

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

TENTATIVE ORDER WQ 20XX-XXXX-DWQ  
AMENDING  
 GENERAL PERMIT FOR  
 STORM WATER DISCHARGES  
 ASSOCIATED WITH INDUSTRIAL ACTIVITIES

ORDER  
 NPDES NO. CAS000001

This Order No. 2014-0057-DWQ was adopted by the State Water Resources Control Board on:	<b>April 1, 2014</b>
This Order No. 2014-0057-DWQ became effective on:	<b>July 1, 2015</b>
Order No. 2015-0122-DWQ was adopted on:	<b>August 4, 2015</b>
Order No. 20XX-XXXX-DWQ was adopted on:	<b>[ADOPTION DATE]</b>
Order No. 20XX-XXXX-DWQ shall become effective on:	<b>[EFFECTIVE DATE]</b>
This Order shall expire on:	<b>June 30, 2020</b>

IT IS HEREBY ORDERED that Order No. 20XX-XXXX-DWQ amends Order No. 2014-0057-DWQ as amended by Order No. 2015-0122-DWQ. Additions to Order 2014-0057-DWQ as amended by Order No. 2015-0122-DWQ are reflected in blue-double underline text and deletions are reflected in ~~red-double-strikeout text~~.

IT IS FURTHER ORDERED that staff are directed to prepare and post a conformed copy of Order 2014-0057-DWQ incorporating the revisions made by this Order.

**CERTIFICATION**

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order, including its fact sheet, attachments, and appendices is a full, true, and correct copy of an Order adopted by the State Water Resources Control Board, on [DATE].

- AYE:
- NAY:
- ABSENT:
- ABSTAIN:

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Jeanine Townsend  
 Clerk to the Board

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## I. FINDINGS

### A. General Findings

The State Water Resources Control Board (State Water Board) finds that:

1. The Federal Clean Water Act (Clean Water Act) prohibits certain discharges of storm water containing pollutants except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. (33 U.S.C. §§ 1311, 1342 (also referred to as Clean Water Act §§ 301, 402).) The United States Environmental Protection Agency (U.S. EPA) promulgates federal regulations to implement the Clean Water Act's mandate to control pollutants in storm water discharges. (40 C.F.R. § 122, et seq.) The NPDES permit must require implementation of Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT) to reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges (NSWDs). The NPDES permit must also include additional requirements necessary to implement applicable water quality objectives or water quality standards (water quality standards, collectively).
2. On November 16, 1990, U.S. EPA promulgated Phase I storm water regulations in compliance with section 402(p) of the Clean Water Act. (55 Fed. Reg. 47990, codified at 40 C.F.R. § 122.26.) These regulations require operators of facilities subject to storm water permitting (Dischargers), that discharge storm water associated with industrial activity (industrial storm water discharges), to obtain an NPDES permit. Section 402(p)(3)(A) of the Clean Water Act also requires that permits for discharges associated with industrial activity include requirements necessary to meet water quality standards.
3. Phase II storm water regulations<sup>1</sup> require permitting for storm water discharges from facilities owned and operated by a municipality with a population of less than 100,000. The previous exemption from the Phase I permitting requirements under section 1068 of the Intermodal Surface Transportation Efficiency Act of 1991 was eliminated.
4. This Order (General Permit) is an NPDES General Permit issued in compliance with section 402 of the Clean Water Act and shall take effect on July 1, 2015, provided that the Regional Administrator of U.S. EPA has no objection. If the U.S. EPA Regional Administrator has an objection, this General Permit will not become effective until the objection is withdrawn.
5. This action to adopt an NPDES General Permit is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.) in accordance with section 13389 of the Water Code. (See *County of Los Angeles v. California State Water Resources Control Bd.* (2006) 143 Cal.App.4th 985.)

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<sup>1</sup> U.S. EPA. Final NPDES Phase II Rule. <<http://cfpub.epa.gov/npdes/stormwater/swfinal.cfm>>. [as of February 4, 2014]

6. State Water Board Order 97-03-DWQ is rescinded as of the effective date of this General Permit (July 1, 2015) except for Order 97-03-DWQ's requirement that annual reports be submitted by August 14, 2015 and except for enforcement purposes.
7. Effective July 1, 2015, the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards) (Water Boards, collectively) will enforce the provisions herein.
8. This General Permit authorizes discharges of industrial storm water to waters of the United States, so long as those discharges comply with all requirements, provisions, limitations, and prohibitions in this General Permit.
9. Industrial activities covered under this General Permit are described in Attachment A.
10. The Fact Sheet for this Order is incorporated as findings of this General Permit.
11. Acronyms are defined in Attachment B and terms used in this General Permit are defined in Attachment C.
12. This General Permit regulates industrial storm water discharges and authorized NSWDs from specific categories of industrial facilities identified in Attachment A hereto, and industrial storm water discharges and authorized NSWDs from facilities designated by the Regional Water Boards to obtain coverage under this General Permit. This General Permit does not apply to industrial storm water discharges and NSWDs that are regulated by other individual or general NPDES permits
13. This General Permit does not preempt or supersede the authority of municipal agencies to prohibit, restrict, or control industrial storm water discharges and authorized NSWDs that may discharge to storm water conveyance systems or other watercourses within their jurisdictions as allowed by state and federal law.
14. All terms defined in the Clean Water Act, U.S. EPA regulations, and the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000, et seq.) will have the same definition in this General Permit unless otherwise stated.
15. Pursuant to 40 Code of Federal Regulations section 131.12 and State Water Board Resolution 68-16, which incorporates the requirements of 40 Code of Federal Regulations section 131.12 where applicable, the State Water Board finds that discharges in compliance with this General Permit will not result in the lowering of water quality to a level that does not achieve water quality objectives and protect beneficial uses. Any degradation of water quality from existing high quality water to a level that achieves water quality objectives and protects beneficial uses is appropriate to support economic development. This General Permit's requirements constitute best practicable treatment or

control for discharges of industrial storm water and authorized non-storm water discharges, and are therefore consistent with those provisions.

