

ATTACHMENT C – NOTICE OF INTENT AND WAIVER REQUIREMENTS

OVERVIEW

This Attachment includes requirements for submitting a Notice of Intent and a waiver certification application. Information on separate implementing entities, individual stormwater permits, and regional stormwater permits is also included.

C1. REQUIREMENTS WHEN DESIGNATION OCCURS AFTER ADOPTION DATE

Permittees designated by a Regional Water Board after the Adoption Date of this Order shall submit their Notice of Intent, appropriate technical information, and fee within 180 days of designation.

C2. NOTICE OF INTENT REQUIREMENTS FOR NEW AND RENEWAL PERMITTEES

Unless a waiver or coverage under an individual or regional stormwater Order is approved by the applicable Regional Water Board, the entities listed in Attachment B of this Order shall submit applications for new or renewal of coverage by the effective date of this Order. Census designated places are covered under the corresponding county's Notice of Intent.

New and renewal Permittees shall submit the Notice of Intent information through SMARTS, including the required attachments, and pay the required fees.

New and renewal Permittees shall submit the information specified in items 1 through 6, below. Coverage under this Order will start upon the State Water Board's receipt of the following or upon the effective date of this Order, whichever is later.

1. Notice of Intent

Enter or confirm the following information directly into SMARTS:

Organization and Business Details:

- a. Waste Discharge Identification Number (WDID)
- b. Permittee Name
- c. Address
- d. Address Line 2 (if applicable)
- e. City, State, and Zip Code
- f. Business Type

- g. Federal Tax ID (if applicable)

Permittee Contact Information:

- a. Contact First Name
- b. Contact Last Name
- c. Contact Title (if applicable)
- d. Contact Phone number
- e. Contact Email

Additional Information:

- a. Indicate if the Permittee had coverage under the previous Phase II Small MS4 Permit (2013-0001-DWQ and amendments).
- b. Provide the population served by the jurisdiction.
- c. Indicate if the permittee is Traditional or Non-Traditional.
- d. Legally responsible party Phone number
- e. Legally responsible party Email

Billing Information:

- a. Billing Name
- b. Street Address
- c. Address Line 2 (if applicable)
- d. City, State, and Zip Code
- e. Billing Email
- f. Billing Contact First Name
- g. Billing Contact Last Name
- h. Title (if applicable)
- i. Phone number

2. Separate Implementing Entity

If the Permittee intends to share responsibilities for implementing one or more Order obligation with one or more other municipalities or entities (Separate Implementing Entity), the Permittee's Notice of Intent must describe which obligations each will be responsible for implementing.

3. Identification of Census Designated Places

Census designated places do not file a separate Notice of Intent or pay separate fees. The counties listed in Attachment B, Table B.2, shall identify the corresponding census designated places in the county's Notice of Intent and shall pay the fees.

4. Fees

Submit the annual fee according to the current California Code of Regulations, title 23, chapter 9 fee schedule for NPDES stormwater permits. The current fee schedule is available on the State Water Board web page under the section titled [NPDES Stormwater Fees](#).

5. Boundary Map

Submit a complete boundary map through SMARTS that delineates jurisdictions listed in items a through f, below.

a. Boundaries

The map defines the boundaries of the regulated Small MS4 storm sewer system, including all areas that drain into the storm sewer system, such as roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, and other structures designed or used for collecting and conveying stormwater to the MS4. The applicable Regional Water Board may require revisions to boundary maps that do not sufficiently delineate the regulated MS4.

- 1) For cities, towns, and other incorporated areas; the boundary includes the incorporated area and the MS4's jurisdictional boundary. This includes the MS4's storm sewer system and all areas, appurtenances, and structures that drain into the MS4.
- 2) For counties; boundaries include any portion of urban areas with a population of at least 50,000 based on the 2020 census and places identified in Attachment B for coverage by counties. Boundaries must be proposed in the boundary map and may be developed in conjunction with the applicable Regional Water Board
- 3) For Non-Traditional Permittees; the boundary includes the extent of the MS4 system. For military installations, this Order applies to areas where the activities and population density resemble that of a Traditional Small MS4. For Department of Corrections and Rehabilitation Permittees, this Order applies to facilities that are in active operation (i.e., it does not apply to closed facilities lacking management oversight).

