STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

November 12, 2026

Ms. Anne Kato
State Controller's Office
Local Government Programs and Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

Mr. Gregory Newmark
Duane Morris, LLP
865 South Figueroa Street, Suite 3100
Los Angeles, CA 90017-5450

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Proposed Decision and Parameters and Guidelines
California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, 16-TC-03
California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, Provisions C.11.a.iii.1., C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., C.12.c.iii.1.-3., C.12.a.iii.1.-2., C.12.d., and C.12.e., Adopted November 19, 2015, and Effective on January 1, 2016
City of Union City, Claimant

Dear Ms. Kato and Mr. Newmark:

The Proposed Decision and Parameters and Guidelines for the above-captioned matter is enclosed for your review.

Hearing: This matter is set for hearing on **Friday, December 4, 2026, in person at 10:00 a.m., at The Jesse M. Unruh State Office Building, 915 Capitol Mall, Room 121, The Boardroom, Sacramento, California, 95814 and via Zoom**.

The Commission is committed to ensuring that its public meetings are accessible to the public and that the public has the opportunity to observe the meeting and to participate by providing written and verbal comment on Commission matters whether they are physically appearing at the in-person meeting location or participating via Zoom. If you want to speak during the hearing and you are in-person, please come to the table for the swearing in and to speak when your item is up for hearing. If you are participating via Zoom or via telephone, you must use the "Raise Hand" feature in order for our moderators to know you need to be unmuted.

You may join the meeting via Zoom through the link below and can listen and view through your desktop, laptop, tablet, or smart phone. This will allow you to view documents being shared as well.

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   Passcode: 819917

Please don't hesitate to reach out to us for help with technical problems at csminfo@csm.ca.gov or 916 323-3562.

Testimony at the Commission Hearing: If you plan to address the Commission on an agenda item, please notify the Commission Office **not later than noon on December 1, 2026**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and email addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

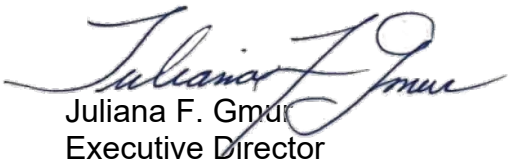
Time to File Written Comments: If you plan to file any written document, please note that Commission staff will include written comments filed at least 15 days in advance of the hearing in the Commissioners' hearing binders, a copy of which is available for public viewing at the Commission meeting. Additionally, written comments filed more than five days in advance of the meeting shall be included in the Commission's meeting binders, if feasible, or shall be provided to the Commission when the item is called, unless otherwise agreed by the Commission or the executive director. (Cal. Code Regs., tit. 2, § 1181.10(b)(1)(A-B).

However, comments filed less than five days in advance of the meeting, the commenter shall provide 12 copies to Commission staff at the in-person meeting. In the case of participation by teleconference, a PDF copy shall be filed via the Commission's dropbox at https://www.csm.ca.gov/dropbox.shtml at least 24 hours prior to the meeting. Commission staff shall provide copies of the comments to the Commission and shall place a copy on a table for public review when the item is called or, in the case of participation via teleconference, shall provide an electronic copy to the Commission and post a copy on the Commission's website, and may share the document with the Commission and the public using the "share screen" function. (Cal. Code Regs., tit. 2, § 1181.10(b)(1)(C)).

Postponement: If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Special Accommodations: For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven working days prior to the meeting.

Very truly yours,



Juliana F. Gmur
Executive Director

Hearing Date: December 4, 2026

ITEM 3

PROPOSED DECISION AND PARAMETERS AND GUIDELINES

California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, Provisions C.11.a.iii.1., C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., C.12.c.iii.1.-3., C.12.a.iii.1.-2., C.12.d., and C.12.e., Adopted November 19, 2015, and Effective on January 1, 2016

California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049

16-TC-03

Period of Reimbursement from January 1, 2016 through December 31, 2017

EXECUTIVE SUMMARY

The Commission adopted the Test Claim Decision on October 9, 2026.[1] Commission staff issued the Draft Expedited Parameters and Guidelines on October 12, 2026.[2] The State Controller's Office filed comments on October 20, 2026, stating they have no comments.[3] No other comments were filed.

Pursuant to section 1183.9(d) of the Commission's regulations, Commission staff did not issue a Draft Proposed Decision and Parameters for comment because no substantive comments were filed on the Draft Expedited Parameters and Guidelines.[4]

I. Summary of the Mandate

These Parameters and Guidelines address state-mandated activities arising from National Pollutant Discharge Elimination System Program (NPDES) permit, Order No. R2-2015-0049 (test claim permit), adopted by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, effective January 1, 2016.

On October 9, 2026, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim permit imposes a partially reimbursable state

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[1] Exhibit A, Test Claim Decision.

