

STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 2019-0009-EXEC
AMENDING

WATER QUALITY ORDER 2013-0001-DWQ

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT NO. CAS000004
WASTE DISCHARGE REQUIREMENTS
FOR
STORM WATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER
SYSTEMS (MS4)

The California State Water Resources Control Board (hereafter State Water Board) finds:

1. On December 8, 1999, the United States Environmental Protection Agency (U.S. EPA) promulgated Phase II storm water regulations under authority of the Clean Water Act section 402(p)(6). The Phase II storm water regulations require the State Water Board to issue National Pollutant Discharge Elimination System storm water permits to operators of Small MS4s.
2. An MS4 is a conveyance or system of conveyances that is: (1) owned by a state, city, town, village, or other public entity that discharges to waters of the United States; (2) designed or used to collect or convey storm water (including storm drains, pipes, ditches, etc.); (3) not a combined sewer; and (4) not part of a Publicly Owned Treatment Works or sewage treatment plant. Title 40 of the Code of Federal Regulations (40 C.F.R.) section 122.26(b)(16) defines Small MS4s as those not defined as "large" or "medium" MS4s under section 122.26(b)(4) or (b)(7) or designated under 40 Code of Federal Regulations section 122.26(a)(1)(v). The term Small MS4s includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares (40 C.F.R. §122.26(b)(16)(iii).) These latter subsets of Small MS4s are referred to herein as Non-traditional Small MS4s. Non-traditional Small MS4s discharge pollutants that are typically associated with urban runoff.
3. The State Water Board adopted the first Small MS4 General Permit in 2003. The State Water Board reissued the Small MS4 General Permit (Water Quality Order 2013-0001-DWQ) in 2013. The Small MS4 General Permit is a statewide permit that sets requirements for multiple permittees. Of the Small MS4s defined by federal regulations, only "Regulated Small MS4s" (also referred to as "Permittees") must obtain coverage under the Small MS4 General Permit. Small MS4s are designated as Regulated Small MS4s in accordance with the criteria described in Findings 19-23 and Finding 25 of the General Permit.
4. The Small MS4 General Permit allows the Regional Water Quality Control Boards (Regional Water Boards) to designate additional Small MS4s as Regulated Small MS4s on a case-by-case basis. A Regional Water Board designation is based on the potential of a Small MS4 to discharge urban runoff that causes or contributes to exceedances of water quality standards, including impairment of designated uses, and other water quality impacts, including habitat and biological impacts. When a Regional Water Board designates a Small MS4 after the adoption of the Small MS4 General Permit, the designation must be approved by the Regional Water Board following public review and comment.

5. Non-traditional Permittees required to be enrolled under the Small MS4 General Permit are listed in the Permit's Attachment B. The State Water Board Executive Director may amend the list of Regulated Small MS4s in Attachment B consistent with the designation criteria listed in the Small MS4 General Permit. Accordingly, where a Regional Water Board determines that designation of a Small MS4 is consistent with the designation criteria of the Small MS4 General Permit, the Executive Director may amend Attachment B to require that Small MS4 to enroll.
6. On April 7, 2015, the State Water Board amended statewide water quality control plans to address the pervasive impacts trash has on the beneficial uses of the State's surface waters (Trash Provisions). The Trash Provisions establish statewide narrative water quality objectives providing that trash shall not be present in surface waters, prohibit trash discharge to surface waters, and prohibit trash deposition where it may be discharged into surface waters.
7. The State Water Board issued Water Code section 13383 Orders to Regulated Small MS4s on June 1, 2017, requiring implementation of the Trash Provisions. For Small MS4s designated after June 1, 2017, the State Water Board issues Water Code section 13383 Orders upon designation. Newly-designated Small MS4s must achieve full compliance with the Trash Provisions within 10 years of the effective date of designation.

Mule Creek State Prison


8. The California Department of Corrections and Rehabilitation (Department) owns and operates a Small MS4 at its Mule Creek State Prison (MCSP), located in the City of Lone in Amador County. The storm sewer collection system discharges to Mule Creek. The total MCSP population as of January 2019 is 5,395, which consists of 3,968 inmates and 1,427 authorized staff positions. Mule Creek storm water sampling data collected by Central Valley Regional Water Quality Control Board and MCSP staff indicate that the storm water discharge from the facility has the potential to cause or contribute to exceedances of water quality standards in Mule Creek.
9. The Central Valley Water Board notified the Department, interested agencies, and interested persons of its intent to consider a Resolution to designate the MCSP as a Regulated Small MS4 under the Small MS4 General Permit. The Central Valley Water Board adopted the Resolution at a public hearing on February 8, 2019.