16. Compliance with any specific limits or requirements contained in this General Permit does not constitute compliance with any other applicable permits.
17. This General Permit requires that the Discharger certify and submit all Permit Registration Documents (PRDs) for Notice of Intent (NOI) and No Exposure Certification (NEC) coverage via the State Water Board's Storm Water Multiple Application and Report Tracking System (SMARTS) website. (See Attachment D for an example of the information required to be submitted in the PRDs via SMARTS.) All other documents required by this General Permit to be electronically certified and submitted via SMARTS can be submitted by the Discharger or by a designated Duly Authorized Representative on behalf of the Discharger. Electronic reporting is required to reduce the state's reliance on paper, to improve efficiency, and to make such General Permit documents more easily accessible to the public and the Water Boards.
18. All information provided to the Water Boards shall comply with the Homeland Security Act and all other federal law that concerns security in the United States, as applicable.

#### **B. Industrial Activities Not Covered Under this General Permit**

19. Discharges of storm water from areas on tribal lands are not covered under this General Permit. Storm water discharges from industrial facilities on tribal lands are regulated by a separate NPDES permit issued by U.S. EPA.
20. Discharges of storm water regulated under another individual or general NPDES permit adopted by the State Water Board or Regional Water Board are not covered under this General Permit, including the State Water Board NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities.
21. Storm water discharges to combined sewer systems are not covered under this General Permit. These discharges must be covered by an individual permit. (40 C.F.R. § 122.26(a)(7).)
22. Conveyances that discharge storm water runoff combined with municipal sewage are not covered under this General Permit.
23. Discharges of storm water identified in Clean Water Act section 402(l) (33 U.S.C. § 1342(l)) are not covered under this General Permit.
24. Facilities otherwise subject to this General Permit but for which a valid Notice of Non-Applicability (NONA) has been certified and submitted via SMARTS, by the Entity are not covered under this General Permit. Entities (See Section XX.C.1 of this General Permit) who are claiming "No Discharge" through the NONA shall meet the eligibility requirements and provide a No Discharge Technical Report in accordance with Section XX.C.

25. This General Permit does not authorize discharges of dredged or fill material regulated by the US Army Corps of Engineers under section 404 of the Clean Water Act and does not constitute a water quality certification under section 401 of the Clean Water Act.

### **C. Discharge Prohibitions**

26. Pursuant to section 13243 of the Water Code, the State Water Board may specify certain conditions or areas where the discharge of waste, or certain types of waste, is prohibited.
27. With the exception of certain authorized NSWDS as defined in Section IV, this General Permit prohibits NSWDS. The State Water Board recognizes that certain NSWDS should be authorized because they are not generated by industrial activity, are not significant sources of pollutants when managed appropriately, and are generally unavoidable because they are related to safety or would occur regardless of industrial activity. Prohibited NSWDS may be authorized under other individual or general NPDES permits, or waste discharge requirements issued by the Water Boards.
28. Prohibited NSWDS are referred to as unauthorized NSWDS in this General Permit. Unauthorized NSWDS shall be either eliminated or permitted by a separate NPDES permit. Unauthorized NSWDS may contribute significant pollutant loads to receiving waters. Measures to control sources of unauthorized NSWDS such as spills, leakage, and dumping, must be addressed through the implementation of Best Management Practices (BMPs).
29. This General Permit incorporates discharge prohibitions contained in water quality control plans, as implemented by the Water Boards.
30. Direct discharges of waste, including industrial storm water discharges, to Areas of Special Biological Significance (ASBS) are prohibited unless the Discharger has applied for and the State Water Board has granted an exception to the State Water Board's 2009 Water Quality Control Plan for Ocean Waters of California as amended by State Water Board Resolution 2012-0056 (California Ocean Plan)<sup>2</sup> allowing the discharge.

### **D. Effluent Limitations**

31. Section 301(b) of the Clean Water Act and 40 Code of Federal Regulations section require NPDES permits to include technology-based requirements at

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<sup>2</sup> State Water Resources Control Board. Ocean Standards Web Page.

<[http://www.waterboards.ca.gov/water\\_issues/programs/ocean/](http://www.waterboards.ca.gov/water_issues/programs/ocean/)>. [as of February 4, 2014].

State Water Resources Control Board. Water Quality Control Plan for Ocean Waters of California 2009.

<[http://www.waterboards.ca.gov/water\\_issues/programs/ocean/docs/2009\\_cop\\_adoptedeffective\\_usepa.pdf](http://www.waterboards.ca.gov/water_issues/programs/ocean/docs/2009_cop_adoptedeffective_usepa.pdf)>. [as of February 4, 2014].

State Water Resources Control Board. Resolution 2012-0056.

<[http://www.swrcb.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2012/rs2012\\_0056.pdf](http://www.swrcb.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0056.pdf)>. [as of February 4, 2014].

- a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable water quality standards. Clean Water Act section 402(p)(3)(A) requires that discharges of storm water runoff from industrial facilities comply with Clean Water Act section 301.
32. This General Permit requires control of pollutant discharges using BAT and BCT to reduce and prevent discharges of pollutants, and any more stringent effluent limitations necessary for receiving waters to meet applicable water quality standards.
  33. It is not feasible for the State Water Board to establish numeric technology based effluent limitations for discharges authorized by this General Permit at this time. The rationale for this determination is discussed in detail in the Fact Sheet of this General Permit. Therefore, this General Permit requires Dischargers to implement minimum BMPs and applicable advanced BMPs as defined in Section X.H (collectively, BMPs) to comply with the requirements of this General Permit. This approach is consistent with U.S. EPA's 2008 Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (2008 MSGP).
  34. 40 Code of Federal Regulations section 122.44(d) requires that NPDES permits include Water Quality Based Effluent Limitations (WQBELs) to attain and maintain applicable numeric and narrative water quality standards for receiving waters.
  35. Where numeric water quality criteria have not been established, 40 Code of Federal Regulations section 122.44(d)(1)(vi) provides that WQBELs may be established using U.S. EPA criteria guidance under section 304(a) of the Clean Water Act, a proposed state criteria or policy interpreting narrative criteria supplemented with other relevant information, and/or an indicator parameter.
  36. This General Permit requires Dischargers to implement BMPs when necessary, in order to support attainment of water quality standards. The use of BMPs to control or abate the discharge of pollutants is authorized by 40 Code of Federal Regulations section 122.44(k)(3) because numeric effluent limitations are infeasible and implementation of BMPs is reasonably necessary to achieve effluent limitations and water quality standards, and to carry out the purposes and intent of the Clean Water Act. (40 C.F.R. § 122.44(k)(4).)

