiple entities for inspections, requires a description of the entities, their responsibilities, and coordination to ensure sites are appropriately inspected.
- C.4.b: Requires a brief description of which municipal entity issues business licenses or a link to the corresponding website, to identify which jurisdictions have industrial businesses subject to Statewide Industrial Stormwater NPDES General Permit verification during business license application/renewal (SB 205).
- C.4.d: Includes in inspections mobile businesses operating on a site that is being inspected.
- C.4.d: Reduces reporting requirements by making the list of facilities requiring coverage under the Industrial General Permit available upon Water Board request rather than requiring it to be reported annually.

### **Provision C.5. Illicit Discharge Detection and Elimination**

- C.5.d: Ensures responses to discharges or dumping related to unsheltered populations are coordinated with efforts under Provisions C.10 (Trash Load Reduction) and C.17 (Discharges Associated with Unsheltered Homeless Populations).

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- C.5.e: Ensures adequate legal authority to hold mobile businesses, and the businesses, property managers, property owners, and other associated entities that hire a mobile business, responsible for stormwater pollution discharged by the mobile business operating at their location.
- C.5.f: Requires Permittees to identify information missing from current MS4 maps, then develop a plan and schedule to compile additional storm sewer system information and update their MS4 maps. The plan and schedule will be submitted with the 2026 Annual Report, and the update would be considered for a future permit term. Effective control and response to illicit discharges, as well as broader stormwater project design and implementation, are dependent on Permittees' understanding of their current MS4 system layout and conditions, and requiring this update is consistent with other municipal stormwater permits and federal regulations.

### **Provision C.6. Construction Site Control**

- C.6.e: Reduces the frequency the inspection tracking system is evaluated from annually to once during the Permit term.
- C.6.f: Requires reporting of the number of municipal and non-municipal inspectors receiving training.

### **Provision C.7. Public Information and Outreach**

- C.7.d: Broadens the types of allowed activities related to watershed stewardship collaboration.
- C.7.g: Requires tracking and reporting on the public information and outreach activities via a table/spreadsheet rather than narrative summaries.

### **Provision C.8. Water Quality Monitoring**

- C.8.d: Removes creek status monitoring and adds Low Impact Development (LID) Monitoring. LID Monitoring is intended to measure the effectiveness of LID controls.
- C.8.e: Removes stressor/source identification projects and adds trash monitoring. Trash monitoring is intended to verify whether Permittees' trash control actions to-date have effectively prevented trash from their jurisdictions from discharging to receiving waters, and to evaluate whether discharges of trash from Permittees' jurisdictions where full trash capture equivalency has been achieved are causing and/or contributing to adverse impacts in receiving waters.
- C.8.f: Pollutants of Concern (POC) Monitoring: Removes nutrients from the list of analytes, reduces the monitoring effort for mercury and copper for all Permittees, additionally slightly reduces monitoring effort for mercury and PCBs for San Mateo County and Contra Costa County Permittees, and increases the monitoring effort for CECs.
- C.8.h: Updates reporting consistent with the changes noted above.

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### **Provision C.9. Pesticides Toxicity Control**

- Preamble: Minor changes to the list of Pesticides of Concern to Water Quality.

### **Provision C.10. Trash Load Reduction**

- C.10.a.i. Requires Permittees to achieve a mandatory 90 percent trash reduction, relative to 2009 baseline conditions, by June 30, 2023, and a 100 percent reduction by June 30, 2025.
- C.10.a.ii. Requires Permittees to submit current trash generation area maps showing trash management area status, and including privately-owned parcels, by June 30, 2025.
- C.10.b.i.a. Updates inspection frequencies for full trash capture devices (FTCDs), specifying that they be inspected and, as appropriate, maintained at least once per year, and that FTCDs in Very High and High trash generation areas be inspected and, as appropriate, maintained at least twice per year, with the inspections spaced at least three months or more apart.
- C.10.b.ii.a. Operation and Maintenance of FTCDs: Requires the Permittees to collectively submit, with their 2024 Annual Report, an operation and maintenance summary report that identifies the frequencies and approaches used by Permittees for the inspection and maintenance of full trash capture devices, as well as lessons learned.
- C.10.b.v. Source Control: Allows an offset of up to 10 percent for new source controls (those controls for sources other than those addressed under previous permits). Jurisdiction-wide source control load reduction credits will no longer be available after June 30, 2025.
- C.10.b.vi. Curb Inlet Screens: Describes the further assessment needed to determine the effectiveness of curb inlet screens, in combination with street sweeping, in reducing trash within a trash management area. Allows Permittees to demonstrate that installation and appropriate maintenance of curb inlet screens, accompanied by street sweeping within Moderate trash generation areas, can effectively reduce the trash generation rate to Low under conditions specified in C.10.b.vi.
- C.10.c. Removes Trash Hot Spot cleanup requirements, and replaces them with trash control requirements for flood management agencies (e.g., placing and maintaining trash receptacles in public parking lots and at trailheads in Moderate, High, and Very High trash generation areas within their jurisdiction, in addition to continued implementation of full trash capture systems).
- C.10.e. Allows Permittees collectively to submit a Trash Reduction Impracticability Report, by March 31, 2023, that describes typical conditions where it may be impracticable to control trash via full trash capture devices or equivalent actions, and which also identifies a suite or suite of partial-capture actions that should be implemented when those conditions are present.

