

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER R5-2023-XXXX

AMENDING TIME SCHEDULE ORDER R5-2019-1005-001
REQUIRING
COUNTY OF LAKE
CITY OF CLEARLAKE
CITY OF LAKEPORT
MUNICIPAL SEPARATE STORM SEWER SYSTEMS

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN
WATER QUALITY ORDER 2013-0001-DWQ, AS AMENDED

The Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. The State Water Resources Control Board (State Water Board) adopted the National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems, Order Number. 2013-0001-DWQ, (Small MS4 General Permit) on 5 February 2013 and subsequently amended.¹
2. County of Lake, City of Clearlake, and City of Lakeport (collectively Permittees) are regulated MS4s under the Small MS4 General Permit. The Permittees each own MS4s that discharge into Clear Lake.
3. Section E.15 of the Small MS4 General Permit requires the Permittees to comply with all applicable Total Maximum Daily Load (TMDL)-specific, best management practice (BMP)-based water quality-based effluent limitations and other permit requirements within Attachment G, including the Clear Lake Nutrient TMDL adopted by the Central Valley Water Board.
4. On 22 August 2019, the Permittees jointly submitted a request for a time schedule order pursuant to Water Code section 13300, requesting additional time to evaluate current efforts and demonstrate compliance with the Clear Lake Nutrient TMDL requirements.

¹ The Small MS4 General Permit was amended by the State Water Board's Executive Director on 2 September 2015, Order WQ 2015-0133-EXEC; 20 June 2016, Order WQ 2016-0069-EXEC; 24 January 2018, Order WQ 2018-0001-EXEC; 13 March 2018, Order WQ 2018-0007-EXEC. The State Water Board amended the Small MS4 General Permit on 19 December 2017, which amendments went into effect on 1 January 2019.

5. On 12 December 2019, the Central Valley Water Board Executive Officer adopted Time Schedule Order (TSO) R5-2019-1005, which provided a detailed time schedule of specific actions the Permittees shall take in order to comply with the Small MS4 General Permit's TMDL requirements.
6. On 8 July 2020, the Permittees requested to extend the Task 3 deadline in TSO R5-2019-1005, to submit the Best Management Practice (BMP) Effectiveness Assessment Report. This extension would grant them additional time to execute a contract for creation of a BMP calculator, which would provide an estimate of the Permittees' load allocation reduction and help identify areas that need additional BMPs installed to achieve compliance with the Clear Lake Nutrient TMDL.
7. On 30 November 2020, the Central Valley Water Board Executive Officer issued amended TSO R5-2019-1005-001, which extended the compliance deadlines within TSO R5-2019-1005 to reflect tasks already completed and to provide an additional five months to submit Task 3 (Best Management Practice Effectiveness Assessment Report) and Task 4 (Sediment/Phosphorus Reduction Work Plan).
8. On 27 April 2021, Central Valley Water Board staff informed the Permittees that based on their submitted Task 3, the wasteload allocation had not been met, which required the submission of Task 4.
9. On 27 June 2022, 30 March 2023, and 4 April 2023, Lake County and the Cities of Clearlake and Lakeport, respectively, requested to amend TSO R5-2019-1005-001 to extend the deadline of Task 5 from 30 September 2024 to 30 September 2028. In their requests, the Permittees state that the additional time will allow them to adequately fund (including obtaining awarded funding), implement, and document the sediment phosphorus reduction projects in Task 4.
10. Current studies have shown that the majority of phosphorus-linked impairments in Clear Lake result from the internal cycling of legacy phosphorus. Given the current understanding of impairment drivers, Central Valley Water Board staff have determined that there is not a need for a Water Quality Monitoring Plan or Quality Assurance Project Plan (QAPP) focused on external phosphorus loads at this time. To reduce the regulatory burden on the disadvantaged and severely disadvantaged communities affected by this Order, the requirements to submit a Water Quality Monitoring Plan and QAPP from Task 4 are removed.
11. This Order amends the compliance deliverables and deadlines within TSO R5-2019-1005-001 to reflect tasks already completed, remove the Water Quality Monitoring Plan and QAPP requirement from Task 4, and provide an additional four years to complete Task 5 (Implementation of Best Management Practices and submittal of a TMDL Attainment Assessment Report). This Order amends the final deadline to meet TMDL requirements from 30 September 2024 to 30 September 2028.

12. This Order, which provides a time schedule of specific actions the Permittees shall take in order to correct a violation of existing permit requirements, is exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., in accordance with California Code of Regulations, title 14, sections 15301 and 15321.
13. On 2 August 2018, the Central Valley Water Board adopted Resolution R5-2018-0057 to provide explicit authority to the Executive Officer to issue or modify time schedule orders, and to make this authority known to the public and regulated community. This Order may be issued by the Executive Officer of the Central Valley Water Board.
14. The Central Valley Water Board has notified the Permittees and interested agencies and persons of its intent to amend TSO R5-2019-1005-001 and provided them with an opportunity to submit their written views and recommendations.

IT IS HEREBY ORDERED, that, pursuant to Water Code sections 13300, 13267, 13383, TSO R5-2019-1005-001, is amended as follows:

1. The Order number is changed from R5-2019-1005-001 to R5-2019-1005-002.
2. The Compliance Date for Task 3 within Order Condition 1 is changed from 1 February 2021 to Complete.
3. The deliverables for Task 4 are amended to remove the submittal of a Water Quality Monitoring Plan and Quality Assurance Project Plan.
4. The Compliance Date for Task 5 within Order Condition 1 is changed from 30 September 2024 to 30 September 2028.
5. This Order amends the final deadline to meet TMDL requirements to 30 September 2028.

Any person aggrieved by this Central Valley Water Board action may petition the State Water Board for review in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5:00 p.m. on the 30th day after date of this Order, except that if the 30th day falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. [Laws and regulations applicable to filing petitions](https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) (https://www.waterboards.ca.gov/public_notices/petitions/water_quality/) are published on the Internet and will be provided upon request.

TENTATIVE ORDER R5-2023-XXXX
COUNTY OF LAKE & CITIES OF CLEARLAKE AND LAKEPORT
MUNICIPAL SEPARATE STORM SEWER SYSTEMS

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This Order is issued under authority delegated to the Executive Officer in accordance with Central Valley Water Board Resolution R5-2018-0057 and is effective upon signature.

PATRICK PULUPA, Executive Officer