

**STATE WATER RESOURCES CONTROL BOARD
TIME SCHEDULE ORDER 2022-0089-DWQ
CALIFORNIA DEPARTMENT OF TRANSPORTATION**

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
TIME SCHEDULE ORDER NO. 2022-0089-DWQ
REQUIRING
CALIFORNIA DEPARTMENT OF TRANSPORTATION
TO COMPLY WITH ORDER 2022-0033-DWQ, NPDES CAS000003

The State Water Resources Control Board (State Water Board) finds the following:

1. The California Department of Transportation (Department) owns and operates a statewide transportation system that includes over 50,000 miles of highway and freeway lanes, right-of-way, municipal separate storm sewer systems, and maintenance, storage, and vehicle parking facilities.
2. The State Water Board previously regulated the Department's municipal stormwater discharges under statewide municipal separate storm sewer system permits, Order 2012-0011-DWQ (as amended by Orders 2014-0006-EXEC, 2014-0077-DWQ, 2015-0036-DWQ, and 2017-0026-EXEC).
3. On June 22, 2022, the State Water Board adopted Order 2022-0033-DWQ, National Pollutant Discharge Elimination System (NPDES) Permit CAS000003, that regulates the Department's statewide stormwater discharges and conditionally exempt non-stormwater discharges from its municipal separate storm sewer system. Order 2022-0033-DWQ requires the Department to comply with existing total maximum daily loads (TMDLs) established by the United States Environmental Protection Agency (U.S. EPA) or adopted by the Regional Water Quality Control Boards (Regional Water Boards), identifying stormwater discharges from the Department transportation system as a source of pollutants causing receiving water impairment, as listed in Attachment D to Order 2022-0033-DWQ.
4. A TMDL is defined as the sum of the individual waste load allocations for identified point sources of pollution, the load allocations for identified nonpoint sources of pollution, the contribution from background sources of pollution, and a margin of safety. A TMDL represents the maximum amount of a pollutant that an impaired water body may receive to restore water quality within water quality standards.
5. Order 2022-0033-DWQ requires the Department to comply with a total of 88 TMDLs per TMDL-specific waste load allocations and associated compliance deadlines. The Department is required to implement stormwater pollutant control measures (e.g., best management practices, cooperative agreements, etc.) to address its contribution to the water quality impairment of the receiving water.

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TIME EXTENSION

6. Table TSO-1 in this time schedule order identifies the 63 TMDLs implemented through Order 2022-0033-DWQ for which the Department needs or may need additional time to comply with the existing TMDL-specific compliance deadlines.

This time schedule order provides the Department a time schedule until December 31, 2034, to comply with the TMDL-related requirements listed in Table TSO-1.
7. Previous Order 2012-0011-DWQ, as amended by subsequent Orders, provided the Department until 2034 to comply with its TMDL requirements. At the time of the 2012 adoption of the previous municipal separate storm sewer system permit, the State Water Board determined the time schedule was appropriate due to the large amount of TMDLs with which the Department is required to comply, taking the Department's budgetary limitations into account. This time schedule order continues the previously established time schedule for the Department to comply with applicable TMDL requirements.
8. On June 16, 2015, the State Water Board adopted precedential Order WQ 2015-0075, addressing municipal stormwater permittees' compliance with receiving water objectives, and concluding that issuance of a time schedule order is the appropriate method for providing additional time where needed, or may be needed, for a permittee to meet a final compliance TMDL deadline.
9. This time schedule order does not constitute a finding that the Department is or will be out of compliance with receiving water objectives or TMDL-related requirements. In this time schedule order, the State Water Board finds that due to the Department's extensive and diverse right-of-way and the large amount of applicable TMDLs, the Department may require additional time to comply with the TMDLs identified in Table TSO-1 of this time schedule order.

REGULATORY BASIS

10. This time schedule order is issued pursuant to Water Code section 13300, which reads:

"Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements."
11. Water Code section 13267, subdivisions (b)(1) and (f) state:

(b)(1): "In conducting an investigation specified in subdivision (A), the regional board may require that any person who has discharged, discharges, or is suspected of having

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discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports.”

(f): “The State Water Board may carry out the authority granted to a regional board pursuant to this section if, after consulting with the regional board, the state board determines that it will not duplicate the efforts of the regional board.”

12. Water Code section 13383 states:

(a): “The state board or a regional board may establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by Section 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters, any person who introduces pollutants into a publicly owned treatment works, any person who owns or operates, or proposes to own or operate, a publicly owned treatment works or other treatment works treating domestic sewage, or any person who uses or disposes, or proposes to use or dispose, of sewage sludge.”

