

Fact Sheet

**SAN MATEO COUNTYWIDE
STORMWATER POLLUTION PREVENTION PROGRAM**

ORDER NO. R2-2004-
AMENDMENT OF NPDES PERMIT NO. CAS0029921

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
1515 CLAY STREET, 14TH FLOOR
OAKLAND, CA 94612

I. Permit History

- A. City/County Association of Governments (C/CAG) of San Mateo County, San Mateo County, Town of Atherton, City of Belmont, City of Brisbane, City of Burlingame, Town of Colma, City of Daly City, City of East of Palo Alto, City of Foster City, City of Half Moon Bay, Town of Hillsborough, City of Menlo Park, City of Millbrae, City of Pacifica, Town of Portola Valley, City of Redwood City, City of San Bruno, City of San Carlos, City of San Mateo, City of South San Francisco, and the Town of Woodside (hereinafter Dischargers), have joined together to form the San Mateo Countywide Stormwater Pollution Prevention Program (hereinafter Program). On July 21, 1999, the California Regional Water Quality Control Board for the San Francisco Bay Region (hereinafter referred to as the Regional Board) re-issued waste discharge requirements (NPDES Permit No. CAS0029921, Order No. 99-059, hereinafter Permit) under the National Pollutant Discharge Elimination System (NPDES) to the Program to discharge stormwater runoff from storm drains and watercourses within the Dischargers' jurisdictions by complying with the Permit and implementing the Permit's associated Stormwater Management Plan (hereinafter Plan).
- B. On February 19, 2003, the Regional Board adopted Order No. R2-2003-0023, amending Provision C.3 (New and Redevelopment Component) of the Permit.
- C. Order Nos. 99-059 and R2-2003-0023 recognize the Program's Plan as the Dischargers' comprehensive control program and requires implementation of the Plan. The Plan describes a framework for management of stormwater discharges. Pursuant to Provisions in Order No. 99-059, the 1999 Plan has been administratively modified since then and describes the Program's goals and objectives and contains Performance Standards, which represent the baseline level of effort required of each of the Dischargers. The Plan contains Performance Standards for five different stormwater management components, including watershed assessment and monitoring.
- D. In August 1999, the San Francisco BayKeeper and Just Economics for Environmental Health filed petitions for review of Order No. 99-059 by the State

Water Resources Control Board (the State Board). After careful consideration, the State Board dismissed the petitions on April 4, 2001.

II. Discharge Description and Location:

The Dischargers have jurisdiction over and/or maintenance responsibility for storm drains and watercourses that they own and/or operate in San Mateo County. The discharge consists of stormwater generated in all hydrologic sub-basins which drain into watercourses which in turn flow into Lower and South San Francisco Bay from the east side of the county or to the Pacific Ocean on the west side. The quality of the discharge varies considerably and is affected by hydrologic, geologic, land use, season, and sequence and duration of hydrologic events.

III. Rationale for Amendment of NPDES Permit No. CAS0029921

A. In 2001, San Francisco BayKeeper filed a lawsuit in San Francisco County Superior Court challenging the Regional Board's adoption of the Permit. On November 14, 2003, the Court upheld the permit on most counts; however, it issued a Writ of Mandate requiring the Board to amend the Permit in compliance with the Court's Statement of Decision, which held:

1. The Permit fails to include a monitoring program and must therefore specify required monitoring including type, interval, and frequency sufficient to yield data which are representative of the monitored activity;
2. Because the Stormwater Management Plan (Plan) is incorporated and is deemed an integral part of the Permit, modifications to the Plan are modifications to the Permit and have to go through a public notice and comment process; and
3. The Regional Board, not the Executive Officer, must approve substantive modifications to the Plan.

This Order is therefore necessary to amend the Permit and to comply with the Court's Writ of Mandate.

B. In response to the November 14, 2003, Court Decision, this Order therefore amends existing Order No. 99-059, as amended in 2003, NPDES Permit No. CAS0029921 (the Permit) to:

1. Specify the monitoring requirements, including type, interval, and frequency sufficient to yield data which are representative of the monitored activity;
2. Add language that requires all modifications to the Permit, including the Plan, undergo a public notice and comment process in accordance with applicable law; and

3. Remove language that delegates authority to the Executive Officer to approve substantive modifications to the Plan, and specify instead that the Regional Board approve all such modifications.

Additionally, the Order rescinds and vacates any and all past administrative changes to the Plan that have been made under the terms of the Permit that were not subject to a public process or Board action, as the Court held that changes to the Plan must be subject to public notice and comment and that the Executive Officer may not approve amendments to the Permit, which would include the Plan.

- C. Pursuant to 40 CFR sections 124.5.c.2 and 122.62 only those conditions to be modified by this amendment shall be reopened with this amendment. All other aspects of the existing permit shall remain in effect and are not subject to modification by this amendment.

IV. Written Comments

The formal written comment period for this Tentative Order to amend an existing Permit was closed **at 5 PM on June 18, 2004**. The initial Tentative Order was public noticed in February 2004, and Baykeeper commented upon it. The Dischargers also submitted minor editorial comments on the Tentative Order. The Tentative Order and response to comments will be considered by the Board at its July 21, 2004, meeting.

Contact for this Tentative Order:

Regional Water Quality Control Board
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Attn.: Habte Kifle

Or

FAX: (510) 622-2460
E-mail: hk@rb2.swrcb.ca.gov

A preliminary draft of the Tentative Order was circulated for comment on February 18, 2004. That draft and the one comment received by WaterKeeper is part of the administrative record for this matter and the Board will consider and respond to the comment received when it prepares a Response to Comments for comments received for this Tentative Order.

V. Public Hearing

The Board will consider the Tentative Order, and any proposed changes thereto based on public comments, at its July 21, 2004, meeting. The meeting will be held at:

**July 21, 2004
9:00 A.M.**

**Elihu M. Harris Building
First Floor Auditorium
1515 Clay Street
Oakland, CA 94612**

VI. Additional Opportunities to Comment on NPDES Permit No. CAS0029921

The purpose of this permit amendment is to comply with a court order. At this time, it is not the Regional Board's intention to open discussion on the adequacy of the current permit requirements. However, this permit is up for reissuance in 2004. There will be opportunities in the following months (dates and times to be announced) for the public to comment on the substance of the permit, in preparation for the permit reissuance. For more information, and to be placed on a notification list for this process, please contact Habte Kifle at (510) 622-2371, e-mail: hk@rb2.swrcb.ca.gov.