- b. City and county boundaries,
- c. Main arterial streets,
- d. Highways,
- e. Waterways, and
- f. Labels identifying adjacent MS4s.

6. Guidance Document

Permittees must submit a storm water program Guidance Document through SMARTS during its Notice of Intent process. The Department of Defense and Department of Corrections are exempt from submitting the Guidance Document. The Guidance Document is the Permittee's plan for its stormwater program compliance process. The Guidance Document may be in spreadsheet, tabular or narrative format. The Permittee shall submit the Guidance Document that includes the following topics:

- a. Overall program planning.
- b. Identification of all Order requirements and responsible implementing entity.
- c. Renewal Permittees only: A brief description of each best management practice and its associated effectiveness included in the Permittee's stormwater management plan, developed under the prior permit, that establishes the specific local or tailored level of implementation that may be more protective of water quality than the minimum requirements of this Order.
- d. Renewal Permittees only: Identification of whether the Permittee will maintain, reduce, or cease implementation of any locally tailored best management practice that is more protective of water quality than the best management practices required by this Order.
- e. Renewal Permittees only: For any more protective, locally tailored best management practice which the renewal Permittee will reduce or cease implementation, the renewal Permittee must demonstrate to the Executive Officer of the applicable Regional Water Board that the reduction or cessation is in compliance with this Order and the maximum extent practicable standard and will not result in increased pollutant discharges. The demonstration by the Permittee will be subject to public comment before any approval by the Executive Officer of reduction or cessation of best management practices. In no instance may the renewal Permittee reduce or cease a best management practice if it is required by the minimum standards set by this Order.

C3. SUBMIT AN ELECTRONIC MS4 SERVICE AREA BOUNDARY MAP

The Permittee shall submit geospatial data detailing the locations of the Permittee's regulated MS4 boundary, as follows:

- a. For Renewal and New Permittees listed in Attachment B: submit geospatial MS4 service area boundary details starting on January 1, 2028, and no later than December 31, 2028:
- b. For New Permittees enrolled after the adoption date of this Order – submit geospatial MS4 service area boundary details starting no earlier than January 1, 2028, or within 12 months of the Notice of Intent submittal date, whichever date is later.

C4. WAIVER OPTIONS, APPLICATIONS, AND WAIVER RECERTIFICATION REQUIREMENTS

There are three waiver options: Waiver Option 1, Waiver Option 2, and Waiver Option 3 that are further defined below.

A Permittee must submit a Waiver Application to be considered for a waiver. All Waiver Applications, and the annual recertifications (for all three waiver options), must be submitted to the applicable Regional Water Board Executive Officer and uploaded to SMARTS. Annual waiver fees must be submitted to the State Water Board Fee Branch.¹

1. Once approved, a Waiver will only remain in effect provided that the Permittee submits its annual renewal fee, any applicable surcharge, and annual certification demonstrating continued eligibility.
2. Denial of a Waiver Request and Dispute Resolution
If a Permittee is not satisfied with a waiver denial, it may dispute that determination in compliance with the Dispute Resolution provision of this Order.

C4.1 Three Waiver Options

This Order includes three waiver options. To apply for a waiver, the Permittee must submit the following information, including a description of the basis for the information, to the applicable Regional Water Board Executive Officer:

1. The population served by the MS4;
2. Any physically interconnected regulated MS4s through which the Permittee's

¹ Email questions for the Fee Branch to FeeBranch@waterboards.ca.gov

MS4 discharges;

3. The receiving waters to which the MS4 discharges, either directly or through a physically interconnected regulated MS4;
4. The impairment status of the receiving waters to which the MS4 discharges, including identification of the impairment constituents;
5. TMDLs that apply to the receiving waters to which the MS4 discharges;
6. A demonstration that its discharges do not cause or contribute to, or do not reasonably have the potential to cause or contribute to, a water quality impairment, including the following information, including information on the presence of impairment pollutants in the Permittee's discharges and the measures taken by the Permittee to ensure that it is not or will not cause or contribute to a water quality impairment; and
7. A demonstration that the Permittee satisfies the conditions of one of the Waiver Options below.

