

CITY OF OAKLAND



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November 16, 2021

Submitted via email to: RB2-MRP@waterboards.ca.gov

Michael Montgomery
Executive Officer
SF Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Mr. Montgomery,

Thank you for the opportunity to provide written comments on the Tentative Order of the Municipal Regional Stormwater NPDES Permit No. CAS612008 (MRP). Oakland also appreciated the opportunity to provide verbal comments at the public workshop hearings on the Tentative Order that were held in mid-October. We look forward to a significantly revised Tentative Order that addresses the concerns that were raised by Board members and testimony presented by Oakland and other permittees during those hearings.

Oakland shares in the Water Board's desire for a permit that significantly improves water quality in our local waterways and the San Francisco Bay, however, it is critical that the permit be written in a way that is feasible to implement from a technical and cost perspective within the five-year permit term. To accomplish significant water quality benefits within the fiscal constraints municipalities such as Oakland face, requirements in the reissued MRP must allow cities to prioritize actions that have the greatest positive impact on water quality with the most reasonable burden on public resources. Oakland, like many other cities, is facing unprecedented economic and humanitarian impacts and challenges as a result of the COVID-19 pandemic that are likely to continue far beyond this permit term. The size, diverse demographics, and social economic status of our city presents challenges that we must address in our respective watersheds with very limited funding. To achieve this the permittees need for more flexibility to improve water quality in an effective, efficient, and equitable way for our communities.

The attached table is comprised of comments on the key issues for Oakland. If adopted as currently written, the provisions we address in the table will result in a significant economic, staffing resources, and technical challenge burdens with arguably very limited additional water quality benefit resulting from some of the provisions. As requested by Board Chair McGrath, we have included suggested revisions that we believe will most benefit water quality and are achievable in the next permit term. Many of our recommendations were supported by some or

all of your Board members at the workshop hearings. These same concerns have also been shared in verbal and written form with your staff on numerous occasions during the last several years of permit negotiations.

We appreciate your consideration of the concerns we have expressed and look forward to our continued work together with the Water Board to achieve our mutual goal of improved water quality.

Sincerely,



G. Harold Duffey
Director

Copy:

- Dr. Thomas Mumley, Assistant Executive Officer, SFBRWQCB
- Keith Lichten, Chief, Watershed Management Division, SFBRWQCB
- Ryan Russo, Director, Oakland Department of Transportation
- William Gilchrist, Director, Oakland Department of Planning, Building, and Neighborhood Services
- Reginald D. Freeman, Fire Chief, Oakland Fire Department
- Kristin Hathaway, Acting Assistant Director, Oakland Public Works Department, Bureau of Design and Construction, and Watershed and Stormwater Manager

Attachment: City of Oakland's Comments on the Tentative Order of the Municipal Regional
2021-11-16

Section Heading	Provision(s)	MRP 3.0 Tentative Order (TO) Text or Summary	City of Oakland Issue(s) with TO Text	Proposed Alternative
C.2. Municipal Operations				
Municipal Maintenance	C.2.a, b, and c	These provisions increase reporting requirements.	The increased reporting requirements in this provision and throughout the Tentative Order are a burden to municipal staff not justified by the minimal potential water quality improvements.	Keep the reporting requirements the same as in MPR 2. C.2 compliance information should be kept by the Permittees and available on request.
C.3 – New Development and Redevelopment				
New Development and Redevelopment - General	C.3	Provision C.3 – Lowers thresholds for Regulated Projects, adds Regulated Project Categories, and removes LID reduction credits for many Regulation Projects that currently qualify as Special Projects.	Many of the revised requirements in this Provision would increase the City's compliance costs and workloads and would impose burdensome and costly procedures on project applicants. The City's role is to implement the residents', businesses', and City's vision for preservation, enhancement, growth, and revitalization of the City's neighborhoods through adopted planning frameworks. This provision establishes a water quality regulation that imposes a significant cost and hinders the city's ability to address other important concerns such as the ongoing housing crisis, business retention and development, urban sprawl reduction and growth patterns, and the wishes of our residents and businesses.	Retain MRP 2.0 requirements. The current requirements are successfully expanding LID design and more than 200 acres of impervious has been treated by green stormwater infrastructure through private and public projects in Oakland.
C.3.b. Regulated Projects	C.3.b.i.(2)	Any Regulated Project that was approved with no Provision C.3. stormwater treatment requirements under a previous MS4 permit and that has not begun construction by the effective date of this permit, shall be required to fully comply with the requirements of Provisions C.3.c. and C.3.d. An exemption for private projects with an approved vesting tentative map is granted in this provision.	The City of Oakland's Capital Improvement Program (CIP) is on a 2-year budget, and projects that are already planned and budgeted but not built will be difficult to alter. It is impractical to require stormwater treatment requirements for Capital Improvement Projects already approved and budgeted. Budgets and authorizations for these projects are set years in advance.	Include language more appropriate to public projects, for which a vesting tentative map is not a consistent trigger, should be added such as, "For the Permittee's Regulated Projects, the effective date shall be the date their governing body or designee approves initiation of the project design."

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C.3.b. Regulated Projects	C.3.b.ii (2)	Other Development: Drops non-SFH Regulated Projects threshold from 10,000 to 5,000 square feet.	It is more efficient for Permittees to focus on larger systems that convey greater water quality improvements instead of scattered small systems.	Retain 10,000 square foot threshold.
C.3.b. Regulated Projects	C.3.b.ii (3)	Other Redevelopment: Drops threshold from 10,000 to 5,000 sf. Exclusions were moved from this provision to C.3.ii (1)(b).	This conflicts with plans for downtown, transit corridors, and commercial areas where development patterns are set via public engagement process and Council-approval. These plans call for dense development to address projected housing needs and the ongoing housing crisis, while reducing urban sprawl and its negative effects on the environment and water quality by imposing more regulations on smaller projects that add housing in more densely populated areas.	Retain 10,000 square feet threshold for Other Redevelopment.
C.3.b. Regulated Projects	C.3.b.ii (4)(c)	New or Widening Road Projects: Drops threshold from 10,000 to 5,000 square feet and adds new impervious trails that are greater than or equal to 10 feet wide or are creek-side (within 50 feet of top of bank) to list of Regulated Project types.	Increases costs and regulatory hurdles for municipal Capital Improvement Projects designed to increase non-motorized transportation.	Require these projects to implement site design measures rather than install additional stormwater treatment systems. Proposed alternative language: <i>Direct stormwater runoff away from creeks, towards the outboard side of levees, to adjacent vegetated areas, or other non-erodible permeable areas, that are at least half as large as the contributing impervious surface area. Ensure that the pervious area soils infiltrate adequately to handle the additional run-on.</i>

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C.3.b. Regulated Projects	C.3.b.ii (5)	Road reconstruction projects that add/replace an acre or more of contiguous impervious surface are now considered Regulated Projects that would be required to incorporate specific LID measures.	<p>This requires treatment within limited Right-of-Way (ROW) spaces that are often very constrained above and below ground. Old cities such as Oakland often have infrastructure underground which constrains and complicates the underground areas that would otherwise be prioritized for Green Stormwater Infrastructure.</p> <p>The duration of project cycles, and the target compliance date of June 30, 2027, to treat 10 acres of impervious area, could be a challenge if funding isn't in place to support GSI through traffic safety related grant sources. Transportation funding sources often cannot be used for landscaping, let alone GSI. The additional requirements will require resources at all levels of planning, design, construction, and maintenance.</p>	<p>Incorporating GSI into Road Reconstruction Projects should only be required where it is technically feasible. Technical infeasibility should not mandate alternative compliance for which a suitable location/project may not be possible to identify.</p> <p>Include incentives in the permit to encourage municipalities to work with developers to add GSI to the ROW, where feasible, and to provide incentives to developers to do so.</p>