IT IS HEREBY ORDERED THAT:

1. Water Quality Order 2013-0001-DWQ is hereby amended as shown in Attachment 1 of this Order. The amended Water Quality Order shall become effective upon the date of Executive Director approval.
2. Upon approval by Executive Director, the Department at Mule Creek State Prison shall submit a Notice of Intent and the appropriate fee within 6 months of the effective date of approval.¹
3. Upon designation, the State Water Board will issue a Water Code section 13383 Order to the Department requiring implementation of the Trash Provisions.

4/24/19

 Date



 Eileen Sobeck
 Executive Director

¹ Section A.1.a of the Small MS4 General Permit

ATTACHMENT 1
To
ORDER WQ 2019-0009-EXEC
AMENDING

WATER QUALITY ORDER 2013-0001-DWQ

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
 GENERAL PERMIT NO CAS000004
 WASTE DISCHARGE REQUIREMENTS
 FOR
 STORM WATER DISCHARGES FROM SMALL MUNICIPAL STORM SEWER SYSTEM (MS4s)

The Mule Creek State Prison is added to the list of Non-Traditional Small MS4 Permittees on Attachment B of the Small MS4 General Permit as shown in underline format below.

PAGE 1

Attachment B – Non-Traditional Small MS4 Permittees

Region	Permittee Name	Agency	Designation Criteria	Permittee Type	Monitoring Type
--------	----------------	--------	----------------------	----------------	-----------------

Monitoring Type: Δ = Areas of Special Biological Significance Special Protections

*The list of Regulated MS4s in this Attachment may be amended by the Executive Director consistent with the designation criteria listed in the Order. Revised 2/19/13 to change Agency to Department of Homeland Security for Petaluma Coast Guard Training Center and Alameda Coast Guard Integrated Support Command, removed VA Northern CA Healthcare Systems and Martinez Center for Rehab and Extended. Amended on 9/2/15 to remove Tracy Unified School District. Amended on 01/24/18 to delete Amtrak and to add California High Speed Rail Authority. Amended on March 13, 2018 to add San Diego Metropolitan Transit District and Marine Corps Recruit Depot San Diego. Amended on April 24, 2019 to add Mule Creek State Prison.

PAGE 7

Attachment B – Non-Traditional Small MS4 Permittees

San Diego Regional Water Board					
<u>5S</u>	<u>Mule Creek State Prison</u>	<u>Department of Corrections and Rehabilitation</u>	<u>Regional Board Designation</u>	<u>New</u>	

ATTACHMENT 2
To
ORDER WQ 2019-0009-EXEC
AMENDING

WATER QUALITY ORDER 2013-0001-DWQ

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION
RESOLUTION R5-2019-0006
DESIGNATION OF REGULATED SMALL MS4 FOR
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
MULE CREEK STATE PRISON
AMADOR COUNTY
INTO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT
FOR WASTE DISCHARGE REQUIREMENTS FOR STORM WATER DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS
PERMIT NO. CAS000004

The California Regional Water Quality Control Board, Central Valley Region, (Central Valley Water Board) finds that:

Authority for Designation

1. The National Pollutant Discharge Elimination System (NPDES) General Permit for Waste Discharge Requirements for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems (MS4), Order No. 2013-0001-DWQ, (Small MS4 General Permit) was adopted by the State Water Resources Control Board (State Water Board) on 5 February 2013 and amended on 19 December 2017.
2. The Small MS4 General Permit applies to a subset of Small MS4s, designated in accordance with federal regulations and criteria identified in the Permit. The State Water Board designated all Small MS4s located within an urbanized area and Small MS4s located outside of an urbanized area that have high population and population density or discharges to an Area of Special Biological Significance.¹
3. Additionally, the Small MS4 General Permit allows the Regional Water Boards to designate additional Small MS4s on a case-by-case determination. Designations must be “based on the potential of a Small MS4’s discharges to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.”² Such designations must be approved by the Regional Water Board following public review and comment.³
4. If a Regional Water Board designates a Regulated Small MS4, the Executive Director of the State Water Board may amend Attachments A or B of the Small MS4 General Permit to add Regional Water Board designations.⁴
5. To allow for an appropriate regulatory approach, the Small MS4 General Permit addresses differences between Traditional and Non-Traditional Small MS4s. The Small MS4 General Permit identifies Non-Traditional Small MS4s as MS4s that are similar to MS4s serving cities and counties but that are operated at other governmental facilities

¹ Findings 19 through 23 of the Small MS4 General Permit.

² Finding 24 and Section G of the Small MS4 General Permit.

³ Finding 24 and Section G of the Small MS4 General Permit.

