



January 28, 2025

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Ms. Elizabeth Pianca  
County of Santa Clara  
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San Jose, CA 95110-1770

Ms. Colleen Tribby  
City of Dublin  
100 Civic Plaza  
Dublin, CA 94568

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

**Re: Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date**

*California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074, 10-TC-02, 10-TC-03, and 10-TC-05*

*California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074, Sections C.8.d.iii., C.8.e.vi., C.8.f., C.8.g.ii., C.8.g.vii., C.10.a.i., C.10.a.ii., C.10.a.iii., C.10.b.ii., C.10.b.iii., C.10.c., C.10.d.i., C.10.d.ii., C.11.f., and C.12.f.; Adopted October 14, 2009, and Effective December 1, 2009  
Cities of Dublin and San Jose, and County of Santa Clara, Claimants*

Dear Ms. Frimann, Ms. Kato, Ms. Maguire, Mr. Newmark, Ms. Olaiya, Ms. Pianca, and Ms. Tribby:

On January 24, 2025, the Commission on State Mandates (Commission) adopted the Decision partially approving the Test Claim on the above-entitled matter.

State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the reimbursement claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

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### **Draft Expedited Parameters and Guidelines**

Pursuant to California Code of Regulations, title 2, section 1183.9, Commission staff has expedited the parameters and guidelines process by preparing Draft Expedited Parameters and Guidelines to assist the claimant. The proposed reimbursable activities have been limited to those approved in the Decision by the Commission. Reasonably necessary activities to perform the mandated activities may be proposed by the parties. (Cal. Code Regs., tit. 2, §1183.7(d).) “Reasonably necessary activities” are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program (Cal. Code Regs., tit. 2, §1183.7(d).) Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of the Commission’s regulations.

#### Review of Draft Expedited Parameters and Guidelines

Proposed modifications and comments may be filed on the Draft Expedited Parameters and Guidelines no later than **5:00 pm on February 18, 2025**. (Cal. Code Regs., tit. 2, §1183.9(b).) Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant’s personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, §1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.<sup>1</sup>

#### Rebuttals

Written rebuttals may be filed within 15 days of service of comments. (Cal. Code Regs., tit. 2, § 1183.9(c).)

### **Draft Proposed Decision and Parameters and Guidelines**

If there are no substantive comments filed by the comment deadline, then no Draft Proposed Decision will be prepared or issued for comment and the matter will be set for the next regularly scheduled hearing, pursuant to section 1183.9(d) of the Commission’s regulations. If substantive comments are filed, Commission staff will review the Draft Expedited Parameters and Guidelines, comments, and any rebuttals and will prepare a Draft Proposed Decision and Parameters and Guidelines, which will be issued for comment.

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<sup>1</sup> Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

### **Alternative Process: Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs**

#### Test Claimant and Department of Finance Submission of Letter of Intent

Within 30 days of the Commission's adoption of a decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.11 of the Commission's regulations to develop a *joint reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The written notification shall provide all information and filing dates as specified in Government Code section 17557.1(a).

#### Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.

#### Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Upon receipt of the jointly developed proposals, Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within 15 days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

#### Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs

At least 10 days prior to the next hearing, Commission staff shall review comments and rebuttals and issue a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

### **Alternative Process: Reasonable Reimbursement Methodology Proposed for Inclusion in Parameters and Guidelines**

Government Code section 17518.5 provides a process for a reasonable reimbursement methodology to be proposed by the Department of Finance, the State Controller, an affected state agency, the claimant, or an interested party for inclusion in the parameters and guidelines of an amendment to parameters and guidelines. In this context, Government Code section 17518.5 defines "reasonable reimbursement methodology" as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514 which shall:

- Be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.