(b): “The state board or the regional boards may require any person subject to this section to establish and maintain monitoring equipment or methods, including, where appropriate, biological monitoring methods, sample effluent as prescribed, and provide other information as may be reasonably required.”*

(c): “The state board or a regional board may inspect the facilities of any person subject to this section pursuant to the procedure set forth in subdivision (c) of Section 13267.”

13. The State Water Board has consulted with the Regional Water Boards and determined that this time schedule order will not be duplicative of Regional Water Board actions.
14. All technical reports required under this time schedule order are required per Water Code section 13267 and 13383. The technical reports required herein are necessary to determine the Department’s compliance status with the TMDL requirements listed in Table TSO-1. The burdens, including costs, of these reports bear a reasonable relationship to the needs for the reports and the benefits to be obtained therefrom.
15. Issuance of this time schedule order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) per Water Code section 13389, since the adoption or modification of an NPDES permit for an existing source is statutorily exempt, and this time schedule order serves to implement

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Order 2022-0033-DWQ, NPDES permit No. CAS000003. (*Pacific Water Conditioning Association, Inc. v. City Council of City of Riverside* (1977) 73 Cal.App.3d 546, 555-556.)

16. On June 22, 2022, in Sacramento, California, after due notice to the Department, the State Water Board conducted a public hearing to consider adoption of this time schedule order under Water Code section 13300 to establish a time schedule for the Department to comply with identified TMDL requirements.

IT IS HEREBY ORDERED that, pursuant to Water Code section 13267, 13268, 13300, and 13383 in order to ensure compliance with the TMDL requirements of Order 2022-0033-DWQ, NPDES Permit CAS000003, the Department shall comply with the following time schedule, requirements, and milestones. Compliance schedule milestones are included in this time schedule order and are summarized in the Compliance Schedule/Milestones Table, below.

The State Water Board does not intend to take an enforcement action for violations of TMDL requirements in Attachment D of Order 2022-0033-DWQ if the Department remains in compliance with the requirements in this time schedule order.

COMPLIANCE SCHEDULE

The following compliance schedule sets forth actions that the Department shall take to demonstrate compliance with the TMDLs listed in Table TSO-1. The compliance schedule includes TMDL interim milestones for the Department to maintain scheduled compliance progress. The TMDL interim milestones are actions to be completed during progressive stages during the compliance schedule, with the requirement for the Department to demonstrate its progress towards compliance with all the TMDLs listed in Table TSO-1.

The Department shall implement the following four-year TMDL interim milestones to track the rate of compliance with waste load allocations, calculated from the following formula:

$$(63 \text{ TMDLs}) / (\text{Year } 2034 - \text{Year } 202X) = \text{Average Annual Rate of Compliance}$$

$$\text{4-Year Interim Average Milestone Compliance Rate} = \text{Annual Rate of Compliance} \times 4 \text{ years}$$

Where “X” in the formula is the second year after the Adoption Date of this time schedule order.

The Department may comply with the above milestones by quantifying the percentage of required waste load reduction achieved for individual TMDLs, subject to approval of a method for quantifying the waste load reduction submitted with the Department’s TMDL Compliance Plan. Therefore, for example, if the Department achieves fifty percent of the required waste load reduction each for two TMDLs, the Department would have achieved the equivalent of full required waste load reduction for one TMDL. Achievement of excess waste load reduction for a particular TMDL shall not be credited toward required waste load reduction for another TMDL.

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If the Department is unable to meet the average annual rate of compliance in a year, the Department must ensure that the subsequent annual rates of compliance are increased to comply with the 4-year interim average milestone compliance rate.

Compliance Schedule / Milestones Table

Milestone	Compliance Date
TMDL compliance per 4-year TMDL interim average milestones compliance rate	4-year average TMDL milestone compliance rates as calculated from above formula for the 63 TMDLs listed in Table TSO-1
TMDL Compliance Plan	Within 12 months of the Adoption Date of Order 2022-0033-DWQ
Annual Coordination Meeting with State and Regional Water Board representatives to discuss compliance progress with compliance schedule	By March 1 – Annually
Annual TMDL Status Report	By July 1 – Annually
Compliance with all TMDL deadlines identified in Table TSO-1	By December 31, 2034
Final TMDL Compliance Report	By June 30, 2035

1. TOTAL MAXIMUM DAILY LOAD (TMDL) COMPLIANCE PLAN

Order 2022-0033-DWQ requires the Department to develop, submit, implement, and annually update a TMDL Compliance Plan that provides the Department’s strategies to comply with TMDL requirements by the final compliance date of this time schedule order. The Department’s TMDL Compliance Plan, and subsequent updates, must address the requirements of Order 2022-0033-DWQ and of this time schedule order. The Department shall submit the TMDL Compliance Plan, and subsequent updates, for review and consideration of approval by the State Water Board Executive Director. The State Water Board will provide a minimum 30-day public comment period prior to consideration of approval of the proposed TMDL Compliance Plan, and/or updates thereof.