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C.3.b. Regulated Projects	C.3.b.ii (6)	Removes exclusion for Single Family Homes (SFHs). This provision would require SFHs that add/replace 10,000 square feet (sf) impervious to meet the treatment sizing requirements in provisions C.3.c. and C.3.d., and Permittees would be required to verify ongoing O&M of more technical stormwater treatment facilities.	<p>In Oakland, these projects are primarily in the hillside areas with large-lot zoning. It is impractical to require hillside SFHs to treat all stormwater for houses and driveways on a 60% up-sloped lot. Pumping stormwater upslope to a treatment area would be energy-intensive and pumps are prone to failure.</p> <p>Occupants of SFHs are not well equipped, generally, to maintain more technical stormwater treatment facilities. Site design measures, such as disconnected downspouts, pervious pavement, and well-drained vegetated and other self-retaining areas, are easier to maintain and provide water quality benefits. Additional stormwater treatment will not carry significant water quality improvement to warrant the cost and complexity of this new requirement.</p> <p>It is cost prohibitive and impractical for permittees to create and oversee an O&M inspection program for stormwater treatment systems at a small number of SFHs. Attempting to cover such programs through permit fees and enforcement fines would result in net losses for the City and would place more pressure on an already-strained workforce.</p>	Retain exclusion of SFHs from the definition of Regulated Projects. In this case, SFH's would need to comply with C.3.i., Required Site Design Measures for Small Development and Redevelopment Projects and Smaller Detached Single-Family Home Projects. In Oakland, creekside property development projects are already required to implement post-construction creek protection measures to protect the creek, its banks, the riparian vegetation, wildlife, surrounding habitat, and the creek's natural appearance.

<p>Special Projects Category C</p>	<p>C.3.e.ii (5)</p>	<p>Category C Special Project Criteria (Affordable Housing) - Replaces previous TOD special project with Affordable Housing special project category. Criteria require housing to be deed-restricted for 55 years with rent/mortgage rates no greater than 30% of income for “Very Low Income” households. Affordable Housing Special Projects can receive Affordable Housing, Location, Density, and Minimized Surface Parking Credits.</p>	<p>This Provision is not aligned with the California Density Bonus Law Government Code 65915 (CA Density Bonus law) and does not recognize the importance and complexity of building affordable housing, and the need to remove, not add, development impediments. The CA Density Bonus law:</p> <ol style="list-style-type: none"> 1. Refers to the California Health & Safety Code for its definition of average median income (AMI) categories and defines some affordable housing income and rent limits differently. This conflicts with the provision’s affordable housing definition. 2. Requires cities to grant a density bonus to projects with affordable housing. The level of affordability to get a density bonus is a minimum of 10% of the total units for Moderate and Low-income levels and 5% for Very-low income. The density levels in this provision do not align. 3. Acknowledges that Moderate income units <u>and</u> Low-income units are crucial, where this provision does not. 4. Encourages affordable housing by requiring cities to grant concessions and waivers to zoning requirements, such as open space or setbacks, which removes space for LID treatment on the project site. Expressly, a project could qualify for development concession/waivers but not qualify as a Category C. This would cause legal and compliance issues. 5. Encourages private developers to subsidize and include affordable housing units, which 	<p>Expand the provision’s interpretation of Affordable Housing to include “lower” and “moderate” income households and to be inclusive of seniors, transitional foster youth, disabled veterans, and homeless people.</p> <p>Continue to support smart growth, high density, or transit-oriented development Special Projects as in MRP 2.0.</p> <p>Reduce the Category C thresholds and eliminate the ½-mile of existing/planned transit hub and the ≤ 10% at-grade surface parking for projects without any affordable housing.</p> <p>Grant total exemption for Affordable Housing projects that incorporate affordable housing and are subject to the CA Density Bonus Law.</p> <p>Maintain development density credits from MRP 2.0</p> <p>Incorporate the ABAG Regional Housing Needs Allocation (RHNA 2013) plan and revise the provision to incentivize affordable housing subsidized by private development. Partnerships with private developers are crucial since public funding sources are insufficient to meet affordable housing needs and goals.</p>
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			<p>cost \$600,000 - \$700,000 each, in market-rate projects. The ABAG Regional Housing Needs Allocation (Draft RHNA 2021) plan requires the City to build slightly more low and moderate units, when considered together, than very low-income units.</p>	

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C.3.j Green Infrastructure Planning and Implementation	C.3.j.ii (2)	New provision for treating non-regulated projects with GSI. Numeric target of 3 acres/50,000 population with a cap of 10 acres.	<ol style="list-style-type: none"> 1. With the threshold for Regulated Projects changing from 10,000 to 5,000 square feet (sf), there will be fewer “voluntary” projects that will count towards achieving this target. For example, the City is currently designing three CIP projects that would be Regulated Projects under the proposed permit and could not be used to meet a 10-acre target. 2. Requiring the city to achieve this target within the 5-year permit term is infeasible given how few projects will be able to count towards meeting this provision and the timeline with building capital projects. Oakland would have to build between 20-32 new, non-regulated, capital projects, below 5,000 square feet, within 5 years to meet this metric. 3. Total amount and division between permittees does not seem logical and no rationale was provided. 4. Green street retrofit projects are very costly. As an example, the City of Union City estimated that their H Street retrofit project cost approximately \$660,000 per acre treated. At that rate, treating 10 acres would cost \$6.6 million. The Water Board should conduct a cost benefit analysis to determine if that level of expenditure is appropriate for the minimal water quality benefits that would be achieved. 	<p>Delete Provision C.3.b.ii.(5) (Other Road Projects) so that there are non-regulated projects in the public ROW where green infrastructure could be implemented.</p> <p>MRP 3 should require implementation of GI Plans and the continuation of the “no missed opportunities” provision.</p> <p>Any targets for implementing green infrastructure in non-Regulated Projects should be part of a long-term plan that considers green infrastructure projects implemented in the public right of way from 2009 through 2030 and 2040.</p>