## **E. Receiving Water Limitations**

37. This General Permit requires compliance with receiving water limitations based on water quality standards. The primary receiving water limitation requires that industrial storm water discharges and authorized NSWDS not cause or contribute to an exceedance of applicable water quality standards. Water quality standards apply to the quality of the receiving water, not the quality of the industrial storm water discharge. Therefore, compliance with

the receiving water limitations generally cannot be determined solely by the effluent water quality characteristics. If any Discharger's storm water discharge causes or contributes to an exceedance of a water quality standard, that Discharger must implement additional BMPs or other control measures in order to attain compliance with the receiving water limitation. Compliance with water quality standards may, in some cases, require Dischargers to implement controls that are more protective than controls implemented solely to comply with the technology-based requirements in this General Permit.

## F. Total Maximum Daily Loads (TMDLs)

38. TMDLs relate to the maximum amount of a pollutant that a water body can receive and still attain water quality standards. A TMDL is defined as the sum of the allowable loads of a single pollutant from all contributing point sources (the waste load allocations) and non-point sources (load allocations), ~~plus~~ the contribution from background sources, and the margin of safety. (40 C.F.R. § 130.2(i).) Discharges addressed by this General Permit are considered to be point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 Code of Federal Regulations section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) In addition, Water Code section 13263, subdivision (a), requires that waste discharge requirements implement any relevant water quality control plans. Many TMDLs ~~contained~~ in water quality control plans include implementation requirements in addition to waste load allocations. Attachment E of this General Permit ~~lists the~~ contains the TMDL-specific requirements for watersheds/water bodies with U.S. EPA-approved and U.S. EPA-established TMDLs ~~that include requirements, including waste load allocations,~~ for Dischargers covered by this General Permit.
39. The State Water Board recognizes ~~that it is appropriate~~ the responsibility to develop TMDL-specific permit requirements derived from each TMDL's waste load allocation and implementation requirements, in order ~~to provide clarity to Dischargers regarding their responsibilities for compliance with applicable TMDLs for Dischargers to implement and comply with the TMDL~~. The development of TMDL-specific permit requirements is subject to public noticing requirements and a corresponding public comment period. ~~Due~~ The amendment to implement TMDLs was a lengthy process due to the number and variety of Dischargers subject to a wide range of TMDLs, and the necessary development of TMDL-specific permit requirements for each TMDL listed in Attachment E ~~will~~. To avoid severely ~~delay~~ delaying the 2014 reissuance of this General Permit. ~~Because most,~~ the State Water Board adopted a subsequent amendment to this General Permit to incorporate TMDLs. The majority of the TMDLs were established by the Regional Water Boards, ~~and because;~~ additionally some of the waste load allocations and/or implementation requirements may be shared by multiple Dischargers. Therefore, the State Water Board development of TMDL-specific permit



requirements ~~is best~~was coordinated ~~at~~with the applicable Regional Water Board ~~level~~Boards.

40. State and Regional Water Board staff ~~will develop proposed~~developed TMDL-specific permit requirements (including monitoring and reporting requirements) for each of the TMDLs listed in Attachment E. After conducting a 30-day public comment period, the Regional Water Boards ~~will submit~~submitted to the State Water Board the proposed TMDL-specific permit requirements for adoption by the State Water Board into this General Permit ~~by July 1, 2016.~~ The Regional Water Boards ~~may also include~~ proposed TMDL-specific monitoring requirements for inclusion in this General Permit, ~~or may issue Regional Water Board orders pursuant to Water Code section 13383 requiring TMDL-specific monitoring. The proposed TMDL-specific permit requirements shall have no force or effect until adopted, with or without modification, by the State Water Board. Consistent with the 2008 MSGP, Dischargers are not required to take any additional actions to comply with the TMDLs listed in Attachment E until the State Water Board reopens this General Permit and includes TMDL-specific permit requirements, unless notified otherwise by a Regional Water Board.~~
41. The Regional Water Boards ~~shall submit~~submitted to the State Water Board the following information for each of the TMDLs listed in Attachment E:
- a. Proposed TMDL-specific permit, monitoring and reporting requirements applicable to industrial storm water discharges and NSWDs authorized under this General Permit, including compliance schedules and deliverables consistent with the TMDLs. TMDL-specific permit requirements are not limited by the BAT/BCT technology-based standards;
  - b. An explanation of how the proposed TMDL-specific permit requirements, compliance schedules, and deliverables ~~are~~were consistent with the assumptions and requirements of any applicable waste load allocation and implement each TMDL; and,
  - c. Where a BMP-based approach ~~is~~was proposed, an explanation of how the proposed BMPs ~~will~~would be sufficient to implement applicable waste load allocations.
42. Upon receipt of the information described in Finding ~~40, and no later than~~ 41, the State Water Board issued a public notice and conducted a public comment period for the reopening of this General Permit to amend Attachment E, the Fact Sheet, and other provisions as necessary for incorporation of TMDL-specific permit requirements into this General Permit. ~~July 1, 2016, the State Water Board will issue a public notice and conduct a public comment period for the reopening of this General Permit to amend Attachment E, the Fact Sheet, and other provisions as necessary for incorporation of TMDL-specific permit requirements into this General Permit.~~

