

# **ATTACHMENT G**

## **Standard NPDES Stormwater Permit Provisions**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**Standard Provisions and Reporting Requirements  
for  
NPDES Stormwater Discharge Permits**

**October 2015**

**A. GENERAL PROVISIONS**

1. Neither the treatment nor the discharge of pollutants shall create a pollution, contamination, or nuisance as defined by Section 13050 of the California Water Code.
2. All discharges authorized by this Order shall be consistent with the terms and conditions of this Order.
3. **Duty to Comply**
  - a. If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Clean Water Act, or amendments thereto, for a toxic pollutant which is present in the discharge authorized herein and such standard or prohibition is more stringent than any limitation upon such pollutant in a Board adopted Order, discharger must comply with the new standard or prohibition. The Board will revise or modify the Order in accordance with such toxic effluent standard or prohibition and so notify the discharger.
  - b. If more stringent applicable water quality standards are approved pursuant to Section 303 of the Clean Water Act, or amendments thereto, the discharger must comply with the new standard. The Board will revise and modify this Order in accordance with such more stringent standards.
  - c. The filing of a request by the discharger for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. [40 CFR 122.41(f)]
4. **Duty to Mitigate**

The discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this order and permit which has a reasonable likelihood of adversely affecting public health or the environment, including such accelerated or additional monitoring as requested by the Board or Executive Officer to determine the nature and impact of the violation. [40 CFR 122.41(d)]
5. Pursuant to U.S. Environmental Protection Agency regulations the discharger must notify the Water Board as soon as it knows or has reason to believe (1) that they have begun or expect to begin, use or manufacture of a pollutant not reported in the permit application, or (2) a discharge of toxic pollutants not limited by this permit has occurred, or will occur, in concentrations that exceed the limits specified in 40 CFR 122.42(a).

6. The discharge of any radiological, chemical, or biological warfare agent waste is prohibited.
7. All facilities used for transport, treatment, or disposal of wastes shall be adequately protected against overflow or washout as the result of a 100-year frequency flood.
8. Collection, treatment, storage and disposal systems shall be operated in a manner that precludes public contact with wastewater, except where excluding the public is inappropriate, warning signs shall be posted.

**9. Property Rights**

This Order and Permit does not convey any property rights of any sort or any exclusive privileges. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, nor protect the discharger from liabilities under federal, state or local laws, nor create a vested right for the discharge to continue the waste discharge or guarantee the discharger a capacity right in the receiving water. [40 CFR 122.41(g)]

**10. Inspection and Entry**

The Board or its authorized representatives shall be allowed:

- a. Entry upon premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of the order and permit;
- b. Access to and copy at, reasonable times, any records that must be kept under the conditions of the order and permit;
- c. To inspect at reasonable times any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under the order and permit; and
- d. To photograph, sample, and monitor, at reasonable times for the purpose of assuring compliance with the order and permit or as otherwise authorized by the Clean Water Act, any substances or parameters at any locations. [40 CFR 122.41(i)]

**11. Permit Actions**

This Order and Permit may be modified, revoked and reissued, or terminated in accordance with applicable State and/or Federal regulations. Cause for taking such action includes, but is not limited to any of the following:

- a. Violation of any term or condition contained in the Order and Permit;
- b. Obtaining the Order and Permit by misrepresentation, or by failure to disclose fully all relevant facts;
- c. Endangerment to public health or environment that can only be regulated to acceptable levels by order and permit modification or termination; and
- d. Any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

**12. Duty to Provide Information**

The discharger shall furnish, within a reasonable time, any information the Board may request to determine whether cause exists for modifying, revoking and reissuing, or

terminating the permit. The discharger shall also furnish to the Board, upon request, copies of records required to be kept by its permit. [40 CFR 122.41(h)]

**13. Availability**

A copy of this permit shall be maintained at the discharge facility and be available at all times to operating personnel.

**14. Continuation of Expired Permit**

This permit continues in force and effect until a new permit is issued or the Board rescinds the permit. Only those dischargers authorized to discharge under the expiring permit are covered by the continued permit.

**B. GENERAL REPORTING REQUIREMENTS**

**1. Signatory Requirements**

a. All reports required by the order and permit and other information requested by the Board or U.S. EPA Region 9 shall be signed by a principal executive officer or ranking elected official of the discharger, or by a duly authorized representative of that person. [40 CFR 122.22(b)]

b. Certification

All reports signed by a duly authorized representative under Provision E.1.a. shall contain the following certification:

"I certify under penalty of law that this document and all attachments are prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." [40 CFR 122.22(d)]

2. Should the discharger discover that it failed to submit any relevant facts or that it submitted incorrect information in any report, it shall promptly submit the missing or correct information. [40 CFR 122.41(1)(8)]

**3. False Reporting**

Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall be subject to enforcement procedures as identified in Section F of these Provisions.