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C.3.j. Green Infrastructure Planning and Implementation	C.3.j.v (1)(b)	Tracking and mapping tools must include a component that is available to the public and advertised on each Permittee's website. At minimum provide: description of design, location, land use type, and area treated. If tool tracks additional information not provided to the public, report that information to the Water Board.	These reporting requirements are excessive. If detailed information is needed, it can be provided upon request. This level of reporting has no water quality nexus and is an excessive administrative exercise. This takes permittees' focus away from implementing measures to protect and improve water quality.	Delete this provision to reduce reporting burden
C.4 – Industrial and Commercial Site Controls				
C.4.b. Business Inspection Plan	C.4.b.ii (1) (a)	<p>The following are some of the functional aspects of businesses and types of businesses that shall be included in the Inspection Plan:</p> <p>(a) Sites with the following functions</p> <ul style="list-style-type: none"> • Outdoor waste and trash storage, handling, and disposal areas • Fueling Areas 	<p>Adding outdoor trash could be interpreted as adding every business that has a dumpster. It is not feasible for municipalities to inspect every business. The inspection program should be focused on those businesses whose activities have the likely potential for non-stormwater discharges.</p> <p>Adding fueling areas could be interpreted as adding inspections of all business parks where fueling concierge service has been added and would require knowing in advance where and when this service will be provided. Once again, this could add significantly to the City's compliance workload with little to no benefit to water quality.</p>	Delete the added language or clarify that the functional aspects of businesses listed in this provision should be considered when selecting businesses to be inspected. The permit language must be revised to clarify that not all businesses with outdoor dumpsters must be inspected. In addition, clarify that Permittees are not required to inspect businesses that hire a concierge fueling service.
C.4.d. Inspections	C.4.d.iii.(1)(h)	Permittees shall make the list of facilities required to have coverage under the Industrial General Permit, but that have not filed for coverage, available upon Water Board request. The list shall include the date when the facility was first identified and the date when it was most recently inspected or evaluated.	Permittees have been providing the list of businesses that should file for an NOI for more than a decade in their respective FY annual reports. Water Board staff have the information they need to contact these businesses.	Retain MRP 2.0 language for Permittees to report on business that should have filed for an NOI in their respective FY annual reports. Remove requirement to report when the facility was first identified and when it was most recently inspected or evaluated.

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C.4.d Inspections	C.4.d.iii (1)(a)-(h)	Requires additional and detailed Annual Reporting. The Permittee must summarize the same inspection findings multiple times in slightly different ways.	Provision increases and includes duplicative reporting requirements without water quality nexus.	Retain MRP 2.0 reporting requirements and note where reports could be requested as needed. At a minimum, simplify the reporting to remove redundancies and to allow permittees to track enforcement actions by inspection, not by the discrete number of potential and actual discharges fully resolved.
C.5. - Illicit Discharge Detection and Elimination				
C.5.d IDDE Tracking and Case Follow-up	C.5.d.ii (2) (b)	The water quality spills, dumping, and complaint tracking system shall contain the following information: 2. Complaint information: b. Date and time response to illegal dumping report or complaint started (may exceed 3 business days if the illegal dumping does not present an immediate threat to water quality)	Do not require permittees to track illegal dumping not related to an illicit discharge or illicit discharge potential (imminent threat of discharge to RW). Illegal dumping is handled by different group (e.g. solid waste) and details of the City's response to illegal dumping is reported through the MRP annual report as part of the C.10 Trash Control section.	Delete language referring to reporting on illegal dumping.
C.5.e IDDE Control of Mobile Sources	C.5.e.ii (1) (e)	Each Permittee shall implement a program to reduce the discharge of pollutants from mobile businesses. (1) The program shall include the following: e) Inspection of mobile businesses Excluded items a) – d) as the comment does not refer to those provisions.	Language implies that mobile businesses will be inspected regularly. Mobile businesses are inspected on an "as needed" basis when an illicit discharge complaint is received, or an inspector identifies an issue in the field.	Revise C.5.3.ii.(1)(e) as follows: (e) Inspection of mobile businesses when reports of illicit discharges are received.

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C.5.f. IDDE MS4 Map	C.5.f.i	<p>Permittees shall identify information missing from the current MS4 maps and develop a plan and schedule to compile additional storm sewer system information, including component locations, size or specifications, materials of construction, and condition. This information will be used to update Permittee maps and databases.</p>	<p>The purpose of these maps is for public education and responding to illicit discharges. Requirements for these two purposes should be separated.</p> <p>Detail of specifications, materials of construction and condition are not necessary for public education or determining illicit discharge response.</p> <p>The task to identify missing information is too large and not feasible for Oakland on a citywide basis as that task alone could easily cost several million dollars. Rather, Oakland suggests updating maps and databases with storm sewer system information as needed and according to a plan and schedule.</p>	<p>Delete requirement of additional detail of specifications.</p> <p>Proposed alternative language:</p> <p>C.5.f.i. Permittees shall develop a plan and schedule to update storm sewer system information <u>as needed</u></p>

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C.8 – Water Quality Monitoring				
C.8.e. Trash Monitoring	C.8.e.iii.(2)	Provision C.8.e.iii.(2) requires that for each outfall not sampled directly (in the outfall or at the end of the outfall before it discharges into the receiving water, or, directly in the receiving water), Permittees must conduct indirect sampling at 12 outfall sites, with four monitoring events upstream and downstream of the outfall per year per site instead of three.	Outfall monitoring poses many unique challenges, including difficulty in finding accessible and safe sites, and obtaining permits to install end-of-pipe monitoring devices within a short timeline (e.g., 90 days between the effective date of the permit and the time when monitoring is required to start). It is likely that upstream/downstream monitoring will be the only feasible trash monitoring option for many locations. The estimated cost of collecting 144 samples per year (upstream and downstream), estimated at over \$1 million per year countywide, is unreasonable. In addition, California and the Bay Area is undergoing an extreme drought. It is easily possible that the minimum number of annual wet weather monitoring events could not be met in a given year as a result of an insufficient number of trash runoff-generating rain events.	<ol style="list-style-type: none"> 1. Decrease the number of required samples for upstream/downstream monitoring to the same as outfall or instream monitoring, as this type of monitoring is only allowed if the first two methods are infeasible. 2. Please clarify what alternate steps permittees should take if there are not enough qualifying storm events to sample in a given year. Also, please clarify what alternate steps permittees should take if there are not enough qualifying outfalls to sample using shoreline/streambank sampling.
	C.8.e.iv, C.8.e.v.(1), C.8.e.iii.(1)	Permittees are required to form and annually convene a Technical Advisory Group (TAG) to assist with the development and implementation of a scientifically-sound trash monitoring to review and provide input on ongoing monitoring, site selection, analysis methods, results, and conclusions. Permittees are required to submit an initial Trash Monitoring Plan by September 30, 2022, and to conduct trash monitoring annually starting October 1, 2022.	The timeline to convene a TAG, develop a monitoring plan, incorporate feedback from the TAG, and set up all logistics for trash monitoring (including securing any necessary permitting) within 90 days of the effective date of the permit is unreasonable. The permit requirement to submit a Trash Monitoring Plan must be technically feasible in light of the amount of time required to reasonably complete plan. It is fundamentally unfair to require permittees to anticipate permit terms that may or not be carried forward in the adopted version of the permit or require permittees to expend resources in anticipation of a permit requirement that may not be adopted.	To allow for adequate time for the development and approval of the Trash Monitoring Plan, revise the submission date of the initial Trash Monitoring Plan from September 30, 2022, to July 1, 2023. Please allow for Trash Monitoring to begin on October 1, 2023.

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C.8.e. Trash Monitoring	C.8.e.v.(1).(e)	Permittees are required to include a power analysis in their Trash Monitoring Plans to ensure the number, type, and frequency of monitoring sites and events are sufficient to produce statistically valid monitoring results that will reliably answer the management questions, using a confidence level of 95 percent and a power level of 80 percent.	Power analysis should be designed based on appropriate sampling methods and baseline data to inform an appropriate design. The number of samples needed to achieve a high statical power depends on the variability of the data and the acceptable error rate (or minimum detectable change). Trash loadings can be highly site specific and may not follow a statistical distribution that would lend itself to a power analysis. There is no clear path to compliance through adoption of this requirement.	Remove the requirement to conduct a power analysis for the Trash Monitoring Plan.