~~Attachment E may also be subsequently reopened during the term of this General Permit to incorporate additional~~

43. Dischargers that are subject to TMDL-specific permit requirements are referred to as "Responsible Dischargers."
44. TMDL-specific permit requirements do not apply to Dischargers with NEC coverage or meeting the NONA criteria.
45. This General Permit's NALs found in Table 2 shall continue to apply to Responsible Dischargers in addition to applicable TMDL Numeric Action Levels (TNALs) and Numeric Effluent Limitations (NELs) in Attachment E Table E-2.
46. The State Water Board Executive Director has the authority to incorporate a reanalyzed Regional Water Board adopted Water Effect Ratio (WER) into this General Permit.
47. Responsible Dischargers shall refer to Section XII.A for the Exceedance Response Actions requirements upon a TNAL exceedance.
48. All TNALs established in Attachment E Table E-2 for TMDL implementation are applied as instantaneous maximum values as defined in Section XII.A.2 and Attachment C of this General Permit. There are no annual TNALs in this General Permit.
49. NELs established in Attachment E Table E-2 for TMDL implementation are applied as instantaneous maximum values as defined in Attachment C of this General Permit. There are no annual NELs in this General Permit.
50. The establishment of instantaneous maximum NELs for TMDL implementation does not change the implementation or definitions of NELs in Attachment F of this General Permit, which contains the 40 Code of Federal Regulations Chapter I Subchapter N (Subchapter N) effluent limitation guidelines approved by U.S. EPA for specific categories of industrial storm water discharges.
51. The State Water Board has added requirements to Attachment E and this General Permit, including this General Permit's Exceedance Response Actions (ERAs) provisions and Water Quality Based Corrective Actions provisions, implementing TMDLs through Permit-specific TMDL requirements. These are collectively referred to as the TMDL Requirements.

## G. Compliance Options

52. The State Water Board allows Dischargers statewide to implement an optional Compliance Option in Attachment I, which is hereby incorporated into this Order, as a means of complying with Section V.A and being deemed in compliance with Section III.C (Discharge Prohibitions), Section V.C (Effluent Limitations), and Section VI (Receiving Water Limitations) of this General Permit. Dischargers implementing and in compliance with Attachment I Compliance Option requirements are also exempt from certain provisions of this General Permit as specified in Attachment I, including, but not limited to, Section XII (Exceedance Response Actions). A Discharger deemed in compliance with a provision is not required by this General Permit to take any further action to meet the requirements of that provision. Dischargers are still required to comply with applicable Subchapter N effluent limitations.
53. The Compliance Options involve implementing BMPs with the effective capacity to capture and use, infiltrate, and/or evapotranspire authorized non-storm water sources defined in Section IV and storm water associated with industrial activities produced up to and during the 85<sup>th</sup> percentile 24-hour precipitation event based upon local, historical precipitation data and records.
54. The Compliance Options allow for the implementation of BMPs either on-site or off-site.
55. The State Water Board is confident that Dischargers implementing a Compliance Option will be in actual compliance with water quality standards in the receiving water as well as with General Permit-specific TMDL requirements; however, the Water Boards retain the authority to require Dischargers to take further action should implementation of a Compliance Option not result in actual compliance with water quality standards in the receiving water and/or to reevaluate the Compliance Option approach in future iterations of this General Permit.<sup>3</sup>
56. The On-Site Compliance Option includes requirements for the protection of groundwater. These requirements are included pursuant to the State Water Board's Porter-Cologne Water Quality Control Act authority in this General Permit (which is an NPDES permit) to avoid the necessity of adopting a separate waste discharge requirement (WDR). NPDES permits issued by the State Water Board also serve as WDRs and may include state-law based requirements. Because these groundwater protection requirements go beyond the scope of NPDES permitting, these requirements are enforceable in accordance with the Porter-Cologne Water Quality Control Act, not the federal Clean Water Act. Further, these groundwater protection requirements are CEQA-exempt; specifically, these requirements are "covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment," which applies "[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment[.]" (Cal. Code Regs., tit. 14,

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<sup>3</sup> "Actual compliance" as used here refers to compliance with water quality standards in the receiving water and General Permit-specific TMDL requirements, rather than compliance through Attachment I's "deemed in compliance" provisions.

§ 15061, subd. (b)(3).) There is no possibility that discharges made in accordance with these requirements will have a significant effect on the environment due to the requirement for Dischargers to protect discharges to groundwater by 1) ensuring all influent entering the infiltration BMPs meet applicable Maximum Contaminant Level (MCL) criteria or proving discharges to groundwater meet MCL criteria, 2) monitoring the BMP influent to verify compliance, and 3) verifying potential impacts and conducting applicable monitoring for a variety of contaminants of concern.

#### **H. ~~G.~~ Discharges Subject to the California Ocean Plan**

57. ~~43.~~ On October 16, 2012 the State Water Board amended the California Ocean Plan. The amended California Ocean Plan requires industrial storm water dischargers with outfalls discharging to ocean waters to comply with the California Ocean Plan's model monitoring provisions. These provisions require Dischargers to: (a) monitor runoff for specific parameters at all outfalls from two storm events per year, and collect at least one representative receiving water sample per year, (b) conduct specified toxicity monitoring at certain types of outfalls at a minimum of once per year, and (c) conduct marine sediment monitoring for toxicity under specific circumstances. The California Ocean Plan provides conditions under which some of the above monitoring provisions may be waived by the Water Boards.

58. ~~44.~~ This General Permit requires Dischargers with outfalls discharging to ocean waters that are subject to the model monitoring provisions of the California Ocean Plan to develop and implement a monitoring plan in compliance with those provisions and any additional monitoring requirements established pursuant to Water Code section 13383. Dischargers that have not developed and implemented a monitoring program in compliance with the California Ocean Plan's model monitoring provisions by July 1, 2015 (the effective date of this General Permit), or seven (7) days prior to commencing operations, whichever is later, are ineligible to obtain coverage under this General Permit.