[2] Exhibit B, Draft Expedited Parameters and Guidelines.

[3] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

[4] California Code of Regulations, title 2, section 1183.9(d) provides: "If no comments are filed on the draft expedited parameters and guidelines that raise substantive issues regarding any of the elements described in section 1183.7, a draft proposed decision in accordance with section 1183.13(a) of these regulations need not be prepared and the executive director may schedule the proposed decision and parameters and guidelines for adoption at the next regularly scheduled hearing in accordance with section 1183.13(d) of these regulations."

mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 beginning January 1, 2016. The Commission approved this Test Claim for the activities described below under Section IV., Reimbursable Activities, only.

Reimbursement for these activities is denied beginning January 1, 2018, because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d) and, thus, there are no costs mandated by the state.

Any fee revenues received must be identified as offsetting revenue. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, other state funds, and other funds that are not the claimant's proceeds of taxes shall be identified and deducted from this claim. All other activities and sections of the test claim permit and costs pled by the claimants were denied.

II. Eligible Claimants

The following permittees are required to comply with Order No. R2-2015-0049 and are eligible to claim reimbursement, provided they are subject to the taxing restrictions of articles XIII A and XIII C of the California Constitution, and the spending limits of article XIII B of the California Constitution, and incur increased costs as a result of this mandate that are paid from their local proceeds of taxes:

- The cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City, Alameda County (Unincorporated area), the Alameda County Flood Control and Water Conservation District, and Zone 7 of the Alameda County Flood Control and Water Conservation District, who joined together to form the Alameda Countywide Clean Water Program (collectively, the Alameda Permittees);
- The cities of Campbell, Cupertino, Los Altos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale, the towns of Los Altos Hills and Los Gatos, the Santa Clara Valley Water District, and Santa Clara County, who joined together to form the Santa Clara Valley Urban Runoff Pollution Prevention Program (collectively, the Santa Clara Permittees);
- The cities of Fairfield and Suisun City, and Fairfield-Suisun Sewer District, who joined together to form the Fairfield-Suisun Urban Runoff Management Program (collectively, the Fairfield-Suisun permittees);
- The cities of Clayton, Concord, El Cerrito, Hercules, Lafayette, Martinez, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek, the towns of Danville and Moraga, Contra Costa County, and the Contra Costa County Flood Control and Water Conservation District, who joined together to form the Contra Costa Clean Water Program (collectively the Contra Costa Permittees);

- The cities of Belmont, Brisbane, Burlingame, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, and South San Francisco, the towns of Atherton, Colma, Hillsborough, Portola Valley, and Woodside, the San Mateo County Flood Control District and San Mateo County, who joined together to form the San Mateo Countywide Water Pollution Prevention Program (collectively the San Mateo Permittees); and
- The City of Vallejo and the Vallejo Sanitary District (collectively the Vallejo Permittees).[5]

III. Period of Reimbursement

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on June 30, 2017, establishing eligibility for reimbursement for the 2015-2016 fiscal year. However, since the test claim permit has a later effective date, the potential period of reimbursement for this claim begins on the permit's effective date, or January 1, 2016. Beginning January 1, 2018, there are no costs mandated by the state because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d). Therefore, for all eligible claimants, increased costs incurred from January 1, 2016, through December 31, 2017, are reimbursable.

IV. Reimbursable Activities

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. Reasonable Assurance Analysis (Provisions C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., and C.12.c.iii.1.-3.):

1. Prepare a reasonable assurance analysis of future mercury and PCBs load reductions by doing the following:
    a. Quantify the relationship between areal extent of Green Infrastructure implementation and mercury and PCBs load reductions, taking into consideration the scale of contamination of the treated area as well as the pollutant removal effectiveness of likely green infrastructure strategies. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.a., C.12.c.ii.2.a.)
    b. Estimate the amount and characteristics of land area that will be treated through Green Infrastructure by 2020, 2030, and 2040. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.b., C.12.c.ii.2.b.)

[5] Exhibit A, Test Claim Decision, page 43.

c. Estimate the amount of mercury/PCBs load reductions that will result from Green Infrastructure implementation by 2020, 2030, and 2040. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.c., C.12.c.ii.2.c.)

d. Quantitatively demonstrate that mercury load reductions of at least 10 kg/yr and PCBs load reductions of at least 3 kg/yr will be realized by 2040 through implementation of Green Infrastructure Projects. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.d., C.12.c.ii.2.d.)

e. Ensure that the calculation methods, models, model inputs, and modeling assumptions used to fulfill provisions C.11.c.ii.2.a.-d. and C.12.c.ii.2.a.-d. above have been validated through a peer review process. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.e., C.12.c.ii.2.e.)