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C.10 – Trash Load Reduction				
C.10.a Trash Reduction Requirements	C.10.a.i	Schedule - Permittees shall reduce trash discharges from 2009 levels, described below, to receiving waters in accordance with the following schedule: a. 90 percent by July 1, 2023.	The City will not be able to meet 90% compliance milestone without the use of existing source control credits. The City has expended significant resources in not only passing ordinances but in creating organizational arrangements to ensure compliance of product bans from applicable businesses and pursuing enforcement when necessary. Enforcement of the bans help to prevent low trash generating areas from morphing into moderate trash generating, reduce the likelihood of trash entering receiving waters from wind or litter pathways, and prevent the plugging of trash capture devices installed in storm drain inlets. Elimination of these credits would discourage the meaningful and effective implementation of these ordinances.	Retain existing source control credits

<p>C.10.a Trash Reduction Requirements</p>	<p>C.10.a.i</p>	<p>Schedule - Permittees shall reduce trash discharges from 2009 levels, described below, to receiving waters in accordance with the following schedule: b. 100 percent by July 1, 2025.</p>	<p>The Tentative Order of the Municipal Regional Permit 3.0 includes removal of several compliance credits by June 30, 2025, for which the City of Oakland currently receives 35% reduction credit including: C.10.b.iv. - Source Control (10%); C.10.f.i. - Creek and Shoreline Cleanup (10%); and C.10.g. - Direct Trash Discharge Controls (15%).</p> <p>As a result, by June 30, 2026, the City will need to make up an additional 35% of trash reduction credit or be in non-compliance. To achieve compliance with C.10, the City will need to not only continue our existing trash reduction efforts (e.g., volunteer cleanups, illegal dumping abatement) and but will also need to install up to 4,000 full trash capture devices throughout the City in high and very-high trash generating areas. This could cost up to \$7 million in capital costs with an annual maintenance cost of up to \$1.2 million.</p> <p>The City has already implemented the most easily achievable trash capture strategies, therefore, meeting the additional compliance targets will be increasingly difficult and expensive. It is challenging to locate large full trash capture devices due to existing utilities, hydrology and flooding concerns, maintenance access, and other infrastructure barriers. Small full trash capture devices are coupled with an extensive and expensive maintenance burden and can cause flooding if not properly maintained. We will also have to ensure that our trash loading in drainage areas does not get worse or that could further reduce compliance credits.</p>	<p>Extend timeline for 100% reduction deadline to one-year after the effective date of MRP 4.0.</p>
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			<p>Due to timeline for when municipalities adopt budgets and Caltrans timeline for CIA and FCO projects with localities, extend the 100% reduction timeline to FY 2028 (the first year of MRP 4.0).</p>	
<p>C.10.a Trash Reduction Requirements</p>	<p>C.10.a.ii</p>	<p>With the 2024 Annual Report, Permittees shall submit a revised Trash Generation Area Map that includes trash management areas, as well as private land drainage areas (See Provision C.10.a.ii.b) that will be retrofitted with full trash capture devices, or equivalent, by July 1, 2025. The updated trash generation map shall include the locations and associated drainage areas of full trash capture systems, and other trash control actions, and shall highlight any revisions or changes from the previous map(s). Maps may be used to illustrate progress toward achieving the trash reduction requirements in Provision C.10.a.i.</p>	<p>Providing all of the required information on one map that shows implementation of other control measures beyond full trash capture will overload the document. The City of Oakland has numerous on-land trash control programs including street sweeping, on-land trash cleanups, Adopt-a-Spot program, business improvement districts, and illegal dumping abatement. These control measures cannot be easily displayed unless the City submits multiple maps at neighborhoods levels. The City is already providing a narrative of what enhanced measures are being implemented at the TMA that sufficiently illustrates the work being conducted</p> <p>In addition, while changes in trash load reduction within a TMA can be calculated, it cannot be illustrated on a map in any meaningful manner.</p>	<p>As in MRP 2.0, require trash generation rate maps that include: TMAs, full trash capture devices, full trash capture drainage areas, and baseline trash generation rates.</p> <p>Submit all required information in either: narrative form; or a series of maps. Provide flexibility for municipalities to submit the required information in formats that are the most easily interpretable.</p>

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C.10.a Trash Generation Area Management	C.10.a.ii.b	<p>By July 1, 2025, Permittees shall ensure that lands draining to storm drain inlets that they do not own or operate, but that are plumbed to Permittees' storm drain systems in Very High, High, and Moderate trash generation areas are equipped with full trash capture systems or are managed with trash discharge control actions equivalent to or better than full trash capture systems. The efficacy of the latter shall be assessed with visual assessments in accordance with Provision C.10.b.ii. If there is a full trash capture device downstream of these lands that is designed, operated, and maintained to control trash discharges from that land area, no other trash control is required.</p>	<p>Under MRP 2, Permittees spent a great deal of effort to map private land drainage areas greater than 10,000 ft² that will be retrofitted with full trash capture devices, or equivalent. The Tentative Order has removed the size threshold resulting in Permittees having to expend significantly more resources to both map and retrofit these lands.</p> <p>In addition, The City has over 700 private land areas subject to Provision C.10.a.ii.b. Approximately 50% of these parcels are in census tracts most impacted by poverty, low education attainment, and rent-burden, disparities that are highly correlated with identity factors such as race, disability, age, and single-parent status (from Oakland's Equity Map - OakDOT Geographic Equity Toolbox (arcgis.com)). These tracts are Oakland's highest priority neighborhoods for reducing disparities and providing equitable opportunities in all key areas of well-being, including clean streets and sidewalks.</p> <p>It is unclear if the City has the authority to require private property owners to install full trash capture devices in the absence of any triggering action that would allow a municipality to require installation of full trash capture devices as part of conditions of approval associated with a permit. Furthermore, regulating these private land areas through an inspection/assessment/enforcement program will create a significant burden to the City at a cost of approximately \$200k per year.</p>	<p>Rather than requiring private property owners to install full trash capture devices or using other trash control methods whose effectiveness would require conducting OVTAs, allow Permittees to have a third option for managing trash on PLDAs. This third option could be an enhanced commercial and industrial inspection program the requirements of which could be developed in the first year of MRP 3.0</p> <p>Also, keep the 10,000 square foot minimum area from MRP 2. Permittees have gone through and extensive GIS analysis to determine the properties that are covered by this provision. Removing this threshold would create a significant additional effort with minimal benefit.</p>