Ms. Frimann, Ms. Kato, Ms. Maguire, Mr. Newmark, Ms. Olaiya, Ms. Pianca, and Ms. Tribby  
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- Consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner, and
- Whenever possible, be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

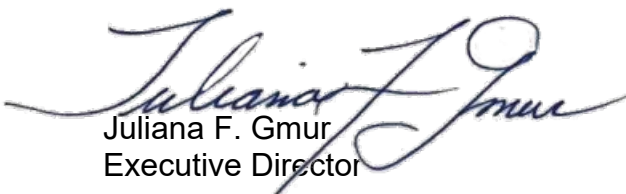
You are advised that comments filed with the Commission are required to be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).) Refer to <https://www.csm.ca.gov/dropbox.shtml> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(3).)

If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

### Hearing

The Proposed Decision and Parameters and Guidelines for this matter are tentatively set for hearing on **Friday, March 28, 2025**, at 10:00 a.m., and will be issued on or about March 14, 2025, but may be heard on **Friday, May 23, 2025**, at 10:00 a.m., and will be issued on or about May 9, 2025, if substantive comments are filed by the comment deadline.

Very truly yours,



Juliana F. Gmur  
Executive Director

## **DRAFT EXPEDITED PARAMETERS AND GUIDELINES**

California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074, Sections C.8.d.iii., C.8.e.vi., C.8.f., C.8.g.ii., C.8.g.vii., C.10.a.i., C.10.a.ii., C.10.a.iii., C.10.b.ii., C.10.b.iii., C.10.c., C.10.d.i., C.10.d.ii., C.11.f., and C.12.f.

Adopted October 14, 2009, and Effective December 1, 2009

*California Regional Water Quality Control Board, San Francisco Bay Region, Order No. R2-2009-0074*

10-TC-02, 10-TC-03, and 10-TC-05

Period of reimbursement from December 1, 2009, through December 31, 2017

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### **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. R2-2009-0074 (test claim permit), adopted by the San Francisco Bay Regional Water Quality Control Board on October 14, 2009, and effective on December 1, 2009.

On January 24, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim permit imposes a 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. 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.

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<sup>1</sup> Tentative. If substantive comments are received on the Draft Expedited Parameters and Guidelines, a Draft Proposed Decision and Parameters and Guidelines will be prepared and issued for comment and this matter will instead be set for the May 23, 2025 hearing.

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. R2-2009-0074 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:

- Alameda permittees include 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.
- Santa Clara permittees include 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.
- Fairfield-Suisun permittees include the Cities of Fairfield and Suisun City, and Fairfield-Suisun Sewer District.
- Contra Costa permittees include 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.
- San Mateo permittees include 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.
- Vallejo permittees include the City of Vallejo and the Vallejo Sanitary District.<sup>2</sup>

## **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 claimants filed Test Claims 10-TC-02, 10-TC-03, and 10-TC-05 on October 13, 2010, October 14, 2010, and November 30, 2010, respectively, establishing eligibility for reimbursement for the 2009-2010 fiscal year. However, the test claim permit has a later effective date and therefore, the period of reimbursement for this program begins on the permit's effective date, December 1, 2009. Beginning January 1, 2018, there are no

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<sup>2</sup> Exhibit A, Test Claim, 10-TC-02, page 150 (Test claim permit).

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 December 1, 2009, 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:

1. Geomorphic Study

- a. Permittees shall select a waterbody/reach, preferably one that contains significant fish and wildlife resources, and conduct one of the following projects within each county, except that only one such project must be completed within the collective Fairfield-Suisun and Vallejo Permittees' jurisdictions:
  - 1) Gather geomorphic data to support the efforts of a local watershed partnership [fn. omitted] to improve creek conditions; or
  - 2) Inventory locations for potential retrofit projects in which decentralized, landscape-based stormwater retention units can be installed; or
  - 3) Conduct a geomorphic study which will help in development of regional curves which help estimate equilibrium channel conditions for different-sized drainages. Select a waterbody/reach that is not undergoing changing land use. Collect and report the following data:
    - Formally surveyed channel dimensions (profile), planform, and cross-sections. Cross-sections shall include the topmost floodplain terrace and be marked by a permanent, protruding (not flush with ground) monument.
    - Contributing drainage area.
    - Best available information on bankfull discharges and width and depth of channel formed by bankfull discharges.
    - Best available information on average annual rainfall in the study area.
- b. Report selected geomorphic project results in the Integrated Monitoring Report.<sup>3</sup>

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<sup>3</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 221-222, 227 (Test claim permit, Sections C.8.d.iii.).