2. Submit in the 2018 Annual Report as part of the reporting required for Provisions C.11.b.iii.2. and C.12.b.iii.3., the quantitative relationship between Green Infrastructure implementation and mercury and PCBs load reductions. This submittal shall include all data used and a full description of the models and model inputs relied on to establish this relationship. (Order No. R2-2015-0049, Provision C.11.c.iii.1, C.12.c.iii.1.)

3. Submit in the 2020 Annual Report an estimate of the amount and characteristics of land area that will be treated through Green Infrastructure implementation by 2020, 2030, and 2040. This submittal shall include all data used and a full description of the models and model inputs relied on to generate this estimate. (Order No. R2-2015-0049, Provision C.11.c.iii.2., C.12.c.iii.2.)

4. Submit in the 2020 Annual Report a reasonable assurance analysis to demonstrate quantitatively that mercury load reductions of at least 10 kg/yr and PCBs load reductions of at least 3 kg/yr will be realized by 2040 through the implementation of Green Infrastructure Projects. This submittal shall include all data used and a full description of models and model inputs relied on to make the demonstration and documentation of peer review of the reasonable assurance analysis. (Order No. R2-2015-0049, Provision C.11.c.iii.3., C.12.c.iii.3.)

B. <u>Progress Report on List of Watersheds and Management Areas Where Mercury Control Measures are or will be Implemented (Provision C.11.a.iii.1.).</u>

1. By April 1, 2016, report on progress towards developing a list of the watersheds and portions of watersheds (management areas) where mercury control measures are currently being implemented, and those in which control measures will be implemented during the permit term, as well as the monitoring data and other information used to select these watersheds and management areas. (Order No. R2-2015-0049, Provision C.11.a.iii.1.)

C. PCBs Reporting (Provisions C.12.a.iii.1. and C.12.a.iii.2.):

1. By April 1, 2016, report on progress towards developing a list of the watersheds and portions of watersheds (management areas) where PCBs control measures are currently being implemented, and those in which control measures will be implemented during the permit term, as well as the monitoring data and other information used to select these watersheds and management areas. (Order No. R2-2015-0049, Provision C.12.a.iii.1.).
2. In the 2016 Annual Report, include the following information:
    a. A cumulative listing of all potentially PCB-contaminated sites permittees have discovered and referred to the Water Board to date, with a brief summary description of each site and where to obtain further information.
    b. For each structural control and non-structural BMP, interim implementation progress milestones (e.g., construction milestones for structural controls or other relevant implementation milestones for structural controls and nonstructural BMPs) and a schedule for milestone achievement.
    c. Clear statements of the roles and responsibilities of each participating permittee for implementation of pollution prevention or control measures for PCBs. (Order No. R2-2015-0049, Provision C.12.a.iii.2.)

D. Prepare PCBs control measures implementation plan, schedule, and reasonable assurance analysis to achieve the PCBs TMDL wasteload allocations by 2030 (Provision C.12.d.):

1. Prepare a PCBs control measures implementation plan, which must identify all technically and economically feasible PCBs control measures to be implemented (including green infrastructure projects). (Order No. R2-2015-0049, Provision C.12.d.ii.1.)
2. Include a schedule for PCBs control measure implementation according to which these technically and economically feasible PCBs control measures will be fully implemented by 2030. (Order No. R2-2015-0049, Provision C.12.d.ii.2.)
3. Provide an evaluation and quantification of the PCBs load reduction of such measures as well as an evaluation of costs, control measure efficiency and significant environmental impacts resulting from their implementation. (Order No. R2-2015-0049, Provision C.12.d.ii.3.)
4. Prepare a reasonable assurance analysis demonstrating that sufficient control measures will be implemented to attain the PCBs TMDL wasteload allocations by 2030. (Order No. R2-2015-0049, Provision C.12.d.i.)

5. Submit the plan and schedule required by Provision C.12.d. in the 2020 Annual Report. (Order No. R2-2015-0049, Provision C.12.d.iii.)

E. <u>Evaluate the presence of PCBs in caulks/sealants in storm drain or roadway infrastructure in public rights-of-way (Provision C.12.e.):</u>

1. Collect at least 20 samples from throughout the permit-area of the caulks and sealants used in storm drains or roadway infrastructure in public rights-of-way. (Order No. R2-2015-0049, Provision C.12.e.ii.)
2. Analyze the samples taken for PCBs in such a way that is able to detect a minimum PCB concentration of 200 parts per billion. (Order No. R2-2015-0049, Provision C.12.e.ii.)
3. Report on the results of this investigation, including all data gathered, no later than the 2018 Annual Report. (Order No. R2-2015-0049, Provision C.12.e.iii.)

