

**For the Second Revised Tentative Order, National Pollutant Discharge Elimination System (NPDES) Statewide Storm Water Permit, Waste Discharge Requirements (WDRS) for the State of California Department of Transportation, change the following:**

**Change Finding 6 as follows:**

Non-storm water discharges consist of all discharges from an MS4 that do not originate from precipitation events.

**Generally,** Non-storm water discharges to an MS4 are prohibited, conditionally exempt from prohibition, or regulated separately by an NPDES permit. The categories of conditionally exempt non-storm water discharge are specified at 40 Code of Federal Regulations section 122.26(d)(2)(iv)(B)(1). Non-storm water discharges that are regulated by a separate NPDES permit are not subject to the discharge prohibition. Prohibited non-storm water discharges include conditionally exempt discharges that are found to be a source of pollutants to waters of the United States. Illicit discharges must also be prohibited. An illicit discharge is defined in 40 Code of Federal Regulations section 122.26(b)(2) as "any discharge to a municipal storm sewer that is not composed entirely of storm water except discharges pursuant to an NPDES permit (other than the NPDES Permit for discharges from the Municipal Separate Storm Sewer System) and discharges resulting from fire fighting activities." Provision B of this Order addresses non-storm water discharge.

**Non-storm water discharges to an MS4 with a discharge to an ASBS are subject to a different set of conditions as stated in Finding 22.a.**

**Change Finding 22 to add Finding 22a as follows:**

**Non-storm water discharges to ASBS are prohibited except as specified in the General Exception. Certain enumerated non-storm water discharges are allowed under the General Exception if essential for emergency response purposes, structural stability, slope stability, or if occur naturally. In addition, an NPDES permitting authority may authorize non-storm water discharges to an MS4 with a direct discharge to an ASBS to the extent the NPDES permitting authority finds that the discharge does not alter natural ocean water quality in the ASBS. This Order allows utility vault discharges to segments of the Department MS4 with a direct discharge to an ASBS, provided the discharge is authorized by the General NPDES Permit for Discharges from Utility Vaults and Underground Structures to Surface Water, NPDES No. CAG 990002. The State Water Board is in the process of reissuing the General NPDES Permit for Utility Vaults. As part of the renewal, the State Water Board will require a study to characterize representative utility vault discharges to an MS4 with a direct discharge to an ASBS and will impose conditions on such discharges to ensure the discharges do not alter natural ocean water quality in the ASBS. Given the limited number of utility vault discharges to MS4s that discharge directly to an ASBS, the State Water Board finds that discharges from utility vaults and underground structures to a segment of the Department's MS4 with a direct discharge to an ASBS are not expected to result in the MS4 discharge causing a substantial alteration of natural ocean water quality in the ASBS in the interim period while the General NPDES Permit for Discharges from Utility Vaults is renewed and the study is completed. However, if a Regional Water Board determines a specific discharge from a utility vault or underground structure does alter the natural ocean water quality in an ASBS, the Regional Water Board may prohibit the discharge as specified in this Order.**

**Change Section A.2 as follows:**

2. Discharges to Areas of Special Biological Significance (ASBS)
  - a. Existing storm water discharges into an ASBS are allowed only if the discharges:
    - 1) Are essential for flood control or slope stability, including roof, landscape, road, and parking lot drainage;
    - 2) Are designed to prevent soil erosion;
    - 3) Occur only during wet weather; and
    - 4) Are composed of only storm water runoff, except as provided at B.64

**Change Section B as follows:**

**B. NON-STORM WATER DISCHARGE PROHIBITIONS**

**Non-storm water discharges, other than those to ASBS, must comply with the following provisions:**

1. The Department shall effectively prohibit non-storm water discharges into its storm water conveyance system unless such discharges are either:
  - a. Authorized by a separate NPDES permit; or
  - b. Conditionally exempt in accordance with provision B.2. of this NPDES permit
2. Conditionally Exempt Non-storm Water Discharges

The following non-storm water discharges are conditionally exempt from Prohibition B.1 unless the Department or the State Water Board Executive Director identifies them as sources of pollutants to receiving waters. For discharges identified as sources of pollutants, the Department shall either eliminate the discharge or otherwise effectively prohibit the discharge.

- a. Diverted stream flows;
  - b. Rising ground waters;
  - c. Uncontaminated ground water infiltration (as defined at 40 C.F.R., § 35.2005(20)) to MS4s;
  - d. Uncontaminated pumped ground water;
  - e. Foundation drains, including slope lateral drains;
  - f. Springs;
  - g. Water from crawl space pumps;
  - h. Footing drains;
  - i. Air conditioning condensation;
  - j. Flows from riparian habitats and wetlands;
  - k. Water line flushing<sup>1</sup>;
  - l. Minor, incidental discharges of landscape irrigation water<sup>2</sup>;
  - m. Discharges from potable water sources<sup>1</sup>;
  - n. Irrigation water<sup>3</sup>;
  - o. Minor incidental discharges from lawn watering;
  - p. Individual residential car washing; and
  - q. Dechlorinated swimming pool discharges.
3. Some Regional Water Boards have separate dewatering and/or “de minimus” NPDES discharge permits or Basin Plan requirements for some or all of these listed non-storm water discharges. The Department shall check with the appropriate Regional Water Board to determine if a specific non-storm water discharge requires coverage under a separate NPDES permit.
- 4.5-** The Department is not required to prohibit emergency fire fighting flows (i.e., flows necessary for the protection of life or property). Discharges associated with emergency firefighting do not require BMPs, but they are recommended if feasible. As part of the SWMP, the Department shall develop and implement a program to reduce pollutants from non-emergency fire fighting flows (i.e., flows from controlled or practice blazes and maintenance activities) as specified in the SWMP.
- 5.6-** If the State Water Board Executive Director determines that any category of conditionally exempt non-storm water discharge is a source of pollutants, the State Water Board Executive Director may require the Department to conduct additional monitoring and submit a report on the discharges. The State Water Board Executive Director may also order the Department to cease a non-storm water discharge if it is found to be a source of pollutants.