⁴ Section G of the Small MS4 General Permit.

such as public campuses, military bases, and prison and hospital complexes. For purposes of the designation of state and federal prison complexes as Non-Traditional Small MS4s, the Small MS4 General Permit interprets prison complexes to mean prison facilities with a resident and staff population of 5,000 or more.⁵

Designation of Mule Creek State Prison

6. The California Department of Corrections and Rehabilitation owns and operates a municipal separate storm sewer collection system at Mule Creek State Prison (MCSP) located in Lone within Amador County. The storm sewer collection system from MCSP discharges to Mule Creek.
7. The total MCSP population as of January 2019 is 5,395, which consists of 3,968 inmates⁶ and 1,427 authorized staff positions.⁷
8. MCSP has had water quality issues in the past year. Sampling data collected by Central Valley Water Board and MCSP staff indicate that the discharge of stormwater from the facility has the potential to result in exceedances of water quality standards in Mule Creek.
9. The Central Valley Water Board has determined that MCSP meets the designation criteria in the Small MS4 General Permit and should be designated as a Non-Traditional Small MS4.
10. The Central Valley Water Board has notified the California Department of Corrections and Rehabilitation and interested agencies and persons of its intent to approve the resolution and has provided them with an opportunity to submit comments.
11. The Central Valley Water Board heard and considered all comments regarding this Resolution at a public hearing on 8 February 2019.
12. Following adoption of this Resolution, the Executive Director of the State Water Board may amend Attachment B to add MCSP as a Non-Traditional Small MS4.
13. The Executive Director will consider the record of these proceedings before the Central Valley Water Board, including comments submitted to the Central Valley Water Board from interested persons, prior to making any amendment to Attachment B. The State Water Board will accept additional written comments until 11 February 2019.

Trash Provisions

14. On 7 April 2015, the State Water Board amended statewide Water Quality Control Plans⁸ to address the pervasive impacts trash has on the beneficial uses of the State's surface waters (Trash Provisions).

⁵ Finding 17 of Small MS4 General Permit and p. 6 of the Small MS4 General Permit Fact Sheet.

⁶ California Department of Corrections and Rehabilitation Division of Internal Oversight and Research Office of Research, 2 January 2019.

⁷ COMPSTAT Strategic and Performance Planning Statistical Report (SB601), 4 December 2018

⁸ Amendments to the Water Quality Control Plan for Ocean Waters of California (Ocean Plan) to Control Trash and Part 1 Trash Provisions of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, And Estuaries of California (ISWEBE Plan) became effective on 2 December 2015. Documents

15. The Trash Provisions establish statewide narrative water quality objectives providing that trash shall not be present in surface waters and prohibitions of trash discharge to surface waters or trash deposition where it may be discharged into surface waters.
16. The Trash Provisions required the State Water Board to initiate implementation of the Trash Provisions by 2 June 2017 through an amendment to the Small MS4 General Permit or through monitoring and reporting orders issued pursuant to Water Code sections 13267 or 13383.⁹
17. The State Water Board did not amend the Small MS4 General Permit within the time frame specified in the Trash Provisions. Therefore, initial implementation steps are being required through the issuance of Water Code section 13383 Orders. For existing permittees, Water Code section 13383 Orders were issued on 1 June 2017. For newly Regulated Small MS4s, the State Water Board will issue Water Code section 13383 Orders upon designation.¹⁰
18. Newly designated Small MS4s must achieve full compliance with the Trash Provisions within 10 years of the effective date of designation.¹¹

California Environmental Quality Act

19. Issuance of this Resolution is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA) pursuant to Water Code section 13389.

THEREFORE, BE IT RESOLVED THAT:

1. The Central Valley Water Board designates Mule Creek State Prison as a Regulated Small MS4 under the Small MS4 General Permit.
2. The Central Valley Water Board requests that the Executive Director of the State Water Board amend Attachment B of the Small MS4 General Permit to include Mule Creek State Prison as a Non-Traditional Small MS4.
3. The Central Valley Water Board requests that the State Water Board issue a 13383 Order to California Department of Corrections and Rehabilitation in accordance with the Trash Provisions.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with California Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must *receive* the petition by 5:00 p.m., 30 days after the date of this Resolution, except that if the thirtieth day following the date of this Resolution 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. Copies of the law and regulations applicable to filing petitions may be found on the internet at

associated with be Amendments may be downloaded from the following site at
http://www.waterboards.ca.gov/water_issues/programs/trash_control/documentation.shtml.

⁹ Chapter IV.A.5.a(1) of the ISWEBE Plan and Chapter III.L.4.a(1) of the Ocean Plan.

¹⁰ Chapter IV.A.5.a(1)(B) of the ISWEBE Plan and Chapter III.L.4.a(1)(B) of the Ocean Plan.

¹¹ Chapter IV.A.5.a(1)(B)(4) of the ISWEBE Plan and Chapter III.L.4.a(1)(B)(4) of the Ocean Plan.

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, PATRICK PULUPA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of the Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, **on 8 February 2019**.

Original signed by

PATRICK PULUPA, Executive Officer