V. Offsetting Revenues and Reimbursements

Section VII. Offsetting Revenues and Reimbursements contains the Commission's standard boilerplate language and has been made clear, consistent with the Test Claim Decision, that any stormwater fees received and used for these activities are required to be identified and deducted from the reimbursement claim, as follows:[6]

> Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, <u>stormwater fee,</u> or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

VI. The Remaining Sections of the Parameters and Guidelines

The remaining sections of the Proposed Parameters and Guidelines contain standard boilerplate language.

VII. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines and authorize staff to make any technical, non-substantive changes to the Proposed Decision and Parameters and Guidelines following the hearing.

[6] Exhibit A, Test Claim Decision, pages 160, 198.

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, Provisions C.11.a.iii.1., C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., C.12.c.iii.1.-3., C.12.a.iii.1.-2., C.12.d., and C.12.e., Adopted November 19, 2015, and Effective on January 1, 2016 Period of reimbursement from January 1, 2016 through December 31, 2017	Case No.: 16-TC-03 *California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049* DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7. (*Adopted December 4, 2026*)

DECISION

The Commission on State Mandates (Commission) heard and decided this Decision and Parameters and Guidelines during a regularly scheduled hearing on December 4, 2026. [Witness list will be included in the adopted Decision and Parameters and Guidelines.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified/rejected] the Proposed Decision and Parameters and Guidelines by a vote of [vote will be included in the adopted Decision and Parameters and Guidelines], as follows:

Member	**Vote**
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller	
Karen Greene Ross, Public Member	
William Pahland, Representative of the State Treasurer, Vice Chairperson	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Alexander Powell, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	

I. Summary of the Mandate

These Parameters and Guidelines address state-mandated activities arising from National Pollutant Discharge Elimination System Program (NPDES) permit, Order No. R2-2015-0049 (test claim permit), adopted by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, effective January 1, 2016.

On October 9, 2026, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim permit imposes a partially reimbursable state mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 beginning January 1, 2016. The Commission approved this Test Claim for the activities described below under Section IV., Reimbursable Activities, only.

Reimbursement for these activities is denied beginning January 1, 2018, because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d) and, thus, there are no costs mandated by the state.

Any fee revenues received must be identified as offsetting revenue. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, other state funds, and other funds that are not the claimant's proceeds of taxes shall be identified and deducted from this claim.

All other activities and sections of the test claim permit and costs pled by the claimants were denied.

II. Procedural History

The Commission adopted the Test Claim Decision on October 9, 2026.[7] Commission staff issued the Draft Expedited Parameters and Guidelines on October 12, 2026.[8] The State Controller's Office filed comments on October 20, 2026, stating they have no comments.[9] No other comments were filed.

Pursuant to section 1183.9(d) of the Commission's regulations, Commission staff did not issue a Draft Proposed Decision and Parameters for comment because no substantive comments were filed on the Draft Expedited Parameters and Guidelines.[10]

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[7] Exhibit A, Test Claim Decision.

[8] Exhibit B, Draft Expedited Parameters and Guidelines.

[9] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

[10] California Code of Regulations, title 2, section 1183.9(d) provides: "If no comments are filed on the draft expedited parameters and guidelines that raise substantive issues regarding any of the elements described in section 1183.7, a draft proposed decision in accordance with section 1183.13(a) of these regulations need not be prepared and the executive director may schedule the proposed decision and parameters and guidelines

III. Positions of the Parties

A. City of Union City

The claimant did not file comments on the Draft Expedited Parameters and Guidelines.

B. State Controller

The Controller's Office filed comments on the Draft Expedited Parameters and Guidelines stating they had no comments.[11]

IV. Discussion

Consistent with the Test Claim Decision, the Parameters and Guidelines state the following:

A. Eligible Claimants (Section II. of the Parameters and Guidelines)

The following permittees are required to comply with Order No. R2-2015-0049 and are eligible to claim reimbursement, provided they are subject to the taxing restrictions of articles XIII A and XIII C of the California Constitution, and the spending limits of article XIII B of the California Constitution, and incur increased costs as a result of this mandate that are paid from their local proceeds of taxes:

- The cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City, Alameda County (Unincorporated area), the Alameda County Flood Control and Water Conservation District, and Zone 7 of the Alameda County Flood Control and Water Conservation District, who joined together to form the Alameda Countywide Clean Water Program (collectively, the Alameda Permittees);
- The cities of Campbell, Cupertino, Los Altos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale, the towns of Los Altos Hills and Los Gatos, the Santa Clara Valley Water District, and Santa Clara County, who joined together to form the Santa Clara Valley Urban Runoff Pollution Prevention Program (collectively, the Santa Clara Permittees);
- The cities of Fairfield and Suisun City, and Fairfield-Suisun Sewer District, who joined together to form the Fairfield-Suisun Urban Runoff Management Program (collectively, the Fairfield-Suisun permittees);
- The cities of Clayton, Concord, El Cerrito, Hercules, Lafayette, Martinez, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek, the towns of Danville and Moraga, Contra Costa County, and the Contra Costa County Flood Control and Water Conservation District, who joined

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for adoption at the next regularly scheduled hearing in accordance with section 1183.13(d) of these regulations."