**Non-storm water discharges to ASBS must comply with the following provisions:**

**6.4-** Non-storm water discharges to ASBS are prohibited except **as stated in this Section.**

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<sup>1</sup> In order to remain conditionally exempt, discharges shall be dechlorinated prior to discharge.

<sup>2</sup> In order to remain conditionally exempt, landscape irrigation systems must be designed, operated and maintained to control non-incident runoff. See definition of incidental runoff in Attachment VIII.

<sup>3</sup> Return flows from irrigated agriculture are not point-source discharges and are not prohibited from entering the Department’s MS4.

~~that~~ The following non-storm water discharges are allowed, provided that the discharges are essential for emergency response purposes, structural stability, slope stability, or occur naturally:

- a. Discharges associated with emergency fire fighting operations.
- b. Foundation and footing drains.
- c. Water from crawl space or basement pumps.
- d. Hillside dewatering.
- e. Naturally occurring groundwater seepage via a storm drain.
- f. Non-anthropogenic flows from a naturally occurring stream via a culvert or storm drain, as long as there are no contributions of anthropogenic runoff.

**Discharges from utility vaults and underground structures to a segment of the Department's MS4 with a direct discharge to an ASBS are permitted if such discharges are authorized by the General NPDES Permit for Discharges from Utility Vaults and Underground Structures to Surface Water, NPDES No. CAG 990002. A Regional Water Board may nonetheless prohibit a specific discharge from a utility vault or underground structure if it determines that the discharge is causing the MS4 discharge to the ASBS to alter natural ocean water quality in the ASBS.**

**NonAdditional non**-storm water discharges to a segment of the Department's MS4 with a direct discharge to an ASBS are allowed only to the extent the relevant Regional Water Board finds that the discharge does not alter natural ocean water quality in the ASBS.

Authorized non-storm water discharges shall not cause or contribute to a violation of the water quality objectives in Chapter II of the Ocean Plan or alter natural ocean water quality in an ASBS.

#### **Change E.4.b. as follows:**

- b. TMDL-Specific Permit Requirements  
Within six months of the adoption date of this Order, the Department shall consult with each Regional Water Board, **and the State Water Board** to identify the WLAs, deliverables and actions to be implemented by the Department in meeting the TMDLs identified in Attachment IV. The Regional Water Boards have been directed to propose and submit, within one year of the adoption date of this Order, specific requirements for incorporation into Attachment IV through a reopener under provision E.11.c. The submission will include:

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## **Fact Sheet**

#### **Change Page 3 as follows:**

**Non-storm water discharges are subject to different requirements under the Order depending on whether they are discharged to ASBS.**

#### **Non-storm water discharges outside ASBS:**

**Non-storm water discharges must be effectively prohibited unless they are authorized by a separate NPDES permit or are conditionally exempt under provisions of the Order consistent with 40 CFR, §122.26 (d)(2) (iv)(B).** Non-storm water discharges that are not specifically or conditionally exempted by this Order are subject to the existing regulations for point source discharges. Conditionally exempt non-storm water discharges that are found to be significant sources of pollution are to be effectively prohibited.

#### **Discussion of Agricultural Return Flows:**

The Department (2007a) indicated in its Non-Storm Water Report that ...

#### **Change Page 5 as follows:**

[...] The appropriate regulatory mechanism for these discharges is the non-point source regulatory programs and not a municipal storm water permit.<sup>4</sup>

#### **Non-Storm Water Discharges to ASBS:**

Non-storm water discharges to ASBS are prohibited except as specified in the General Exception. Certain enumerated non-storm water discharges are allowed under the General Exception if essential for emergency response purposes, structural stability, slope stability, or if occur naturally.

*Discussion of Utility Vault Discharges:*

In addition, an NPDES permitting authority may authorize non-storm water discharges to an MS4 with a direct discharge to an ASBS to the extent the NPDES permitting authority finds that the discharge does not alter natural ocean water quality in the ASBS. This Order allows utility vault discharges to segments of the Department MS4 with a direct discharge to an ASBS, provided the discharge is authorized by the General NPDES Permit for Discharges from Utility Vaults and Underground Structures to Surface Water, NPDES No. CAG 990002. The State Water Board is in the process of reissuing the General NPDES Permit for Utility Vaults. As part of the renewal, the State Water Board will require a study to characterize representative utility vault discharges to an MS4 with a direct discharge to an ASBS and will impose conditions on such discharges to ensure the discharges do not alter natural ocean water quality in the ASBS. Given the limited number of utility vault discharges to MS4s that discharge directly to an ASBS, the State Water Board finds that discharges from utility vaults and underground structures to MS4s with a direct discharge to an ASBS are not expected to result in the MS4 discharge causing a substantial alteration of natural ocean water quality in the ASBS in the interim period while the General NPDES Permit for Discharges from Utility Vaults is renewed and the study is completed. However, if a Regional Water Board determines a specific discharge from a utility vault or underground structure does alter the natural ocean water quality in an ASBS, the Regional Water Board may prohibit the discharge as specified in this Order. It should also be noted that, under the California Ocean Plan Section III.E.2 (Implementation Provisions for ASBS), limited-term activities that result in temporary and short-term changes in existing water quality in the ASBS may be permitted.

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## Attachment IV

Change Page 17 as follows:

R8 – ~~Colorado River~~ Santa Ana Region

Change Page 18 as follows:

Rhine Channel Area of the Lower ~~New Port~~ Newport Bay\*  
Chromium and Mercury