**4. Transfers**

a. This permit is not transferable to any person except after notice to the Board. The Board may require modification or revocation and reissuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

b. Transfer of control or ownership of a waste discharge facility under an National Pollutant Discharge Elimination System permit must be preceded by a notice to the

Board at least 30 days in advance of the proposed transfer date. The notice must include a written agreement between the existing discharger and proposed discharger containing specific dates for transfer of responsibility, coverage, and liability between them. Whether an order and permit may be transferred without modification or revocation and reissuance is at the discretion of the Board. If order and permit modification or revocation and reissuance is necessary, transfer may be delayed 180 days after the Board's receipt of a complete application for waste discharge requirements and an NPDES permit.

## **5. Compliance Reporting**

### **a. Planned Changes**

The discharger shall file with the Board a report of waste discharge at least 120 days before making any material change or proposed change in the character, location or volume of the discharge.

### **b. Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final compliance dates contained in any compliance schedule shall be submitted within 10 working days following each scheduled date unless otherwise specified within this order and permit. If reporting noncompliance, the report shall include a description of the reason for failure to comply, a description and schedule of tasks necessary to achieve compliance and an estimated date for achieving full compliance. A final report shall be submitted within 10 working days of achieving full compliance, documenting full compliance

### **c. Non-compliance Reporting (Twenty-four hour reporting:)**

i. The discharger shall report any noncompliance that may endanger health or the environment. All pertinent information shall be provided orally within 24 hours from the time the discharger becomes aware of the circumstances. A written submission shall also be provided within five working days of the time the discharger 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.

## **C. ENFORCEMENT**

- 1.** The provision contained in this enforcement section shall not act as a limitation on the statutory or regulatory authority of the Board.
- 2.** Any violation of the permit constitutes violation of the California Water Code and regulations adopted hereunder and the provisions of the Clean Water Act, and is the basis for enforcement action, permit termination, permit revocation and reissuance, denial of an application for permit reissuance; or a combination thereof.
- 3.** The Board may impose administrative civil liability, may refer a discharger to the State Attorney General to seek civil monetary penalties, may seek injunctive relief or take other appropriate enforcement action as provided in the California Water Code or federal law for violation of Board orders.

4. It shall not be a defense for a discharger 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 and permit.
5. A discharger seeking to establish the occurrence of any upset (See Definitions, G. 24) has the burden of proof. A discharger who wishes to establish the affirmative defense of any upset in an action brought for noncompliance shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
  - a. an upset occurred and that the Permittee can identify the cause(s) or the upset;
  - b. the permitted facility was being properly operated at the time of the upset;
  - c. the discharger submitted notice of the upset as required in paragraph E.6.d.; and
  - d. the discharger complied with any remedial measures required under A.4.

No determination made before an action for noncompliance, such as during administrative review of claims that noncompliance was caused by an upset, is final administrative action subject to judicial review.

In any enforcement proceeding, the discharger seeking to establish the occurrence of any upset has the burden of proof. [40 CFR 122.41(n)]

#### **D. DEFINITIONS**

1. Duly authorized representative is one whose:
  - a. Authorization is made in writing by a principal executive officer or ranking elected official;
  - b. Authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as general manager in a partnership, manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and
  - c. Written authorization is submitted to the U.S. EPA Region 9. If an authorization becomes no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements above must be submitted to the Board and U.S. EPA Region 9 prior to or together with any reports, information, or applications to be signed by an authorized representative.
2. Hazardous substance means any substance designated under 40 CFR 116 pursuant to Section 311 of the Clean Water Act.
3. Priority pollutants are those constituents referred to in 40 CFR S122, Appendix D and listed in the U.S. EPA NPDES Application Form 2C, (dated 6/80) Items V-3 through V-9.
4. Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage. It excludes infiltration and runoff from agricultural land.
5. Toxic pollutant means any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act or under 40 CFR S401.15.

6. Waste, waste discharge, discharge of waste, and discharge are used interchangeably in this order and permit. The requirements of this order and permit are applicable to the entire volume of water, and the material therein, which is disposed of to surface and ground waters of the State of California.