[11] Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines, page 1.

together to form the Contra Costa Clean Water Program (collectively the Contra Costa Permittees);

- The cities of Belmont, Brisbane, Burlingame, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, and South San Francisco, the towns of Atherton, Colma, Hillsborough, Portola Valley, and Woodside, the San Mateo County Flood Control District and San Mateo County, who joined together to form the San Mateo Countywide Water Pollution Prevention Program (collectively the San Mateo Permittees); and
- The City of Vallejo and the Vallejo Sanitary District (collectively the Vallejo Permittees).[12]

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on June 30, 2017, establishing eligibility for reimbursement for the 2015-2016 fiscal year. However, since the test claim permit has a later effective date, the potential period of reimbursement for this claim begins on the permit's effective date, or January 1, 2016. Beginning January 1, 2018, there are no costs mandated by the state because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d). Therefore, for all eligible claimants, increased costs incurred from January 1, 2016, through December 31, 2017, are reimbursable.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

1. Reasonable Assurance Analysis (Provisions C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., and C.12.c.iii.1.-3.):

1. Prepare a reasonable assurance analysis of future mercury and PCBs load reductions by doing the following:
    a. Quantify the relationship between areal extent of Green Infrastructure implementation and mercury and PCBs load reductions, taking into consideration the scale of contamination of the treated area as well as the pollutant removal effectiveness of likely green infrastructure strategies. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.a., C.12.c.ii.2.a.)
    b. Estimate the amount and characteristics of land area that will be treated through Green Infrastructure by 2020, 2030, and 2040. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.b., C.12.c.ii.2.b.)

[12] Exhibit A, Test Claim Decision, page 43.

c. Estimate the amount of mercury/PCBs load reductions that will result from Green Infrastructure implementation by 2020, 2030, and 2040. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.c., C.12.c.ii.2.c.)

d. Quantitatively demonstrate that mercury load reductions of at least 10 kg/yr and PCBs load reductions of at least 3 kg/yr will be realized by 2040 through implementation of Green Infrastructure Projects. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.d., C.12.c.ii.2.d.)

e. Ensure that the calculation methods, models, model inputs, and modeling assumptions used to fulfill provisions C.11.c.ii.2.a.-d. and C.12.c.ii.2.a.-d. above have been validated through a peer review process. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.e., C.12.c.ii.2.e.)

2. Submit in the 2018 Annual Report as part of the reporting required for Provisions C.11.b.iii.2. and C.12.b.iii.3., the quantitative relationship between Green Infrastructure implementation and mercury and PCBs load reductions. This submittal shall include all data used and a full description of the models and model inputs relied on to establish this relationship. (Order No. R2-2015-0049, Provision C.11.c.iii.1, C.12.c.iii.1.)

3. Submit in the 2020 Annual Report an estimate of the amount and characteristics of land area that will be treated through Green Infrastructure implementation by 2020, 2030, and 2040. This submittal shall include all data used and a full description of the models and model inputs relied on to generate this estimate. (Order No. R2-2015-0049, Provision C.11.c.iii.2., C.12.c.iii.2.)

4. Submit in the 2020 Annual Report a reasonable assurance analysis to demonstrate quantitatively that mercury load reductions of at least 10 kg/yr and PCBs load reductions of at least 3 kg/yr will be realized by 2040 through the implementation of Green Infrastructure Projects. This submittal shall include all data used and a full description of models and model inputs relied on to make the demonstration and documentation of peer review of the reasonable assurance analysis. (Order No. R2-2015-0049, Provision C.11.c.iii.3., C.12.c.iii.3.).

2. Progress Report on List of Watersheds and Management Areas Where Mercury Control Measures are or will be Implemented (Provision C.11.a.iii.1.).

1. By April 1, 2016, report on progress towards developing a list of the watersheds and portions of watersheds (management areas) where mercury control measures are currently being implemented, and those in which control measures will be implemented during the permit term, as well as the monitoring data and other information used to select these watersheds and management areas. (Order No. R2-2015-0049, Provision C.11.a.iii.1.).

3. **PCBs Reporting (Provisions C.12.a.iii.1. and C.12.a.iii.2.):**

    1. By April 1, 2016, report on progress towards developing a list of the watersheds and portions of watersheds (management areas) where PCBs control measures are currently being implemented, and those in which control measures will be implemented during the permit term, as well as the monitoring data and other information used to select these watersheds and management areas. (Order No. R2-2015-0049, Provision C.12.a.iii.1.)
    2. In the 2016 Annual Report, include the following information:
        a. A cumulative listing of all potentially PCB-contaminated sites permittees have discovered and referred to the Water Board to date, with a brief summary description of each site and where to obtain further information.
        b. For each structural control and non-structural BMP, interim implementation progress milestones (e.g., construction milestones for structural controls or other relevant implementation milestones for structural controls and nonstructural BMPs) and a schedule for milestone achievement.
        c. Clear statements of the roles and responsibilities of each participating permittee for implementation of pollution prevention or control measures for PCBs. (Order No. R2-2015-0049, Provision C.12.a.iii.2.)