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- C.10.f.i. Offset Opportunities – Maintains the current credit of up to 10 percent for creek and shoreline cleanups until June 30, 2025.
- C.10.f.ii. Maintains the current credit of up to 15 percent for implementation of an approved Direct Discharge Control Plan (DDCP) through June 30, 2025.
- C.10.g.iii. Requires Permittees to submit with each Annual Report a summary of implementation actions and progress toward meeting the July 1, 2025, requirement for all private lands over 10,000 square feet to implement full trash capture systems, or equivalent.
- C.10.g.vii. Requires Permittees unable to achieve the mandatory 90 percent reduction by June 30, 2023 to submit a notice of noncompliance and a revised Trash Load Reduction Plan (as specified in C.10.d.ii) to attain compliance. The Trash Load Reduction Plan must describe the Permittee’s path to achieve the mandatory 100 percent reduction by June 30, 2025.
- C.10.g.viii. Requires Permittees to submit, with their 2023 Annual Report, a report evaluating their trash reduction without including offsets described in Provision C.10.f, and requires Permittees unable to meet the mandatory 90 percent reduction without the trash load reduction offsets to submit an updated Trash Load Reduction Plan.
- C.10.g.ix. Requires Permittees unable to achieve the mandatory 100 percent reduction by June 30, 2025 to submit a notice of noncompliance and a plan to come into compliance. Permittees may be given additional time until June 30, 2026 contingent on the development and implementation of an approved direct discharge control program (as described in Provision C.10.f.ii).

### **Provision C.11. Mercury Controls**

- See C.12, below, for major changes. C.11 generally follows same approach as C.12.
- Brings back and updates a reporting provision on mercury recycling from MRP 1.

### **Provision C.12. PCBs Controls**

- This provision employs a “programmatic approach” for implementation rather than requiring a specified load reduction level. This means that there are recognized sources that if controlled would result in load reductions. Required program elements have been developed for these source with specified actions and accountability metrics (intensity of expected implementation) used for compliance determination along with an estimated load reduction for each program element corresponding to the accountability metric.
- The program elements are:
  - C.12.b. – Source Property Identification and Abatement
    - Requires Permittees to conduct investigations in at least a specified minimum acreage by county to identify and abate PCBs source properties. In most

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- cases, the identified source properties would be referred to the Water Board or other agencies for follow-up action.
- C.12.c – Program for Control Measure Implementation in Old Industrial Areas
    - Requires Permittees to implement treatment control measures, stormwater diversion to wastewater treatment facilities, or other control measures on a minimum amount of old industrial land use area by county or by accounting for an equivalent PCBs mass load reduction.
  - C.12.d – Controlling PCBs from Bridges and Overpasses
    - Requires Permittees to implement a protocol being developed by Caltrans to properly manage PCBs-containing expansion joints as part of bridge and overpass roadway replacement or major repair. Caltrans used a similar protocol during demolition of the Bay Bridge.
  - C.12.e – Program for Controlling PCBs from Electrical Utilities
    - Requires Permittees to develop and implement a program to manage PCBs in oil-filled electrical equipment (OFEE) for municipally owned electrical utilities and collaborate with the Water Board to determine PCBs loadings in OFEE from non-municipally owned electrical utilities.
  - C.12.f – Green Stormwater Infrastructure
    - No significant changes.
  - C.12.g – Managing PCBs-containing Wastes During Demolition Activities
    - Requires continuation of this program element, which was developed during the current permit, and requires enhanced reporting for applicable structures where bulk product wastes contain PCBs concentrations at 50 ppm or greater. The enhanced reporting for these structures would require Permittees to submit a copy of the hazardous waste manifest to document that the PCBs-containing materials were disposed consistent with federal and state regulations, thus ensuring the PCBs in the bulk product waste will not be available to be discharged into the MS4.

### **Provision C.13. Copper Controls**

- No significant changes

### **Provision C.14. Bacteria Control for Impaired Water Bodies**

- C.14.a – Enhanced Bacteria Control: requires implementation of enhanced BMPs and monitoring for the cities of Mountain View and Sunnyvale, which have MS4 discharges that may have caused or contributed to bacteria objective exceedances and for which no TMDL has been developed.
- C.14.b – City of Pacifica and San Mateo County Bacteria Controls: includes updated requirements to meet San Pedro Creek and Pacifica State Beach Indicator Bacteria TMDL wasteload allocations and implementation requirements.