2. Sediment Delivery Estimate/Budget

Permittees shall develop a design for a robust sediment delivery estimate/sediment budget in local tributaries and urban drainages by July 1, 2011, and implement the study by July 1, 2012.<sup>4</sup>

3. Citizen Monitoring and Participation, *which Is Reimbursable for the City of Vallejo and Vallejo Sanitary District only*:

- a. Encourage Citizen Monitoring.
- b. In developing Monitoring Projects and evaluating Status & Trends data, make reasonable efforts to seek out citizen and stakeholder information and comment regarding waterbody function and quality.
- c. Demonstrate annually the permittee has encouraged citizen and stakeholder observations and reporting of waterbody conditions. Report on these outreach efforts in the annual Urban Creeks Monitoring Report.<sup>5</sup>

4. Monitoring Reporting and Notice

- a. Permittees shall maintain an information management system to support electronic transfer of data to the Regional Data Center of the California Environmental Data Exchange Network (CEDEN), located within the San Francisco Estuary Institute.<sup>6</sup>
- b. Permittees shall submit an Electronic Status Monitoring Data Report, compatible with the SWAMP database, no later than January 15 of each year, reporting on all data collected during the previous October 1-September 30 period. Water quality objective exceedances are required to be highlighted in the report.<sup>7</sup>
- c. Permittees shall notify stakeholders and members of the general public about the availability of electronic and paper monitoring reports through notices distributed through appropriate means, such as an electronic mailing list.<sup>8</sup>

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<sup>4</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 225 (Test claim permit, Section C.8.e.vi.).

<sup>5</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 225 (Test claim permit, Section C.8.f.).

<sup>6</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 226, footnote 46 (Test claim permit, Section C.8.g.ii.).

<sup>7</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 226 (Test claim permit, Section C.8.g.ii.).

<sup>8</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 228 (Test claim permit, Section C.8.g.vii.).

## 5. Trash

- a. Short-Term Trash Load Reduction Plan (Section C.10.a.i.). All permittees, except for flood management agencies, shall submit a Short-Term Trash Load Reduction Plan, including an implementation schedule, to the Regional Board by February 1, 2012. The Plan shall describe the following:
  - 1) Control measures and best management practices, including any trash reduction ordinances, currently being implemented and the current level of implementation.
  - 2) Additional control measures and best management practices that will be implemented, and/or an increased level of implementation designed to attain a 40 percent trash load reduction from its MS4 by July 1, 2014.
  - 3) The Plan shall also “account for required mandatory minimum Full Trash Capture devices called for in Provision C.10.a.iii and Trash Hot Spot Cleanup called for in Provision C.10.b.”<sup>9</sup>
- b. Baseline Trash Load and Trash Load Reduction Tracking Method (Section C.10.a.ii.). All permittees, except for flood management agencies, shall comply with the following new requirements:
  - 1) Determine the baseline trash load from its MS4.
  - 2) Submit the load level to the Regional Board by February 1, 2012. The February 1, 2012, report shall include the following:
    - Documentation of the methodology used to determine the load level.
    - A description of the trash load reduction tracking method that will be used to account for trash load reduction actions and to demonstrate progress and attainment of trash load reduction levels.
    - The submittal shall account for the drainage areas of a Permittee’s jurisdiction that are associated with the baseline trash load from its MS4, and the baseline trash load level per unit area by land use type and drainage area characteristics used to derive the total baseline trash load level for each Permittee.
  - 3) Submit a progress report by February 1, 2011, indicating whether the permittee is determining its baseline trash load and trash load reduction method individually or collaboratively with other Permittees and a summary of the approach being used.<sup>10</sup>

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<sup>9</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 233 (Test claim permit, Section C.10.a.i).

<sup>10</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 233-234 (Test claim permit, Section C.10.a.ii.).