59. ~~45.~~ The California Ocean Plan prohibits the direct discharge of waste to ASBS. ASBS are defined in California Ocean Plan as "those areas designated by the State Water Board as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable."

60. ~~46.~~ The California Ocean Plan authorizes the State Water Board to grant an exception to Ocean Plan provisions where the board determines that the exception will not compromise protection of ocean waters for beneficial uses and the public interest will be served.

61. ~~47.~~ On March 20, 2012, the State Water Board adopted Resolution 2012-0012 which contains exceptions to the California Ocean Plan for specific discharges of storm water and non-point sources. This resolution also

contains the special protections that are to be implemented for those discharges to ASBS.

~~62.48~~ This General Permit requires Dischargers who have been granted an exception to the Ocean Plan authorizing the discharges to ASBS by the State Water Board to comply with the requirements contained in Section VIII.B of this General Permit.

## I. ~~H.~~ Training

~~63.49~~ To improve compliance and maintain consistent implementation of this General Permit, Dischargers are required to designate a Qualified Industrial Storm Water Practitioner (QISP) for each facility the Discharger operates that has entered Level 1 status in the Exceedance Response Action (ERA) process as described in Section XII of this General Permit. A QISP may be assigned to more than one facility. In order to qualify as a QISP, a State Water Board-sponsored or approved training course must be completed. A competency exam may be required by the State Water Board to demonstrate sufficient knowledge of the QISP course material.

~~64.50~~ A QISP must assist the Discharger in completing the Level 1 status and Level 2 status ERA requirements as specified in Section XII of this General Permit. A QISP is also responsible for assisting New Dischargers that will be discharging to an impaired water body with a 303(d) listed impairment, demonstrate eligibility for coverage through preparing the data and/or information required in Section VII.B.

~~65.51~~ A Compliance Group Leader, as defined in Section XIV of this General Order must complete a State Water Board sponsored or approved training program for Compliance Group Leaders.

~~66.52~~ All engineering work subject to the Professional Engineers Act (Bus. & Prof. Code § 6700, et seq.) and required by this General Permit shall be performed by a California licensed professional engineer.

~~67.53~~ California licensed professional civil, industrial, chemical, and mechanical engineers and geologists have licenses that have professional overlap with the topics of this General Permit. The California Department of Consumer Affairs, Board for Professional Engineers, Land Surveyors and Geologists (CBPELSG) provides the licensure and regulation of professional civil, industrial, chemical, and mechanical engineers and professional geologists in California. The State Water Board is developing a specialized self-guided State Water Board-sponsored registration and training program specifically for these CPBELSG licensed engineers and geologists in good standing with CBPELSG.

## J. ~~I.~~ Storm Water Pollution Prevention Plan (SWPPP) Requirements

~~68.54~~ This General Permit requires the development of a site-specific SWPPP in accordance with Section X of this General Permit. The SWPPP must

include the information needed to demonstrate compliance with the requirements of this General Permit. The SWPPP must be submitted electronically via SMARTS, and a copy be kept at the facility. SWPPP revisions shall be completed in accordance with Section X.B of this General Permit.

#### **K. ~~J.~~ Sampling, Visual Observations, Reporting and Record Keeping**

~~69.55~~ This General Permit complies with 40 Code of Federal Regulations section 122.44(i), which establishes monitoring requirements that must be included in storm water permits, including requiring the use of sufficiently sensitive U.S. EPA-approved methods, where they exist. Under this General Permit, Dischargers are required to: (a) conduct an Annual Comprehensive Facility Compliance Evaluation (Annual Evaluation) to identify areas of the facility contributing pollutants to industrial storm water discharges, (b) evaluate whether measures to reduce or prevent industrial pollutant loads identified in the Discharger's SWPPP are adequate and properly implemented in accordance with the terms of this General Permit, and (c) determine whether additional control measures are needed.

~~70.56~~ This General Permit contains monitoring requirements that are necessary to determine whether pollutants are being discharged, and whether response actions are necessary. Data and information resulting from the monitoring will assist in Dischargers' evaluations of BMP effectiveness and compliance with this General Permit. Visual observations are one form of monitoring. This General Permit requires Dischargers to perform a variety of visual observations designed to identify pollutants in industrial storm water discharges and their sources. To comply with this General Permit Dischargers shall: (1) electronically self-report any violations via SMARTS, (2) comply with the Level 1 status and Level 2 status ERA requirements, when applicable, and (3) adequately address and respond to any Regional Water Board comments on the Discharger's compliance reports.

~~71.57~~ Dischargers that meet the requirements of the No Exposure Certification (NEC) Conditional Exclusion set forth in Section XVII of this General Permit are exempt from the SWPPP requirements, sampling requirements, and visual observation requirements in this General Permit.

#### **L. ~~K.~~ Facilities Subject to Federal Storm Water Effluent Limitation Guidelines (ELGs)**

~~72.58~~ U.S. EPA regulations at 40 Code of Federal Regulations Chapter I Subchapter N (Subchapter N) establish technology-based Effluent Limitation Guidelines and New Source Performance Standards (ELGs) for industrial storm water discharges from facilities in specific industrial categories. For these facilities, compliance with the BAT/BCT and ELG requirements constitutes compliance with technology-based requirements of this General Permit.

~~73.59-~~40 Code of Federal Regulations section 122.44(i)(3) and (4) require storm water permits to require at least one Annual Evaluation and any monitoring requirements for applicable ELGs in Subchapter N. This General Permit requires Dischargers to comply with all applicable ELG requirements found in Subchapter N.

#### **M. ~~L.~~ Sampling and Analysis Reduction**

~~74.60-~~This General Permit reduces the number of qualifying sampling events required to be sampled each year when the Discharger demonstrates: (1) consistent compliance with this General Permit, (2) consistent effluent water quality sampling, and (3) analysis results that do not exceed numerical action levels.