4. **Prepare PCBs control measures implementation plan, schedule, and reasonable assurance analysis to achieve the PCBs TMDL wasteload allocations by 2030 (Provision C.12.d.):**

    1. Prepare a PCBs control measures implementation plan, which must identify all technically and economically feasible PCBs control measures to be implemented (including green infrastructure projects). (Order No. R2-2015-0049, Provision C.12.d.ii.1.)
    2. Include a schedule for PCBs control measure implementation according to which these technically and economically feasible PCBs control measures will be fully implemented by 2030. (Order No. R2-2015-0049, Provision C.12.d.ii.2.)
    3. Provide an evaluation and quantification of the PCBs load reduction of such measures as well as an evaluation of costs, control measure efficiency and significant environmental impacts resulting from their implementation. (Order No. R2-2015-0049, Provision C.12.d.ii.3.)
    4. Prepare a reasonable assurance analysis demonstrating that sufficient control measures will be implemented to attain the PCBs TMDL wasteload allocations by 2030. (Order No. R2-2015-0049, Provision C.12.d.i.)

5. Submit the plan and schedule required by Provision C.12.d. in the 2020 Annual Report. (Order No. R2-2015-0049, Provision C.12.d.iii.)

5. Evaluate the presence of PCBs in caulks/sealants in storm drain or roadway infrastructure in public rights-of-way (Provision C.12.e.):

1. Collect at least 20 samples from throughout the permit-area of the caulks and sealants used in storm drains or roadway infrastructure in public rights-of-way. (Order No. R2-2015-0049, Provision C.12.e.ii.)
2. Analyze the samples taken for PCBs in such a way that is able to detect a minimum PCB concentration of 200 parts per billion. (Order No. R2-2015-0049, Provision C.12.e.ii.)
3. Report on the results of this investigation, including all data gathered, no later than the 2018 Annual Report. (Order No. R2-2015-0049, Provision C.12.e.iii.)

D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)

No substantive changes to the Commission's standard boilerplate language have been proposed or made.

E. Offsetting Revenues and Reimbursements (Section VII. Offsetting Revenues and Reimbursements)

Section VII. Offsetting Revenues and Reimbursements contains the Commission's standard boilerplate language and a clarifying edit was added, consistent with the Test Claim Decision, that any *stormwater* fees received and used for these activities are required to be identified and deducted from the reimbursement claim.[13]

F. The Remaining Sections of the Parameters and Guidelines

Section VI. Record Retention; Section VIII. State Controller's Claiming Instructions; Section IX. Remedies Before the Commission; and Section X. Legal and Factual Basis for the Parameters and Guidelines contain standard boilerplate language.

V. Conclusion

Based on the foregoing analysis, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines.

[13] Exhibit A, Test Claim Decision, pages 160, 198.

PARAMETERS AND GUIDELINES[14]

California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, Provisions C.11.a.iii.1., C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., C.12.c.iii.1.-3., C.12.a.iii.1.-2., C.12.d., and C.12.e.,

Adopted November 19, 2015, and Effective on January 1, 2016

California Region Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049

16-TC-03

Period of reimbursement begins from January 1, 2016 through December 31, 2017

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address state-mandated activities arising from National Pollutant Discharge Elimination System Program (NPDES) permit, Order No. R2-2015-0049 (test claim permit), adopted by the San Francisco Bay Regional Water Quality Control Board on November 19, 2015, effective January 1, 2016.

On October 9, 2026, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim permit imposes a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 beginning January 1, 2016. The Commission approved this Test Claim for the activities described below under Section IV., Reimbursable Activities, only.

Reimbursement for these activities is denied beginning January 1, 2018, because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d) and, thus, there are no costs mandated by the state.

Any fee revenues received must be identified as offsetting revenue. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, other state funds, and other funds that are not the claimant's proceeds of taxes shall be identified and deducted from this claim.

All other activities and sections of the test claim permit and costs pled by the claimants were denied.