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C.10.b Demonstration of Trash Reduction Outcomes	C.10.b.v	<p>Permittee jurisdiction-wide actions to reduce trash at the source, particularly persistent trash items other than those addressed under previous Permits (foam food ware and single-use plastic bags) may be valued toward trash load reduction compliance by up to ten percent load reduction total for all such actions. To claim a load percentage reduction value, Permittees must provide substantive and credible evidence that new source control actions are being implemented jurisdiction-wide and reduce trash by the claimed value. A Permittee may support its claimed source reduction value with reference studies from other jurisdictions provided that it also provides credible evidence that the chosen source control action would achieve comparable trash reduction if implemented in the Permittee's jurisdiction.</p> <p>A jurisdiction-wide source control load reduction value cannot be claimed after June 30, 2025. However, Permittees may demonstrate and claim full trash capture equivalence of a source control in specific trash generation areas or in combination with other controls in an area if the control or combination of controls are documented, assessed, and verified in accordance with Provision C.10.b.iii.</p>	<p>Existing credit for source control should be retained. Permittees have expended significant resources not only passing ordinances but then creating organizational arrangements to ensure compliance of product bans from applicable businesses and pursuing enforcement when necessary. Enforcement of the bans help to prevent low trash generating areas from morphing into moderate trash generating areas, reduce the likelihood of trash entering receiving waters from wind or litter, and prevent the plugging of trash capture devices installed in storm drain inlets.</p> <p>Removing the credit after June 30, 2025, disincentivizes developing and passing any new source control measures and does not acknowledge the on-going significant effort required to enforce the existing bans.</p> <p>In addition, for some Permittees, it may be impracticable to use other trash control measures to otherwise recoup 10% and implement measures to meet the additional 10% reductions.</p>	<p>Maintain 10% reduction as maximum credit throughout MRP 3 for existing and new source controls. Eliminate the source control phase out by the June 30, 2025, date.</p>

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	C.10.b.vi	<p>Partial Trash Reduction – Curb Inlet Screens – Studies conducted by the Permittees during the previous permit term (Order No. R2-2015-0049, as amended) assessed the benefit of other control measures, such as curb inlet screens in combination with street sweeping, in reducing the amount of trash discharged through MS4s. However, additional information is needed to determine the effectiveness of curb inlet screens in reducing trash within a given trash management area. Permittees may demonstrate through further assessment and study, as described below, that the installation and appropriate maintenance of curb inlet screens, accompanied by street sweeping at an appropriate frequency, within Moderate trash generation areas can effectively reduce the trash generation rate to Low under the following conditions</p>	<p>The study adequately demonstrated that curb inlet screens installed in moderate areas would result in a low trash generation rate. The level of additional work is not necessary. The LA Water Board gave credit for curb inlet screens for multiple municipalities and there should be statewide consistency on this issue.</p>	<p>Remove requirement for augmenting the curb inlet screen study and afford full trash capture equivalence for areas with moderate trash generation outfitted with inlet screens as low trash generating.</p>

Section Heading	Provision(s)	MRP 3.0 Tentative Order (TO) Text or Summary	City of Oakland Issue(s) with TO Text	Proposed Alternative
C.10.f. Optional Trash Load Reduction Offset Opportunities – Creek and Shoreline Cleanup	C.10.f.i	A Permittee may offset part of its Provision C.10.a trash load percent reduction requirement by conducting cleanup of creek and shoreline areas. The creek and shoreline cleanup efforts should be conducted at a minimum frequency of twice per year, and sufficient to demonstrate sustained improvement of the creek or shoreline area. The maximum offset that may be claimed is ten percent. Offsets for creek and shoreline cleanups will no longer be applicable after June 30, 2025.	<p>Offsets for Creek and Shoreline Cleanups should continue through the 100% reduction target date.</p> <p>Oakland's award-winning Adopt a Spot program supports individuals, neighborhood groups, civic organizations, and businesses in ongoing cleaning and greening of parks, creeks, shorelines, storm drains, streets, trails, and other public spaces. In fiscal year 2020/2021 over 512 thousand gallons of trash were removed by volunteers. The City has invested significant resources to build and support the large network of volunteers that clean up trash and foster environmental stewardship among Oakland’s youth and residents. Without receiving ongoing trash reduction credit for these efforts, it will be difficult to justify expending the same amount of resources towards volunteer efforts. MRP 3.0 should not remove the trash control credits for Creek and Shoreline Cleanups.</p>	Remove the expiration date of July 1, 2025, for creek and shoreline cleanups. Extend to the revised 100% reduction target date.
C.10.f Optional Trash Load Reduction Offset Opportunities - Direct Trash Discharge Controls	C.10.f.ii	Permittees with an existing DDCP approved during the Previous Permit shall submit an updated DDCP for approval no later than September 1, 2022, in order to continue claiming trash load percent reduction offsets.	Permittees with approved DDCP under MRP 2 have been updating the Regional Water Board on implementation of their DDCP in progress reports submitted as part of their MRP Annual Reports. These progress reports include status updates on implementation measures, accounting of trash reduction offsets, and new planned actions. It is a duplication of effort for Permittees with approved DDCP under MRP 2 to resubmit their DDCP for reapproval when this information is readily available in each MRP Annual Report.	Permittees with an existing DDCP approved during the Previous Permit shall submit an updated DDCP for approval no later than September 1, 2022, <u>do not need to resubmit their DDCP</u> in order to continue claiming trash load percent reduction offsets.

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C.10.f Optional Trash Load Reduction Offset Opportunities - Direct Trash Discharge Controls	C.10.f.ii.b.i	The DDCP shall prioritize providing housing and services to people experiencing unsheltered homelessness who are living near receiving waters.	Housing and social services provided to people experiencing unsheltered homelessness is prioritized by many factors including health and those in targeted populations. In addition, the City of Oakland considers multiple factors when considering interventions at homeless encampments such as safety (e.g., proximity to moving vehicles, criminal activity), health (e.g., excessive garbage, human waste, vectors), location (e.g., proximity to receiving waters, damage to public infrastructure), and size. Proximity to receiving waters can only be one of many factors used when prioritizing housing and services for people experiencing unsheltered homelessness.	The DDCP shall <u>make efforts to</u> prioritize providing housing and services to people experiencing unsheltered homelessness who are living near receiving waters.
C.10.f Optional Trash Load Reduction Offset Opportunities - Direct Trash Discharge Controls	C.10.f.ii.b.ii	The DDCP shall prioritize addressing illegal dumping that occurs near receiving waters.	The City implements a performance standard of addressing 85% of illegal dumping abatement requests within three business days. In fiscal year 2020-2021, the City addressed 89% of the over 59,000 service requests within three business days. The City considers multiple factors when prioritizing where to address illegal dumping including size and traffic safety and should not be expected to prioritize based solely on proximity to receiving waters.	The DDCP shall <u>make efforts to</u> prioritize addressing illegal dumping that occurs near receiving waters.
C.10.g. Reporting	C.10.g.xii.1	For Permittees whose DDCPs address significant discharges from unsheltered homeless populations, the following information for the current year, and for each prior year of the Permit term: The estimated number of people experiencing unsheltered homelessness in their jurisdiction; the estimated number of people experiencing unsheltered homelessness living within 500 feet of receiving waters...	The City relies on the Alameda County Homeless Census and Survey Comprehensive Reports to provide an estimate of the number of people experiencing unsheltered homelessness. These reports do not geolocate census surveys; therefore, there is no way for the City of Oakland to estimate the number of people experiencing unsheltered homelessness living within 500 feet of receiving waters.	For Permittees whose DDCPs address significant discharges from unsheltered homeless populations, the following information for the current year, and for each prior year of the Permit term: The estimated number of people experiencing unsheltered homelessness in their jurisdiction; the estimated number of people experiencing unsheltered homelessness living within 500 feet of receiving waters...