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- C.14.c – City of San Mateo Marina Lagoon Beaches Bacteria Controls: includes new requirements to meet applicable San Francisco Bay Beaches Bacteria TMDL wasteload allocations and implementation requirements.
- C.14.d – City of Half Moon Bay and San Mateo County Bacteria Controls: includes new requirements to meet Pillar Point Harbor and Venice Beach Bacteria TMDL wasteload allocations and implementation requirements.

### **Provision C.15. Exempted and Conditionally Exempted Discharges**

- C.15.b:
  - Updates pollutant reporting limits for pumped groundwater, foundation drains, and water from crawl space pumps and footing drains.
  - Changes requirements for emergency discharges of firefighting water and foam. Requires the formation of a work group with Permittees, Water Board staff, and relevant stakeholders, intended to recommend changes to existing BMPs and standard operating procedures (SOPs) to avoid and minimize impacts to receiving waters caused by discharges of firefighting water and foam during emergencies. The work group would recommend new BMPs and SOPs. Would require the Permittees to implement work group recommendations accepted by the Water Board.

### **Provision C.16. Discharges to Areas of Special Biological Significance (ASBSs)**

- Clarifies that the ASBS Compliance Plan is subject to approval by the Executive Officer.
- Includes in the reporting section the existing requirement from the ASBS Special Protections (Permit Attachment B) to submit a revised Compliance Plan if monitoring results indicate stormwater is causing or contributing to an adverse alteration in natural ocean water quality.

### **Provision C.17. Discharges Associated with Unsheltered Homeless Populations**

- New Provision – States the need for Permittees to identify and implement appropriate control measures to address non-stormwater discharges associated with unsheltered homeless populations (e.g., discharges of trash and sewage), including discharges from areas where unsheltered people congregate.
  - Requires Permittees collectively to submit a best management practice report by September 30, 2023, that identifies effective practices to address non-storm water discharges associated with homelessness that impact water quality and specific milestones for reducing such discharges.
  - Requires Permittees to submit, with their 2023 and 2025 Annual Reports, a map identifying, within their jurisdictions, locations of unsheltered homeless populations, including homeless encampments and other areas where other unsheltered homeless people congregate.

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- Requires Permittees to submit, with their 2023 and 2025 Annual Reports, an update on implementation of BMPs and other control measures to address discharges associated with homelessness. The update must include the portion of the population reached by BMPs and the unmet need (i.e., the portion not reached, or for which BMPs are not fully effective).

### **Provision C.18. Control of Sediment Discharges from Coastal San Mateo County Roads**

- New Provision – Implements a control program for sediment on County roads in the Pescadero, Butano, and San Gregorio creek watersheds in coastal San Mateo County. The provision implements requirements of the Pescadero-Butano Sediment TMDL and actions being taken on San Gregorio Creek to reduce sediment delivery from County-maintained roads to stream channels. It requires the County to inventory its roads in these watersheds, identify potential erosion issues, and develop a prioritized list of actions to reduce road-related erosion from County roads. It requires the County to complete twenty percent of the control measures identified in the Prioritized List and Schedule of Actions by 2027.

### **Provision C.19. East Contra Costa County Permittees**

- Provision numbering changed to C.19 in the Tentative Order, from C.16.5 in the current permit.
- Removes sections that extended current permit deadlines to comply with requirements to implement GI plan and reduce trash loads, because the East County Permittees have come up to speed with the timing of those expectations.
- Adds a requirement to submit a total Mercury and Methylmercury Control Measure Plan and corresponding Reasonable Assurance Analysis, consistent with the Delta Methylmercury TMDL the Central Valley Regional Water Board.
- Adds a requirement to retrofit underperforming BMPs.
- Adds a pyrethroid control program requirement, consistent with the Central Valley Pyrethroids Pesticides TMDL adopted by the Central Valley Regional Water Board.

### **Provision C.20. Cost Reporting**

- New provision – Requires Permittees to develop a cost reporting framework and submit it for Executive Officer approval by December 31, 2022, and then submit annual fiscal analyses according to the framework starting with the 2024 Annual Report. Permittees will report costs based on program areas corresponding to relevant permit provisions and describe the source of funds and cost categories (e.g., capital, land, personnel, construction, operation, etc.). The cost reporting will provide data to assess costs of different program areas, allow for broad comparisons to identify trends over time, and potentially provide information to support future Permittee funding initiatives.



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**Provision C.21. Asset Management**

- New provision – Requires Permittees to develop and implement an Asset Management Plan, to ensure the satisfactory condition and operation of their hard assets, such as low impact development controls built pursuant to Provision C.3 New Development and Redevelopment, and full trash capture devices built pursuant to Provision C.10 Trash Load Reduction.

**Provision C.22. Annual Reports**

- Adds electronic reporting requirements for signatures.
- Changes the annual report draft format submittal date to March 1 from April 1.