Upon approval of the TMDL Compliance Plan and subsequent updates, the Department shall immediately implement all terms and provisions of the approved updated Plan to comply with the interim and final compliance dates in this time schedule order.

If the Department does not comply with the requirement for a TMDL Compliance Plan with a complete and timely TMDL Compliance Plan, this Time Schedule Order may be reopened to include immediate detailed implementation requirements for the Department to comply with the TMDLs listed in Table TSO-1.

The TMDL Compliance Plan shall address the items listed in sections 1.1 through 1.3, and section 4 of this time schedule order.

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1.1 Due Date

Within 12 months of the Adoption Date of Order 2022-0033-DWQ, the Department shall submit a complete TMDL Compliance Plan for review and consideration of approval by the State Water Board Executive Director.

1.2 Compliance Strategy for Each TMDL

In its TMDL Compliance Plan, for each TMDL listed in Table TSO-1 below, the Department shall provide detailed planning elements for compliance with provisions in Attachment D, section D3.3, of Order 2022-0033-DWQ, and a compliance strategy per provisions in section D3.3.10.

1.3 Additional Required Information for TMDL Compliance Plan

The Department shall follow the requirements outlined in Attachment D of Order 2022-0033-DWQ describing information required in its TMDL Compliance Plan.

2. ANNUAL TMDL COMPLIANCE STATUS REPORT

The Department shall comply with the Annual TMDL Compliance Status Report requirements in Attachment D of Order 2022-0033-DWQ.

3. REGION-SPECIFIC REPORTS

1. Prior to project implementation of cooperative agreements or other agreement mechanisms (e.g., regional, task force, local, watershed, tribal, and Regional Water Board project agreements) the Department shall submit its selected project for review and consideration of approval to the applicable Regional Water Board Executive Officer, or designee.
2. The Department shall submit proposed North Coast Water Board sediment and temperature TMDL-related projects for review and consideration of approval by the North Coast Water Board Executive Officer.

4. FINAL COMPLIANCE AND FINAL TMDL COMPLIANCE REPORT

By December 31, 2034, the Department shall be in compliance with all TMDLs listed in Table TSO-1 of this time schedule order.

By June 30, 2035, the Department shall submit a Final TMDL Compliance Report. The Final TMDL Compliance Report shall include, at minimum, the following information for each TMDL listed in Table TSO-1:

1. A description of the work implemented to meet the TMDL waste load allocations.
2. A spreadsheet of tabulated data with the following information:
 - a. TMDL name;
 - b. Watershed or reach name;

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- c. Individual pollutant or pollutant category;
 - d. Implemented best management practices with installation dates;
 - e. Cooperative agreement/project information (including requirements in Order 2012-0011-DWQ), lead agency, stakeholders, and agreement start date;
 - f. Selected strategy for demonstrating TMDL compliance using one or more of the eight strategies listed in section 1.2, above;
 - g. Dates when the Department achieved compliance;
 - h. Watershed acres;
 - i. The Department's acres in the watershed;
 - j. The Department's proportional responsibility or percentage of right-of-way in the watershed; and
 - k. TMDL waste load and load allocations applicable to the Department.
3. Electronic Geographic Information System data maps including the following:
 - a. Locations of TMDL watersheds;
 - b. Individual pollutants or pollutant categories; and
 - c. Best management practices or cooperative agreements implemented.
 4. Technical information for each best management practice and a description of the installed best management practices.
 5. Description of the best management practices that treat multiple pollutants and the pollutants treated by them.
 6. Identification of a TMDL waterbody in compliance, including a discussion with identification of all TMDL waterbodies (and waterbody reaches, as applicable) where the Department has demonstrated compliance with waste load allocations or load allocations.
 7. Identification of a TMDL waterbody out of compliance, including a discussion and identification of all TMDL waterbodies (and waterbody reaches, as applicable) that are not in compliance with waste load or load allocations.
 8. Appendices including an inclusion of modeling system, modeling software, and modeling input parameters and analysis.