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C.11 – Mercury Controls				
C.11.d. Mercury Collection and Recycling Implemented throughout the Region - Reporting	C.11.d.iii	In each of the 2023 through 2026 Annual Reports, Permittees shall report on efforts to promote recycling of mercury-containing products and efforts to increase effectiveness of these recycling efforts. <i>Permittees shall also report on the mass of mercury contained in recycled material throughout the region using the methodology contained in load reduction accounting system described in the Fact Sheet.</i>	The data collected by the mercury recycling program is insufficient to estimate the mass of mercury contained in recycled material. In Alameda County, the data collected is the volume of large containers filled.	Delete the italicized text. Require reporting only on the efforts or promote recycling and the total volume or weight of material collected.
Property Identification and Abatement – Implementation Level	C.11/C.12.b.ii	Permittees shall investigate the following acreage of likely PCBs source properties. Alameda County: 2620 acres	Allow credit for areas investigated in FY 2020/21 and FY 2021/22, as this area is not being credited under MRP 2.	Permittees shall investigate the following acreage of likely PCBs source properties <u>beginning in FY 2020/21 through the end of the permit term.</u>

Section Heading	Provision(s)	MRP 3.0 Tentative Order (TO) Text or Summary	City of Oakland Issue(s) with TO Text	Proposed Alternative
C.12 – Polychlorinated Biphenyls (PCBs) Controls				
C.12.b. Program for Source Property Identification and Abatement – Reporting	C.11/C.12.b.iii	Permittees are required to report progress on the acreage of land areas investigated, including progress toward investigation of 100% of the old industrial land use in each of the 2022 through 2026 Annual Reports. Permittees should also report annually on the ongoing enhanced O&M activities associated with all past contaminated property referrals.	It will be infeasible for permittees to achieve this requirement within 3 months of the adoption of the permit.	The reporting for this provision should begin after the first year of monitoring has occurred. Please replace 2022 with 2023, as follows, <i>“In each of the 2022 <u>2023</u> through 2026 Annual Reports.”</i>

<p>C.12.c. Program for Treatment Control Measures in Old Industrial Areas- Task Description</p>	<p>C.11/C.12.c.i</p>	<p>Provision C.12.c.i states that Alameda Permittees have 9,374 acres of Old Industrial land use draining to an MS4 that have not been redeveloped or treated with green stormwater infrastructure (GSI) or other treatment controls. The provision as written requires Permittees to submit plans and schedules for implementing treatment controls for stormwater addressing 937 acres of land classified as old industrial within Alameda County (or to reduce PCBs loads by 170 g/year).</p>	<p>ACCWP has performed a detailed desktop analysis of stormwater treatment opportunities in old industrial areas that shows the permits contention that there are 9,374 acres of Old Industrial land use draining to an MS4 that have not been redeveloped or treated with green stormwater infrastructure (GSI) or other treatment controls is inaccurate.</p> <p>As shown in the table below, there are 12,760 acres of old industrial area within Alameda County, comprised of parcels and right-of-way (ROW). Of this area, 7,892 acres are either already treated, discharge directly to the Bay, have been shown to have low concentrations of PCBs, are separately regulated, or are areas that are not controllable by Permittees (e.g., railroads). This information was sent to Water Board staff, but the accurate data was not included in the Tentative Order.</p> <table border="1" data-bbox="1193 915 1779 1391"> <thead> <tr> <th>Description</th> <th>Area (acres)</th> </tr> </thead> <tbody> <tr> <td>Old Industrial Area (Parcels and ROW)</td> <td>12,760</td> </tr> <tr> <td>Treated Old Industrial Area</td> <td>2,577</td> </tr> <tr> <td>Old Industrial Referred Source Property Area</td> <td>72</td> </tr> <tr> <td>Direct Discharge Properties</td> <td>251</td> </tr> <tr> <td>Old Industrial Area Monitored and Found to be Low PCBs</td> <td>2,400</td> </tr> <tr> <td>Non Jurisdictional (LLNL, Coast Guard Island, Alameda NAS, and Caltrans ROW)</td> <td>1,823</td> </tr> <tr> <td>Old Industrial Apparent Railroad Parcel</td> <td>769</td> </tr> <tr> <td>Remaining Old Industrial Area</td> <td>4,869</td> </tr> </tbody> </table>	Description	Area (acres)	Old Industrial Area (Parcels and ROW)	12,760	Treated Old Industrial Area	2,577	Old Industrial Referred Source Property Area	72	Direct Discharge Properties	251	Old Industrial Area Monitored and Found to be Low PCBs	2,400	Non Jurisdictional (LLNL, Coast Guard Island, Alameda NAS, and Caltrans ROW)	1,823	Old Industrial Apparent Railroad Parcel	769	Remaining Old Industrial Area	4,869	<p>Revise the remaining old industrial area value for Alameda County in Provision C.12.c.i to 4,869 acres.</p> <p>Revise the permit to incorporate a reasonable level of effort for MRP 3.0, given the cost of compliance, the limited staff resources available (both Permittee and RWB staff), and the ongoing economic impacts due to COVID. A reasonable level of effort would be to direct permittees to address the currently identified moderate areas (124 acres). Additional moderate areas would be addressed as they are identified through the C.12.b monitoring process.</p>
Description	Area (acres)																					
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<p>C.12.c. Program for Treatment Control Measures in Old Industrial Areas- Task Description</p> <p>C.12.c. Program for Treatment Control Measures in Old Industrial Areas— Implementation Level</p>	<p>C.11/C.12.c.i</p>	<p>The Tentative Order states that in choosing locations for treatment controls, Permittees should focus on catchments containing known or suspected source areas or evidence of moderate to high PCBs soil concentrations (generally soil/sediment concentrations greater than 0.3 mg mercury/kg or 0.2 mg PCBs/kg).</p>	<p>Please see the ACCWP's table of comments for additional comments on this provision that are supported by the City.</p> <ol style="list-style-type: none"> 1. The provision would require treatment of runoff from areas with moderate concentrations of PCBs (between 0.2 mg/kg and 1.0 mg/kg, while Federal and State regulatory screening levels for PCBs in soils range from 0.23 mg/kg for residential uses to 0.58 mg/kg for commercial and industrial land uses (based on the DTSC-modified screening levels). 2. There is much variability in the distribution of PCBs within old industrial areas. Existing data shows low concentrations of PCBs in much of old industrial areas. 3. Ongoing monitoring conducted per Provision C.12.b would identify additional areas with moderate to high levels of PCBs. Sediment data from old industrial areas in the MRP area show that approximately 15% of samples are in the moderate range. If these data are representative of the remaining old industrial area, then of the 2,620 acres to be investigated, approximately 393 acres may be found to be moderate through the ongoing monitoring. 	<p>Do not require cleanup levels of PCBs that the state is allowing to remain on cleanup sites.</p> <p>Treatment control measures should not be required to be implemented on areas that do not have elevated levels of PCBs, as the objective is to reduce loads of PCBs.</p> <p>Revise this provision to provide time for private development to reduce PCB loads. The Permittees' GSI Plans predicted that approximately 280 acres of old industrial area may be retrofit or redeveloped within the MRP 3.0 permit term. In addition, approximately 1,000 acres may be addressed through full trash capture devices constructed within the Permittees' ROW, which would treat about 286 acres.</p>