II. ELIGIBLE CLAIMANTS

The following permittees are required to comply with Order No. R2-2015-0049 and are eligible to claim reimbursement, provided they are subject to the taxing restrictions of

[14] Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

articles XIII A and XIII C of the California Constitution, and the spending limits of article XIII B of the California Constitution, and incur increased costs as a result of this mandate that are paid from their local proceeds of taxes:

- The cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City, Alameda County (Unincorporated area), the Alameda County Flood Control and Water Conservation District, and Zone 7 of the Alameda County Flood Control and Water Conservation District, who joined together to form the Alameda Countywide Clean Water Program (collectively, the Alameda Permittees);
- The cities of Campbell, Cupertino, Los Altos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale, the towns of Los Altos Hills and Los Gatos, the Santa Clara Valley Water District, and Santa Clara County, who joined together to form the Santa Clara Valley Urban Runoff Pollution Prevention Program (collectively, the Santa Clara Permittees);
- The cities of Fairfield and Suisun City, and Fairfield-Suisun Sewer District, who joined together to form the Fairfield-Suisun Urban Runoff Management Program (collectively, the Fairfield-Suisun permittees);
- The cities of Clayton, Concord, El Cerrito, Hercules, Lafayette, Martinez, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo, San Ramon, and Walnut Creek, the towns of Danville and Moraga, Contra Costa County, and the Contra Costa County Flood Control and Water Conservation District, who joined together to form the Contra Costa Clean Water Program (collectively the Contra Costa Permittees);
- The cities of Belmont, Brisbane, Burlingame, Daly City, East Palo Alto, Foster City, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Redwood City, San Bruno, San Carlos, San Mateo, and South San Francisco, the towns of Atherton, Colma, Hillsborough, Portola Valley, and Woodside, the San Mateo County Flood Control District and San Mateo County, who joined together to form the San Mateo Countywide Water Pollution Prevention Program (collectively the San Mateo Permittees); and
- The City of Vallejo and the Vallejo Sanitary District (collectively the Vallejo Permittees).

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on June 30, 2017, establishing eligibility for reimbursement for the 2015-2016 fiscal year. However, since the test claim permit has a later effective date, the potential period of reimbursement for this claim begins on the permit's effective date, or January 1, 2016. Beginning January 1, 2018, there are no costs mandated by the state because the claimants have fee authority sufficient as a matter of law to cover the costs of these activities pursuant to Government Code section 17556(d). Therefore,

for all eligible claimants, increased costs incurred from January 1, 2016, through December 31, 2017, are reimbursable.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed $1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, “I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct,” and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. <u>Reasonable Assurance Analysis (Provisions C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., and C.12.c.iii.1.-3.):</u>

1. Prepare a reasonable assurance analysis of future mercury and PCBs load reductions by doing the following:
    a. Quantify the relationship between areal extent of Green Infrastructure implementation and mercury and PCBs load reductions, taking into consideration the scale of contamination of the treated area as well as the pollutant removal effectiveness of likely green infrastructure strategies. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.a., C.12.c.ii.2.a.)
    b. Estimate the amount and characteristics of land area that will be treated through Green Infrastructure by 2020, 2030, and 2040. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.b., C.12.c.ii.2.b.)
    c. Estimate the amount of mercury/PCBs load reductions that will result from Green Infrastructure implementation by 2020, 2030, and 2040. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.c., C.12.c.ii.2.c.)
    d. Quantitatively demonstrate that mercury load reductions of at least 10 kg/yr and PCBs load reductions of at least 3 kg/yr will be realized by 2040 through implementation of Green Infrastructure Projects. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.d., C.12.c.ii.2.d.)
    e. Ensure that the calculation methods, models, model inputs, and modeling assumptions used to fulfill provisions C.11.c.ii.2.a.-d. and C.12.c.ii.2.a.-d. above have been validated through a peer review process. (Order No. R2-2015-0049, Provisions C.11.c.ii.2.e., C.12.c.ii.2.e.)
2. Submit in the 2018 Annual Report as part of the reporting required for Provisions C.11.b.iii.2. and C.12.b.iii.3., the quantitative relationship between Green Infrastructure implementation and mercury and PCBs load reductions. This submittal shall include all data used and a full description of the models and model inputs relied on to establish this relationship. (Order No. R2-2015-0049, Provision C.11.c.iii.1, C.12.c.iii.1.)
3. Submit in the 2020 Annual Report an estimate of the amount and characteristics of land area that will be treated through Green Infrastructure implementation by 2020, 2030, and 2040. This submittal shall include all data used and a full description of the models and model

inputs relied on to generate this estimate. (Order No. R2-2015-0049, Provision C.11.c.iii.2., C.12.c.iii.2.)

4. Submit in the 2020 Annual Report a reasonable assurance analysis to demonstrate quantitatively that mercury load reductions of at least 10 kg/yr and PCBs load reductions of at least 3 kg/yr will be realized by 2040 through the implementation of Green Infrastructure Projects. This submittal shall include all data used and a full description of models and model inputs relied on to make the demonstration and documentation of peer review of the reasonable assurance analysis. (Order No. R2-2015-0049, Provision C.11.c.iii.3., C.12.c.iii.3.)