#### **N. ~~M.~~ Role of Numeric Action Levels (NALs), TMDL Numeric Action Levels (TNALs) and Exceedance Response Actions (ERAs)**

~~75.64-~~This General Permit incorporates a multiple objective performance measurement system that includes NALs, new comprehensive training requirements, Level 1 ERA Reports, Level 2 ERA Technical Reports, and Level 2 ERA Action Plans. Two objectives of the performance measurement system are to inform Dischargers, the public and the Water Boards on: (1) the overall pollutant control performance at any given facility, and (2) the overall performance of the industrial statewide storm water program. Additionally, the State Water Board expects that this information and assessment process will provide information necessary to determine the feasibility of numeric effluent limitations for industrial dischargers in the next reissuance of this General Permit, consistent with the State Water Board Storm Water Panel of Experts' June 2006 Recommendations.<sup>34</sup>

~~76.62-~~This General Permit contains annual and instantaneous maximum NALs. The annual NALs are established as the 2008 MSGP benchmark values, and are applicable for all parameters listed in Table 2. The instantaneous maximum NALs are calculated from a Water Board dataset, and are only applicable for Total Suspended Solids (TSS), Oil and Grease (O&G), and pH. TNAL exceedances are all expressed as instantaneous maximums and are identified in Attachment E Table E-2. An NAL exceedance is determined as follows:

- a. For annual NALs, an exceedance occurs when the average of all analytical results from all samples taken at a facility during a reporting year for a given parameter exceeds an annual NAL value listed in Table 2 of this General Permit; or,

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<sup>34</sup> State Water Board Storm Water Panel of Experts, The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities (June 19, 2006) <[http://www.swrcb.ca.gov/water\\_issues/programs/stormwater/docs/numeric/swpanel\\_final\\_report.pdf](http://www.swrcb.ca.gov/water_issues/programs/stormwater/docs/numeric/swpanel_final_report.pdf)> [as of February 4, 2014].

- b. For the instantaneous maximum NALs/TNALs, an exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value ~~(for Total Suspended Solids, and Oil and Grease)~~, or are outside of the instantaneous maximum NAL range (for pH) listed in Table 2 of this General Permit. For the purposes of this General Permit, the reporting year is July 1 through June 30.

~~77.63~~—The NALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water objectives. ~~NAL~~The TNALs serve as BMP-based water quality-based effluent limitations. The NAL/TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit. A Discharger that does not fully comply with the Level 1 status and/or Level 2 status ERA requirements, when required by the terms of this General Permit, is in violation of this General Permit.

~~78.64~~—ERAs are designed to assist Dischargers in complying with this General Permit. Dischargers subject to ERAs must evaluate the effectiveness of their BMPs being implemented to ensure they are adequate to achieve compliance with this General Permit.

~~79.65~~—U.S. EPA regulations at Subchapter N establish ELGs for storm water discharges from facilities in 11 industrial categories. Dischargers subject to these ELGs are required to comply with the applicable requirements.

~~80.66~~—Exceedances of the NALs/TNALs that are attributable solely to pollutants originating from non-industrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the Discharger's property, or aerial deposition) are not a violation of this General Permit because the NALs/TNALs are designed to provide feedback on industrial sources of pollutants. Dischargers may submit a Non-Industrial Source Pollutant Demonstration as part of their Level 2 ERA Technical Report to demonstrate that the presence of a pollutant causing an NAL/TNAL exceedance is attributable solely to pollutants originating from non-industrial pollutant sources.

~~81.67~~—A Discharger who has designed, installed, and implemented BMPs to reduce or prevent pollutants in industrial storm water discharges in compliance with this General Permit may submit an Industrial Activity BMPs Demonstration, as part of their Level 2 ERA Technical Report.

~~82.68~~—This General Permit establishes design storm standards for all treatment control BMPs. These design standards are directly based on the standards in State Water Board Order 2000-0011 regarding Standard Urban Storm Water Mitigation Plans (SUSMPs). These design standards are generally expected to be consistent with BAT/BCT, to be protective of water quality, and to be effective for most pollutants. The standards are intended to eliminate the need for most Dischargers to further treat/control industrial storm water



discharges that are unlikely to contain pollutant loadings that exceed the NALs set forth in this General Permit.

#### **O. ~~N.~~ Compliance Groups**

~~83.69.~~ Compliance Groups are groups of Dischargers (Compliance Group Participants) that share common types of pollutant sources and industrial activity characteristics. Compliance Groups provide an opportunity for the Compliance Group Participants to combine resources and develop consolidated Level 1 ERA Reports for Level 1 NAL/~~TNAL~~ exceedances and appropriate BMPs for implementation in response to Level 2 status ERA requirements that are representative of the entire Compliance Group. Compliance Groups also provide the Water Boards and the public with valuable information as to how industrial storm water discharges are affected by non-industrial background pollutant sources (including natural background) and geographic locations. When developing the next reissuance of this General Permit, the State Water Board expects to have a better understanding of the feasibility and benefits of sector-specific and watershed-based permitting alternatives, which may include technology- or water quality-based numeric effluent limitations. The effluent data, BMP performance data and other information provided from Compliance Groups' consolidated reporting will further assist the State Water Board in addressing sector-specific and watershed-based permitting alternatives.

[Compliance Groups Participants who are Responsible Dischargers may participate in Compliance Groups with other Responsible Dischargers or Dischargers; however, the Compliance Group Leader is required to indicate which participants are Responsible Dischargers.](#)

#### **P. ~~O.~~ Conditional Exclusion – No Exposure Certification (NEC)**

~~84.70.~~ Pursuant to U.S. EPA Phase II regulations, all Dischargers subject to this General Permit may qualify for a conditional exclusion from specific requirements if they submit a NEC demonstrating that their facilities have no exposure of industrial activities and materials to storm water discharges.