5. REPORT SUBMITTALS

All reports required in this time schedule order shall be submitted to the State Water Resources Control Board, Storm Water Multiple Application and Report Tracking System (SMARTS) database.

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If the Department fails to comply with the provisions of this time schedule order, the Executive Director may refer this matter to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability.

Failure to comply with a provision of this time schedule order may result in further action authorized by law for being out of compliance, including an enforcement action pursuant to Water Code section 13268, 13350, and 13385. The State Water Board reserves its right to take any enforcement actions authorized by law.

I, Eileen Sobeck, Executive Director, do hereby certify the foregoing is a full, true, and correct copy of a time schedule order adopted by the State Water Resources Control Board on June 22, 2022.



Eileen Sobeck
Executive Director

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Table TSO-1: Total Maximum Daily Loads with Compliance Deadlines before December 31, 2034

Regional Water Board	Total Maximum Daily Load Watershed	Total Maximum Daily Load	Final Compliance Deadline
North Coast	Albion River	Sediment	December 31, 2001
North Coast	Big River	Sediment	December 31, 2001
North Coast	Lower Eel River	Temperature and Sediment	December 18, 2007
North Coast	Middle Fork Eel River	Temperature and Sediment	December 2003
North Coast	South Fork Eel River	Temperature and Sediment	December 16, 1999
North Coast	Upper Main Eel River and tributaries, including Tomki Creek, Outlet Creek, and Lake Pillsbury	Temperature and Sediment	December 29, 2004
North Coast	Garcia River	Sediment	March 16, 1998
North Coast	Gualala River	Sediment	November 29, 2001
North Coast	Klamath River	Temperature	December 28, 2010
North Coast	Lost River	Nitrogen, Biochemical Oxygen Demand, and pH	December 30, 2008
North Coast	Mad River	Sediment and Turbidity	December 21, 2007
North Coast	Navarro River	Sediment and Temperature	December 27, 2000
North Coast	Noyo River	Sediment	December 16, 1999

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Table TSO-1: Total Maximum Daily Loads with Compliance Deadlines before December 31, 2034

Regional Water Board	Total Maximum Daily Load Watershed	Total Maximum Daily Load	Final Compliance Deadline
North Coast	Redwood Creek	Sediment	December 30, 1998
North Coast	Shasta River	Temperature	December 26, 2017
North Coast	Ten Mile River	Sediment	December 31, 2000
North Coast	Trinity River	Sediment	December 20, 2001
North Coast	South Fork Trinity River and Hayfork Creek	Sediment	December 1998
North Coast	Van Duzen River and Yager Creek	Sediment	December 16, 1999
Los Angeles	Ballona Creek	Metals (Silver, Cadmium, Copper, Lead, Zinc, and Selenium)	January 11, 2021
Los Angeles	Ballona Creek	Trash	September 30, 2015
Los Angeles	Ballona Creek, Ballona Estuary, and Sepulveda Channel	Bacteria	July 15, 2021
Los Angeles	Ballona Creek Estuary	Toxic Pollutants: Silver, Cadmium, Copper, Lead, Zinc, Chlordane, Polychlorinated Biphenyls, Polyaromatic Hydrocarbons, and Dichlorodiphenyltrichloroethane	July 11, 2025
Los Angeles	Ballona Creek Wetlands	Sediment and Invasive Exotic Vegetation	March 26, 2012

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Table TSO-1: Total Maximum Daily Loads with Compliance Deadlines before December 31, 2034

Regional Water Board	Total Maximum Daily Load Watershed	Total Maximum Daily Load	Final Compliance Deadline
Los Angeles	Calleguas Creeks and its Tributaries and Mugu Lagoon	Metals and Selenium	March 26, 2022
Los Angeles	Calleguas Creeks, its Tributaries and Mugu Lagoon	Organochlorine Pesticides, Polychlorinated Biphenyls, and Siltation	March 24, 2026
Los Angeles	Colorado Lagoon	Organochlorine Pesticides, Polychlorinated Biphenyls, Sediment Toxicity, Polynuclear Aromatic Hydrocarbons, and Metals	July 28, 2018
Los Angeles	Los Angeles Area Lakes (Echo Park Lake)	Trash	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Echo Park Lake)	Total Nitrogen and Total Phosphorus	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Echo Park Lake)	Chlordane, Dichlorodiphenyltrichloroethane, Dieldrin, and Polychlorinated Biphenyls	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Legg Lake)	Trash	March 26, 2016
Los Angeles	Los Angeles Area Lakes (Lake Sherwood)	Mercury	March 26, 2012
Los Angeles	Los Angeles Area Lakes (North, Center, and Legg Lake)	Nitrogen and Phosphorus	March 26, 2012
Los Angeles	Los Angeles Area Lakes (North, Center, and Legg Lake)	Chlordane, Dichlorodiphenyltrichloroethane, Dieldrin, Polychlorinated Biphenyls	March 26, 2012