B. <u>Progress Report on List of Watersheds and Management Areas Where Mercury Control Measures are or will be Implemented (Provision C.11.a.iii.1.).</u>

1. By April 1, 2016, report on progress towards developing a list of the watersheds and portions of watersheds (management areas) where mercury control measures are currently being implemented, and those in which control measures will be implemented during the permit term, as well as the monitoring data and other information used to select these watersheds and management areas. (Order No. R2-2015-0049, Provision C.11.a.iii.1.)

C. <u>PCBs Reporting (Provisions C.12.a.iii.1. and C.12.a.iii.2.):</u>

1. By April 1, 2016, report on progress towards developing a list of the watersheds and portions of watersheds (management areas) where PCBs control measures are currently being implemented, and those in which control measures will be implemented during the permit term, as well as the monitoring data and other information used to select these watersheds and management areas. (Order No. R2-2015-0049, Provision C.12.a.iii.1.)
2. In the 2016 Annual Report, include the following information:
    a. A cumulative listing of all potentially PCB-contaminated sites permittees have discovered and referred to the Water Board to date, with a brief summary description of each site and where to obtain further information.
    b. For each structural control and non-structural BMP, interim implementation progress milestones (e.g., construction milestones for structural controls or other relevant implementation milestones for structural controls and nonstructural BMPs) and a schedule for milestone achievement.
    c. Clear statements of the roles and responsibilities of each participating permittee for implementation of pollution prevention or control measures for PCBs. (Order No. R2-2015-0049, Provision C.12.a.iii.2.)

D. <u>Prepare PCBs control measures implementation plan, schedule, and reasonable assurance analysis to achieve the PCBs TMDL wasteload allocations by 2030 (Provision C.12.d.):</u>

1. Prepare a PCBs control measures implementation plan, which must identify all technically and economically feasible PCBs control measures to be implemented (including green infrastructure projects). (Order No. R2-2015-0049, Provision C.12.d.ii.1.)
2. Include a schedule for PCBs control measure implementation according to which these technically and economically feasible PCBs control measures will be fully implemented by 2030. (Order No. R2-2015-0049, Provision C.12.d.ii.2.)
3. Provide an evaluation and quantification of the PCBs load reduction of such measures as well as an evaluation of costs, control measure efficiency and significant environmental impacts resulting from their implementation. (Order No. R2-2015-0049, Provision C.12.d.ii.3.)
4. Prepare a reasonable assurance analysis demonstrating that sufficient control measures will be implemented to attain the PCBs TMDL wasteload allocations by 2030. (Order No. R2-2015-0049, Provision C.12.d.i.)
5. Submit the plan and schedule required by Provision C.12.d. in the 2020 Annual Report. (Order No. R2-2015-0049, Provision C.12.d.iii.)

E. <u>Evaluate the presence of PCBs in caulks/sealants in storm drain or roadway infrastructure in public rights-of-way (Provision C.12.e.):</u>

1. Collect at least 20 samples from throughout the permit-area of the caulks and sealants used in storm drains or roadway infrastructure in public rights-of-way. (Order No. R2-2015-0049, Provision C.12.e.ii.)
2. Analyze the samples taken for PCBs in such a way that is able to detect a minimum PCB concentration of 200 parts per billion. (Order No. R2-2015-0049, Provision C.12.e.ii.)
3. Report on the results of this investigation, including all data gathered, no later than the 2018 Annual Report. (Order No. R2-2015-0049, Provision C.12.e.iii.)

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. <u>Direct Cost Reporting</u>

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

FOR LOCAL AGENCIES

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using the federal de minimis indirect cost rate percentage of direct labor identified in the Office of Management and Budget Circular, at Code of Federal Regulations, title 2, section 200.414(f), excluding fringe benefits, or preparing

an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds the federal de minimis rate.[15]

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter[16] is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date

[15] Effective October 1, 2024, the federal de minimis rate was raised from 10 percent to 15 percent. (Code of Federal Regulations, title 2, § 200.414(f) (89 FR 30046, 30092.)

[16] This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, stormwater fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On November 12, 2026, I served the:

- **Current Mailing List dated November 5, 2026**
- **Proposed Decision and Parameters and Guidelines issued November 12, 2026**

  California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, 16-TC-03
  California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049, Provisions C.11.a.iii.1., C.11.c.ii.2., C.11.c.iii.1.-3., C.12.c.ii.2., C.12.c.iii.1.-3., C.12.a.iii.1.-2., C.12.d., and C.12.e., Adopted November 19, 2015, and Effective on January 1, 2016
  City of Union City, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 12, 2026 at Sacramento, California.

Jill Magee
_____

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 11/5/26

Claim Number: 16-TC-03

Matter: California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2015-0049

Claimant: City of Union City

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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