~~85.71.~~ This General Permit requires Dischargers who seek the NEC conditional exclusion to obtain coverage in accordance with Section XVII of this General Permit. Dischargers that meet the requirements of the NEC are exempt from the SWPPP, sampling requirements, and monitoring requirements in this General Permit.

~~86.72.~~ Dischargers seeking NEC coverage are required to certify and submit the applicable permit registration documents. Annual inspections, re-certifications, and fees are required in subsequent years. Light industry facility Dischargers excluded from coverage under the previous permit (Order 97-03-DWQ) must obtain the appropriate coverage under this General Permit. Failure to comply with the Conditional Exclusion conditions listed in this General Permit may lead to enforcement for discharging without a permit

pursuant to sections 13385 or 13399.25, et seq., of the Water Code. A Discharger with NEC coverage that anticipates a change (or changes) in circumstances that would lead to exposure should register for permit coverage prior to the anticipated changes.

**Q. ~~P.~~ Special Requirements for Facilities Handling Plastic Materials**

87. ~~73.~~ Section 13367 of the Water Code requires facilities handling preproduction plastic to implement specific BMPs aimed at minimizing discharges of such materials. The definition of Plastic Materials for the purposes of this General Permit includes the following types of sources of Plastic Materials: virgin and recycled plastic resin pellets, powders, flakes, powdered additives, regrind, dust, and other types of preproduction plastics with the potential to discharge or migrate off-site.

**R. ~~Q.~~ Regional Water Board Authorities**

88. ~~74.~~ Regional Water Boards are primarily responsible for enforcement of this General Permit. This General Permit recognizes that Regional Water Boards have the authority to protect the beneficial uses of receiving waters and prevent degradation of water quality in their region. As such, Regional Water Boards may modify monitoring requirements and review, comment, approve or disapprove certain Discharger submittals required under this General Permit.

**IT IS HEREBY ORDERED** that all Dischargers subject to this General Permit shall comply with the following conditions and requirements.<sup>5</sup>

## II. RECEIVING GENERAL PERMIT COVERAGE

### A. Certification

1. For Storm Water Multiple Application and Report Tracking System (SMARTS) electronic account management and security reasons, as well as enforceability of this General Permit, the Discharger's Legally Responsible Person (LRP) of an industrial facility seeking coverage under this General Permit shall certify and submit all Permit Registration Documents (PRDs) for Notice of Intent (NOI) or No Exposure Certification (NEC) coverage. All other documents shall be certified and submitted via SMARTS by the Discharger's (LRP) or by their Duly Authorized Representative in accordance with the Electronic Signature and Certification Requirements in Section XXI.K. All documents required by this General Permit that are certified and submitted via SMARTS shall be in accordance with Section XXI.K.
2. Hereinafter references to certifications and submittals by the Discharger refer to the Discharger's LRP and their Duly Authorized Representative.

### B. Coverages

This General Permit includes requirements for two (2) types of permit coverage, NOI coverage and NEC coverage. State Water Board Order 97-03-DWQ (previous permit) remains in effect until July 1, 2015. When PRDs are certified and submitted and the annual fee is received, the State Water Board will assign the Discharger a Waste Discharger Identification (WDID) number.

1. General Permit Coverage (NOI Coverage)
  - a. Dischargers that discharge storm water associated with industrial activity to waters of the United States are required to meet all applicable requirements of this General Permit.
  - b. The Discharger shall register for coverage under this General Permit by certifying and submitting PRDs via SMARTS (<http://smarts.waterboards.ca.gov>), which consist of:
    - i. A completed NOI and signed certification statement;

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<sup>5</sup> [Dischargers may implement an optional Compliance Option, as specified in Attachment I, as a means of complying with Section V.A and being deemed in compliance with Section III.C \(Discharge Prohibitions\), Section V.C \(Effluent Limitations\), and Section VI \(Receiving Water Limitations\) of this Order. Dischargers implementing and in compliance with Attachment I Compliance Option requirements are also exempt from certain provisions of this General Permit as specified in Attachment I, including, but not limited to, Section XII \(Exceedance Response Actions\). Dischargers are still required to comply with applicable Subchapter N effluent limitations.](#)

- ii. A copy of a current Site Map from the Storm Water Pollution Prevention Plan (SWPPP) in Section X.E;
  - iii. A SWPPP (see Section X); and,
- c. The Discharger shall pay the appropriate Annual Fee in accordance with California Code of Regulations, title 23, section 2200 et seq.<sup>46</sup>
2. General Permit Coverage (NEC Coverage)
- a. Dischargers that certify their facility has no exposure of industrial activities or materials to storm water in accordance with Section XVII qualify for NEC coverage and are not required to comply with the SWPPP or monitoring requirements of this General Permit.
  - b. Dischargers who qualify for NEC coverage shall conduct one Annual Facility Comprehensive Compliance Evaluation (Annual Evaluation) as described in Section XV, pay an annual fee, and certify annually that their facilities continue to meet the NEC requirements.
  - c. The Discharger shall submit the following PRDs on or before October 1, 2015 for NEC coverage via SMARTS:
    - i. A completed NEC Form (Section XVII.F.1) and signed certification statement (Section XVII.H);
    - ii. A completed NEC Checklist (Section XVII.F.2); and
    - iii. A current Site Map consistent with requirements in Section X.E.;
  - d. The Discharger shall pay the appropriate annual fee in accordance with California Code of Regulations, title 23, section 2200 et seq.<sup>57</sup>

3. General PRD Requirements

a. Site Maps

Dischargers registering for NOI or NEC coverage shall prepare a site map(s) as part of their PRDs in accordance with Section X.E. A separate copy of the site map(s) is required to be in the SWPPP. If there is a significant change in the facility layout (e.g., new building, change in storage locations, boundary change, etc.) a revision to the site map is required and shall be certified and submitted via SMARTS.