- c. Minimum Full Trash Capture (Section C.10.a.iii.). Except as provided below, all permittees shall comply with the following requirements:

Install and maintain a mandatory minimum number of full trash capture devices by July 1, 2014, to treat runoff from an area equivalent to 30 percent of Retail/Wholesale Land draining to MS4s within their jurisdictions. The scope of this requirement is as follows:

- A full capture system or device is “any single device or series of devices that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour, storm in the subdrainage area”.
- The mandatory minimum number of full trash capture devices for each permittee is identified in Attachment J to the test claim permit, Tables 10-1 and 10-2. However, if the sum of the areas generating trash loads determined pursuant to Section C.10.a.ii is a smaller acreage than the required trash capture acreage, the minimum full trash capture requirement is reduced to the smaller acreage for the population-based permittee.<sup>11</sup>

The requirements to install and maintain full trash capture devices **does not apply:**

- To a population-based permittee with a population less than 12,000 and retail/wholesale land less than 40 acres, or a population less than 2000.<sup>12</sup>
- To full trash capture devices installed by a permittee *before* the effective date of the test claim permit, which may be counted towards the minimum number of full trash capture devices identified in Attachment J, provided the device meets the permit’s definition of a full trash capture device.<sup>13</sup>

- d. Trash Hot Spots (C.10.b.ii. and iii.)

- 1) The permittees shall each submit selected Trash Hot Spots to the Regional Board by July 1, 2010. (Section C.10.b.ii.)<sup>14</sup>
- 2) Hot Spot Assessments. (Section C.10.b.iii.)

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<sup>11</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 234, 411 et seq., and 415 et seq. (Test claim permit, Section C.10.a.iii., Attachment J, Tables 10-1, 10-2).

<sup>12</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 234 (Test claim permit, Section C.10.a.iii.).

<sup>13</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 234 (Test claim permit, Section C.10.a.iii.); Code of Federal Regulations, title 40, section 122.41(e).

<sup>14</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 235 (Test claim permit, Section C.10.b.ii.).

- a) The San Mateo and Fairfield-Suisun permittees shall comply with the following new requirements:
  - Identify the dominant types of trash (e.g., glass, plastics, paper) removed.
  - Document the trash conditions before and after clean-up of the entire hot spot using photo documentation with a minimum of one photo per 50 feet of hot spot length.
- b) The Contra Costa permittees shall comply with the following new requirement:
  - Document the trash conditions before and after clean-up of the entire hot spot using photo documentation with a minimum of one photo per 50 feet of hot spot length.
- c) The Vallejo permittees shall comply with the following new requirements:
  - Quantify the volume of material removed from each trash hot spot cleanup.
  - Identify the dominant types of trash removed (e.g., glass, plastics, paper).
  - Document the trash condition before and after cleanup using photo documentation, with a minimum of one photo per 50 feet of hot spot length.<sup>15</sup>
- e. Long-Term Trash Load Reduction Plan (Section C.10.c.). All permittees, except for flood management agencies, shall submit a Long-Term Trash Load Reduction Plan, including an implementation schedule, to the Water Board by February 1, 2014. The Plan shall describe the control measures and best management practices, including any trash reduction ordinances, that are being implemented and the level of implementation and additional control measures and best management practices that will be implemented, and/or an increased level of implementation designed to attain a 70 percent trash load reduction from its MS4 by July 1, 2017, and 100 percent by July 1, 2022.<sup>16</sup>
- f. Reporting and Document Retention (Sections C.10.d.i. and C.10.d.ii.)
  - 1) The Fairfield-Suisun, San Mateo, and Vallejo permittees shall comply with the following new requirement:

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<sup>15</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 235 (Test claim permit, Section C.10.b.iii.).

<sup>16</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, page 235 (Test claim permit, Section C.10.c.).