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Table TSO-1: Total Maximum Daily Loads with Compliance Deadlines before December 31, 2034

Regional Water Board	Total Maximum Daily Load Watershed	Total Maximum Daily Load	Final Compliance Deadline
Los Angeles	Los Angeles Area Lakes (Peck Road Park Lake)	Nitrogen and Phosphorus	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Peck Road Park Lake)	Chlordane, Dichlorodiphenyltrichloroethane, Dieldrin, and Polychlorinated Biphenyls	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Peck Road Park Lake)	Trash	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Puddingstone Reservoir)	Nitrogen and Phosphorus	March 26, 2012
Los Angeles	Los Angeles Area Lakes (Puddingstone Reservoir)	Chlordane, Dichlorodiphenyltrichloroethane, Polychlorinated Biphenyls, Mercury, and Dieldrin	March 26, 2012
Los Angeles	Los Angeles River	Trash	September 30, 2014
Los Angeles	Los Angeles River and Tributaries	Metals	January 11, 2028
Los Angeles	Los Cerritos Channel	Metals	March 17, 2010
Los Angeles	Machado Lake	Eutrophic Algae, Ammonia, and Odors	September 11, 2018
Los Angeles	Machado Lake	Pesticides and Polychlorinated Biphenyls	September 30, 2019
Los Angeles	Machado Lake	Trash	March 6, 2016

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Table TSO-1: Total Maximum Daily Loads with Compliance Deadlines before December 31, 2034

Regional Water Board	Total Maximum Daily Load Watershed	Total Maximum Daily Load	Final Compliance Deadline
Los Angeles	Malibu Creek and Lagoon	Sedimentation and Nutrients	July 2, 2013
Los Angeles	Malibu Creek Watershed	Bacteria	July 15, 2021
Los Angeles	Malibu Creek Watershed	Trash	July 7, 2017
Los Angeles	Marina del Rey Harbor	Toxic Pollutants: Copper, Lead, Zinc, Chlordane, and Total Polychlorinated Biphenyls	March 16, 2021
Los Angeles	Marina del Rey Harbor, Mothers' Beach, and Back Basins	Bacteria	July 15, 2021
Los Angeles	Revolon Slough and Beardsley Wash	Trash	February 27, 2016
Los Angeles	Santa Clara River Estuary and Reaches 3,5,6,7	Indicator Bacteria	January 19, 2029
Los Angeles	San Gabriel River and Impaired Tributaries	Metals (Copper, Lead, Zinc) and Selenium	September 30, 2026
Los Angeles	Santa Monica Bay	Dichlorodiphenyltrichloroethane and Polychlorinated Biphenyls	March 26, 2012
Los Angeles	Santa Monica Bay Beaches	Bacteria	July 15, 2021
Los Angeles	Santa Monica Bay Nearshore and Offshore	Debris (Trash & Plastic Pellets)	March 12, 2028
Los Angeles	Ventura River Estuary	Trash	February 27, 2016

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Table TSO-1: Total Maximum Daily Loads with Compliance Deadlines before December 31, 2034

Regional Water Board	Total Maximum Daily Load Watershed	Total Maximum Daily Load	Final Compliance Deadline
Los Angeles	Ventura River and its Tributaries	Algae, Eutrophic Conditions, and Nutrients	June 28, 2019
Santa Ana	Lake Elsinore and Canyon Lake	Nutrients	December 31, 2020
Santa Ana	Big Bear Lake	Nutrients	December 31, 2015
Santa Ana	San Diego Creek Watershed	Organochlorine Compounds: Dichlorodiphenyltrichloroethane and Toxaphene	November 12, 2013
Santa Ana	Upper and Lower Newport Bay	Organochlorine Compounds: Dichlorodiphenyltrichloroethane, Chlordane, and Polychlorinated Biphenyls	November 12, 2013
San Diego	Rainbow Creek	Total nitrogen and total phosphorous	December 31, 2021