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			<p>4. The cost of implementing distributed LID-type treatment controls on 937 acres (assuming \$175,000/acre) would be \$163,975,000. Oakland would need to treat 356 acres over the permit term, and this would cost approximately \$62,300,000. The cost for treatment is an unreasonable economic burden to place on Permittees for a low reduction in PCBs loads.</p> <p>5. The provision does not reflect that PCBs in Old Industrial areas largely reside on private properties. Of the 12,760 old industrial acres, approximately 81% are private parcels. Of the 4,869 acres of remaining old industrial area, approximately 70% is private and 32% is under the control of the Permittees.</p>	
C.12.c. Program for Treatment Control Measures in Old Industrial Areas – Implementation Level	C.11/C.12.c.ii	Treatment control systems must be designed and sized consistent with Provision C.2.d (Numeric Sizing Criteria for Stormwater Treatment Systems).	Although this should be true for C.3.b projects, retrofit projects (i.e., projects that are implemented to address MRP or TMDL requirements without a new development or redevelopment trigger), should be allowed to size facilities as needed in constrained situations or projects may not go forward in these areas.	Eliminate this sizing requirement for projects that are not subject to Provision C.3.b.
C.12.c. Program for Treatment Control Measures in Old Industrial Areas - Reporting	C.11/C.12.c.iii(1)	In the 2022 Annual Report, Permittees shall submit plans and schedules for implementing treatment control and diversion measures. This reporting shall include maps of the areas to be treated, the acreage of catchments to be treated,	This submittal date is only three months after the effective date of the permit, which does not give adequate time for developing the plan and schedule.	Revise the permit to require an annual submittal a treatment plan for the acres of old industrial area shown to have elevated levels of PCBs by the monitoring conducting in the previous Water Year with the March 31st Monitoring Report. The first plan would

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		and a description of design and sizing features all treatment devices and stormwater diversion facilities implemented for each treated catchment.		be submitted by March 31, 2023, for all areas found to be moderate through the date of permit adoption.
C.12.e. Program for Controlling PCBs from Electrical Utilities	C.12.e.iii.(6)	Within 12-months of the Water Board transmitting to the Permittees information from the non-municipally owned electrical utilities, Permittees shall submit a report discussing the following, to the extent possible given any data limitations: (a) locations of the PCBs-containing OFEE still in service, (b) previous locations of PCBs-containing OFEE, and (d) opportunities to improve non-municipally owned electrical utilities’ standard operating procedures for spill response, reporting, cleanup, and sampling and analysis.	RWB staff stated that they felt this requirement was not necessary. The permittees agree.	Remove this requirement.
C.12.g. Manage PCB-Containing Materials and Wastes During Building Demolition Activities – Task Description	C.12.g.ii.(1)	Permittees shall implement their established protocol to ensure that buildings are tested for PCBs-containing material prior to issuing a demolition permit.	The permit does not allow exemption in case of emergency demolition. For example, the Oakland Municipal Code (O.M.C) Section 15.34.060 states: “Notwithstanding any other provision of this Chapter, no building or demolition permit shall be issued by the City for any affected project prior to approval of the WRRP by the WRR Review Official. <u>Approval shall not be required if an emergency demolition is required to protect public health or safety pursuant to Section 15.36.080.”</u>	Revise the Tentative Order to allow for buildings that are demolished in an emergency situation to forgo testing.

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			<p>O.M.C Section 15.36.080 – Exceptions states, “A demolition permit may be obtained without first obtaining a building permit where ...</p> <p>A. <u>The structure to be demolished is declared an unsafe structure or a public nuisance by the Building Official or the City Council.”</u></p> <p>An example of such a structure is one that has been severely damaged by fire.</p>	
C.12.g. Manage PCB-Containing Materials and Wastes During Building Demolition Activities – Implementation Level	C.12.g.ii.(3)	Permittees shall inspect demolition sites pursuant to Provision C.6 to ensure that effective construction pollutant controls are used to prevent discharge into the MS4.	This requirement should only apply to applicable buildings with elevated levels of PCBs.	Permittees shall inspect <u>applicable structure demolition sites that have reported elevated levels of PCBs</u> pursuant to Provision C.6 to ensure that effective construction pollutant controls are used to prevent discharge into the MS4.

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C.12.g. Manage PCB-Containing Materials and Wastes During Building Demolition Activities – Implementation Level	C.12.g.ii.(4)	Permittees shall enhance their construction site control program to minimize migration of PCBs from demolition activities into the MS4. Enhancements may include inspecting demolition sites monthly during demolition activities in the dry season (May – September) and requiring the demolition contractors to sweep the project sites and the streets around the property with street sweepers that will effectively remove sediment and dust. Implementation of enhancements shall begin no later than May 2023.	This requirement should only apply to applicable buildings with elevated levels of PCBs.	Permittees shall enhance their construction site control program to minimize migration of PCBs from demolition activities into the MS4 <u>at applicable structure demolition sites that have reported elevated levels of PCBs.</u>
C.12.i. Fate and Transport Study of PCBs: Urban Runoff Impact on San Francisco Bay Margins - Reporting	C.12.i.iii	The Permittees shall submit in the 2023 Annual Report a workplan describing the specific manner in which these information needs will be accomplished and describing the studies to be performed with a preliminary schedule. The Permittees shall report on status of the studies in their 2023 Annual Report.	As this work is conducted through the RMP, this is not necessary.	Reduce Reporting Burden: Remove requirement for workplan and status update in 2023.
C.15 – Exempted and Conditionally Exempted Discharges				
Emergency Discharges of Firefighting Water and Foam. Attachment A: Fact Sheet –	All of C.15.b.iii and Attachment A: Fact Sheet, Section VI.A., Page A-96	The federal regulations require that non-stormwater discharges be controlled if they are a significant source of pollutants, and the permitting authority is expected to include permit conditions to prohibit or control specified categories of non-stormwater discharges	The Oakland Fire Department (OFD) disagrees with the Water Board's assertion that emergency firefighting activities contribute a significant source of pollutants to waterways. OFD maintains that these activities should remain exempt from the state's stormwater regulations.	Exempt firefighting activities from the state's stormwater regulations. Review language and revise to recognize the differences between population-based permittees and non-population-based permittees role in implementation.

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Permit Provisions, Discharge Prohibition		if they are determined to be a source of pollutants to waters of the United States (40 CFR § 122.26(d)(2)(iv)(B)(1).).	Federal Stormwater Regulation 40 CFR § 122.26 only requires regulation of discharges from firefighting where such discharges are significant pollutant sources to waterways. Before constraining emergency firefighting activities with prescriptive permit language, and to reduce regulatory confusion, an evidence-based approach should be used to define "significant source of pollutants."	
C.15.b. Emergency Discharges of Firefighting Water and Foam	C.15.b.iii.(4)(i) - (ii)	Requires storm drains to be plugged for temporary storage to allow dechlorination prior to discharging emergency firefighting water to storm drains, provided that immediate emergency response operations and/or public health and safety are not impacted.	This provision will cause discharge flows to flood streets and could flood adjacent properties and flow into downstream inlets. This is because a typical fire will have multiple lines flowing at 150-1,000 gallons per minute for a range of 10 minutes to hours. These flow rates produce tens of thousands of gallons of water within a few minutes. Trying to contain this water would interfere with emergency response operations and would strain task-saturated firefighting personnel.	Delete this requirement to prevent this unintended consequence.
C.15.b. Emergency Discharges of Firefighting Water and Foam	C.15.b.iii.(4)(iii)	Requires proper disposal of water and foam according to jurisdictional requirements.	This will lead to regulatory confusion with federal regulations that exempt water from emergency firefighting activities. Oakland Municipal Code (OMC) 13.16.030 follows these federal regulations.	These prescriptive BMPs should be removed, and fire agencies should continue implementing current voluntary water quality protection BMPs until September 30, 2024, when Provision C.15.b.iii.(2) requires new BMPs developed by a regionwide Firefighting Discharges Working Group (Working Group), to go into effect.
C.15.b. Emergency Discharges of	C.15.b.iii (5)	Reporting requirements for Emergency Discharges of Firefighting Water and Foam	The tracking and reporting requirements in this provision are excessive, contain errors, and some are infeasible such as the requirement to track	Reporting requirements should instead be developed by the Working Group.