C4.1.1 Waiver Option 1²

1. Waiver Option 1 applies where the following criteria are met:
 - a. The population served by the Permittee's MS4 is less than 1,000;
 - b. The Permittee's system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program. In general, if the Permittee's discharge makes up more than ten percent of the interconnected MS4's total storm water volume, then the Permittee is presumed to be a significant contributor of pollutants to the interconnected MS4. The Permittee, interconnected MS4, or third parties may show that this presumption is inappropriate; and
 - c. If the Permittee discharges any pollutants identified as a cause of impairment of any water body to which it discharges, storm water controls are not needed based on wasteload allocations that are part of a USEPA approved or established TMDL that addresses the pollutant(s) of concern. Where there is no TMDL that addresses the pollutant(s) of concern, the Permittee may not be granted this waiver unless it can demonstrate that it does not discharge the pollutant(s) of concern.

² 40 C.F.R. § 122.32(d)

C4.1.2 Waiver Option 2³

1. Waiver Option 2 applies where the following criteria are met:
 - a. The population served by the system is less than 10,000;
 - b. The Regional Water Board has evaluated all waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from the MS4. For all such waters, the Regional Water Board has determined that stormwater best management practices are not needed based on either:
 - 1) Wasteload allocations that are part of a USEPA approved or established TMDL that addresses the pollutant(s) of concern or,
 - 2) A TMDL-equivalent analysis that determines sources and allocations for the pollutant(s) of concern, if a TMDL has not been developed or approved;
 - c. For Waiver Option 2, pollutants of concern include biochemical oxygen demand, sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the Permittee's MS4;
 - d. The Regional Water Board has determined that current and future discharges from the MS4 do not have the potential to result in exceedance of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts;

C4.1.3 Waiver Option 3

1. Waiver Option 3 applies where the following criteria are met:
 - a. The Permittee's MS4 is not located within any urban areas with a population of at least 50,000 based on the 2020 census,
 - b. The population served by the system is 20,000 or less, and
 - c. The Permittee's population has an annual median household income that is less than 80 percent of the statewide annual median household income.

C4.2 Annual Waiver Recertifications

Annual waiver recertifications must address all the elements of the initial waiver

³ 40 C.F.R. § 122.32(e)

application. The Permittee must provide any updates to any of its prior answers or demonstrations. The recertification must demonstrate that the Permittee continues to meet the conditions for the waiver, including by demonstrating that it does not or does not have the potential to cause or contribute to a water quality impairment and that it continues to meet the conditions of the applicable waiver.

The applicable Regional Water Board Executive Officer or designee shall review the annual waiver recertifications and respond with an approval or denial of continued waiver coverage.

The annual waiver recertification and review required by this Order satisfies the requirement in 40 C.F.R. 123.35(d)(6) to review Option 2 waivers once at least every five years.

C4.3 When Conditions of Waiver Application or Recertification of a Waiver Option Are Not Met

If the Waiver Application is denied or conditions have changed so that the Waiver Option selected is no longer applicable, the Permittee must apply for coverage under this Order or an individual NPDES permit. A failure to pay annual waiver fees, submit an annual waiver recertification, or provide updated information may result in waiver revocation following notice by the State Water Board Executive Director or applicable Regional Water Board Executive Officer. Either the State Water Board Executive Director or applicable Regional Water Board Executive Officer may notify the Permittee of its obligation to apply for Order coverage when appropriate.