- In each annual report, report on the dominant types of trash removed and retain these records.<sup>17</sup>

2) All permittees shall comply with the following new requirements:

- In each Annual Report, provide total trash loads and dominant types of trash *for each type of action, including each trash hot spot selected* pursuant to Section C.10.b. and retain these records.<sup>18</sup>
- Beginning with the 2012 annual report, report the percent annual trash load reduction relative to the permittee's baseline trash load.<sup>19</sup>

## 6. Mercury and PCB Diversion Studies

- a. Permittees shall conduct feasibility evaluations for mercury and PCBs by selecting five stormwater pump stations and five alternates for each pollutant and evaluate drainage characteristics and the feasibility of diverting flows of each to the sanitary sewer. The feasibility evaluations shall include, but not be limited to, costs, benefits, and impacts on the stormwater and wastewater agencies and the receiving waters relevant to the diversion and treatment of the dry weather and first flush flows.
- b. From these feasibility evaluations, select five pump stations and five alternates for the pilot diversion studies for each pollutant. At least one urban runoff diversion pilot project shall be implemented in each of the five counties (San Mateo, Contra Costa, Alameda, Santa Clara, and Solano). The pilot and alternate locations should be located in industrially-dominated catchments where elevated PCB concentrations are documented.
- c. Implement flow diversion of mercury and PCBs to the sanitary sewer at five pilot pump stations.
- d. As part of the pilot studies, the permittees shall monitor, measure, and report mercury and PCBs load reduction.
- e. Report the following information to the Regional Board:
  - 1) Summarize the results of the feasibility evaluations in the 2010 Annual Report. The reports shall include the selection criteria leading to the identification of the five candidate and five alternate pump stations for pilot studies; time schedules for conducting the pilot studies; and a proposed

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<sup>17</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 235-236 (Test claim permit, Sections C.10.d.i. and C.10.d.ii.).

<sup>18</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 235-236 (Test claim permit, Sections C.10.d.i. and C.10.d.ii.).

<sup>19</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 235-236 (Test claim permit, Section C.10.d.i.).

method for distributing mercury load reductions to participating wastewater and stormwater agencies.

- 2) Report annually on the status of the pilot studies in each subsequent annual report.
- 3) Include in the March 15, 2014 Integrated Monitoring Report, the following information for each study: evaluation of pilot programs effectiveness, mercury and PCBs loads reduced, and updated feasibility evaluation procedures to guide future diversion project selection.<sup>20</sup>

## **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. Direct Cost Reporting**

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

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<sup>20</sup> Exhibit A, Test Claim, 10-TC-02, filed October 13, 2010, pages 240-241, 248-249 (Test claim permit, Sections C.11.f., C.12.f.).

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.

### 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 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

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<sup>21</sup> 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 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 (including, but not limited to grant funds), any service charge, 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.

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<sup>21</sup> This refers to title 2, division 4, part 7, chapter 4 of the Government Code.



## **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 January 28, 2025, I served the:

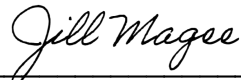
- **Current Mailing List dated January 28, 2025**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date issued January 28, 2025**

*California Regional Water Quality Control Board, San Francisco Bay Region,  
Order No. R2-2009-0074, 10-TC-02, 10-TC-03, and 10-TC-05*

*California Regional Water Quality Control Board, San Francisco Bay Region,  
Order No. R2-2009-0074, Sections C.8.d.iii., C.8.e.vi., C.8.f., C.8.g.ii., C.8.g.vii.,  
C.10.a.i., C.10.a.ii., C.10.a.iii., C.10.b.ii., C.10.b.iii., C.10.c., C.10.d.i., C.10.d.ii.,  
C.11.f., and C.12.f.; Adopted October 14, 2009, and Effective December 1, 2009  
Cities of Dublin and San Jose, and County of Santa Clara, Claimants*

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 January 28, 2025 at Sacramento, California.



---

Jill Magee  
Commission on State Mandates  
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(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 1/28/25

**Claim Number:** 10-TC-02, 10-TC-03, and 10-TC-05

**Matter:** California Regional Water Quality Control Board, San Francisco Bay Region,  
Order No. R2-2009-0074

**Claimants:** City of Dublin  
City of San Jose  
County of Santa Clara

### 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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