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Firefighting Water and Foam			and report the quantity and rate of water and foam concentrate discharged to storm drains/waterways and the point of discharge.	
C.17 – Discharges Associated with Unsheltered Homeless Populations				
C.17 Discharges Associated with Unsheltered Homeless Populations	C.17.a.i.(2).(b)	Identify regional and/or countywide efforts and implementation actions to address discharges associated with homelessness (including how those efforts and actions have been affected by unsheltered homeless population growth). Include recommendations for engaging in these efforts and incorporating discharge-reduction strategies that also help meet the unsheltered population's clean water needs; and	Meeting the unsheltered population's clean water needs is beyond the purview of a stormwater program.	Remove this text from the provision.
C.17 Discharges Associated with Unsheltered Homeless Populations	C.17.a.i.(2).(c)	Identify actions taken during the COVID-19 pandemic to reduce the spread of the virus in homeless populations, such as temporarily housing homeless people in hotels, that may have had a water quality benefit. Permittees shall consider the practicability of such actions for longer-term implementation.	This adds to the overall reporting burden and does not add to the effectiveness of a permittee's homeless encampment management program.	Delete this reporting requirement that is beyond the purview of the MRP.
C.17 Discharges Associated with Unsheltered Homeless Populations	C.17.a.ii (1)	Map identifying unsheltered including encampments and other areas where unsheltered homeless congregate relative to storm drain inlets, streams, rivers, flood control, and other surface water bodies. Joint map may be	Identifying specific locations where persons are living should not be required as it is a significant administrative burden and with the mobility of homeless individuals, it is not possible to track in any way that could guarantee a particular level of accuracy.	Delete this requirement and only require submittal of bi-annual point in time surveys.

Section Heading	Provision(s)	MRP 3.0 Tentative Order (TO) Text or Summary	City of Oakland Issue(s) with TO Text	Proposed Alternative
		submitted for where Permittees are working together to address discharges from unsheltered in FY 2023	The every-other year point-in-time surveys report on populations by Census tract that are produced by cities provide the best available data. Those reports should meet this requirement while at the same time protecting the privacy of the unhoused population.	
C.20 – Cost Reporting				
C.20 Cost Reporting	C.20.a Task Description	Each Permittee shall annually prepare and submit a fiscal analysis of the capital and operation and maintenance costs incurred to comply with this Order's requirements listed in Provision C.20.b.(iv).	Flexibility is needed as part of the framework. Cost reporting is a complicated process. Flexibility would allow more meaningful submissions.	See the Alameda Countywide Clean Water Program comments on this provision in their MRP 3.0 Tentative Order comments table. The City support the ACCWP comments on Provision C.20.
C.21 – Asset Management				
C.21 Asset Management	C.21	Each Permittee shall develop and implement an Asset Management Plan in order to ensure the satisfactory condition of all hard assets constructed during this and previous permit terms pursuant to Provisions C.2 Municipal Operations, C.3 New Development and Redevelopment, C.10 Trash Load Reduction, C.11 Mercury Controls, C.12 PCBs Controls, C.13 Copper Controls, C.14 Bacteria Controls for Impaired Water Bodies, C.17 Discharges Associated with Unsheltered Homeless Populations, C.18 San Mateo County Sediment Controls, and C.19 Cities of Antioch, Brentwood, and Oakley,	Provision C.21 requires Permittees to develop and implement an asset management system to assure functioning of hard assets. Throughout the MRP 3 negotiation process Permittees understood that the asset management requirements would solely include those Permittee-owned stormwater treatment systems constructed to meet C.3 regulated projects, C.3 green infrastructure (and related C.11/C.12 green infrastructure provisions), and C.10 full trash capture devices.	Reduce the reporting burden by limiting assessment management requirements to C.3 regulated projects, C.3 green infrastructure (and related C.11/C.12 green infrastructure provisions), and C.10 full trash capture devices

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		Unincorporated Contra Costa County, and the Contra Costa County Flood Control and Water Conservation District Requirements		
C.21 Asset Management	C.21.b.i.(3)(b).i	The minimum condition necessary to achieve minimum performance level(s) for each type of hard asset, including an assessment of stormwater volume and pollutant load reduction, necessary to comply with applicable Permit Provisions and TMDLs.	The performance should be based on the design specification and not the stormwater volume and pollutant load reduction	Reduce the reporting burden by deleting "minimum performance level(s), including an assessment of stormwater volume and pollutant load reduction, necessary to comply with the provisions, including applicable water quality based effluent limitations and receiving water limitations" Replace with "performance level of asset functioning as designed"
Asset Management	C.21.b.v and C.21.c.iii Climate Change Adaptation Report	Complete a Climate Change Adaptation Report to identify potential climate change-related threats to assets and appropriate adaptation strategies. The report shall assess existing, new, and increasing threats from climate change to the condition of Permittees' inventoried assets over the next 50 years and identify approaches that Permittees may implement to address those threats, such as the modification of design standards and countywide technical guidance documents.	In sum, Tentative Order includes a substantial set of new requirements, including C.21 along with C.17, C.2, and significant additions to existing programs, C.3, C 11, C.12, C.15. Adding a Climate Change Adaptation Report is a significant and unnecessary burden during this permit term. To adequately meet this requirement would require an expenditure of effort that could easily cost millions of dollars.	Reduce the reporting and potential extensive cost burden to permittees by deleting the requirement to develop and submit a Climate Change Adaption Report. Permittees are already expending significant resources to mitigate the impacts of climate change and would be significantly burdened by the Water Board inserting a duplicative requirement in their NPDES permit.
C.22 – Annual Reports				
C.22 Annual Reports	C.22.a	The Permittees shall submit Annual Reports electronically in all cases by September 30 of each year. Each Annual Report shall report on the previous fiscal year beginning July 1 and ending June 30. The annual reporting requirements	Annual Reports are already submitted to SMARTS and certified by the Duly Authorized Representative. The additional report submittal due on October 15 of each year is unnecessary.	To reduce the reporting burden, delete the additional report submittal requirement.

Section Heading	Provision(s)	MRP 3.0 Tentative Order (TO) Text or Summary	City of Oakland Issue(s) with TO Text	Proposed Alternative
		are set forth in Provisions C.1 – C.21. An electronic copy, including a verified electronic signature (e.g., Adobe e-signature or DocuSign) or accompanied by a wet signature page submitted in hard copy, of each Annual Report shall be submitted by October 15 of each year.		