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<sup>46</sup> Annual fees must be mailed or sent electronically using the State Water Boards' Electronic Funds Transfer (EFT) system in SMARTS.

<sup>57</sup> See footnote 4.

- b. A Discharger shall submit a single set of PRDs for coverage under this General Permit for multiple industrial activities occurring at the same facility.
  - c. Any information provided to the Water Boards by the Discharger shall comply with the Homeland Security Act and other federal law that addresses security in the United States; any information that does not comply should not be submitted in the PRDs. The Discharger must provide justification to the Regional Water Board regarding redacted information within any submittal.
  - d. Dischargers may redact trade secrets from information that is submitted via SMARTS. Dischargers who certify and submit redacted information via SMARTS must include a general description of the redacted information and the basis for the redaction in the version that is submitted via SMARTS. Dischargers must submit complete and un-redacted versions of the information that are clearly labeled "CONFIDENTIAL" to the Regional Water Board within 30 days of the submittal of the redacted information. All information labeled "CONFIDENTIAL" will be maintained by the Water Boards in a separate, confidential file.
4. Schedule for Submitting PRDs - Existing Dischargers Under the Previous Permit.
- a. Existing Dischargers<sup>68</sup> with coverage under the previous permit shall continue coverage under the previous permit until July 1, 2015. All waste discharge requirements and conditions of the previous permit are in effect until July 1, 2015.
  - b. Existing Dischargers with coverage under the previous permit shall register for NOI coverage by or on August 14, 2015 or for NEC coverage by or on October 1, 2015. The filing date for Existing Dischargers that register for NOI coverage by or on August 14, 2015 shall be deemed July 1, 2015. Existing Dischargers previously listed in Category 10 (Light Industry) of the previous permit, and continue to have no exposure to industrial activities and materials, have until October 1, 2015 to register for NEC coverage.
  - c. Existing Dischargers with coverage under the previous permit, that do not register for NOI coverage by or on August 14, 2015, may have their permit coverage administratively terminated as soon as August 14, 2015.
  - d. Existing Dischargers with coverage under the previous permit that are eligible for NEC coverage but do not register for NEC coverage by

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<sup>68</sup> Existing Dischargers are Dischargers with an active Notice of Intent (permit coverage) under the previous permit (97-03-DWQ) prior to the effective date of this General Permit.

October 1, 2015 may have their permit coverage administratively terminated as soon as October 1, 2015.

- e. Existing Dischargers shall continue to comply with the SWPPP requirements in State Water Board Order 97-03-DWQ up to, but no later than, June 30, 2015.
  - f. Existing Dischargers shall implement an updated SWPPP in accordance with Section X by July 1, 2015.
  - g. Existing Dischargers that submit a Notice of Termination (NOT) under the previous permit prior to July 1, 2015 and that receive NOT approval from the Regional Water Board are not subject to this General Permit unless they subsequently submitted new PRDs.
5. Schedule for Submitting PRDs - New Dischargers Obtaining Coverage On or After July 1, 2015
- a. New Dischargers registering for NOI coverage on or after July 1, 2015 shall certify and submit PRDs via SMARTS at least seven (7) days prior to commencement of industrial activities or on August 14, 2015, whichever comes later. The filing date for New Dischargers that register for NOI coverage by or on August 14, 2015 shall be deemed July 1, 2015 or seven (7) days prior to commencement of industrial activities, whichever comes later.
  - b. New Dischargers registering for NEC coverage shall electronically certify and submit PRDs via SMARTS by October 1, 2015, or at least seven (7) days prior to commencement of industrial activities, whichever is later.

### **C. Termination and Changes to General Permit Coverage**

- 1. Dischargers with NOI or NEC coverage shall request termination of coverage under this General Permit when either (a) operation of the facility has been transferred to another entity, (b) the facility has ceased operations, completed closure activities, and removed all industrial related pollutants, or (c) the facility's operations have changed and are no longer subject to the General Permit. Dischargers shall certify and submit a Notice of Termination via SMARTS. Until a valid NOT is received, the Discharger remains responsible for compliance with this General Permit and payment of accrued annual fees.
- 2. Whenever there is a change to the facility location, the Discharger shall certify and submit new PRDs via SMARTS. When ownership changes, the prior Discharger (seller) must inform the new Discharger (buyer) of the General Permit applications and regulatory coverage requirements. The new Discharger must certify and submit new PRDs via SMARTS to obtain coverage under this General Permit.

3. Dischargers with NOI coverage where the facility qualifies for NEC coverage in accordance with Section XVII of this General Permit, may register for NEC coverage via SMARTS. Such Dischargers are not required to submit an NOT to cancel NOI coverage.
4. Dischargers with NEC coverage, where changes in the facility and/or facility operations occur, which result in NOI coverage instead of NEC coverage, shall register for NOI coverage via SMARTS. Such Dischargers are not required to submit an NOT to cancel NEC coverage.
5. Dischargers shall provide additional information supporting an NOT, or revise their PRDs via SMARTS, upon request by the Regional Water Board.
6. Dischargers that are denied approval of a submitted NOT or registration for NEC coverage by the Regional Water Board, shall continue compliance with this General Permit under their existing NOI coverage.
7. New Dischargers (Dischargers with no previous NOI or NEC coverage) shall register for NOI coverage if the Regional Water Board denies NEC coverage.

#### **D. Preparation Requirements**

1. The following documents shall be certified and submitted by the Discharger via SMARTS:
  - a. Annual Reports (Section XVI) and SWPPPs (Section X);
  - b. NOTs;
  - c. Sampling Frequency Reduction Certification (Section XI.C.7);
  - d. Level 1 ERA Reports (Section XII.C) prepared by a QISP;
  - e. Level 2 ERA Technical Reports and Level 2 ERA Action Plans (Sections XII.D.1-2) prepared by a QISP; and,
  - f. SWPPPs for inactive mining operations as described in Section XIII, signed (wet signature and license number) by a California licensed professional engineer.
2. The following documents shall be signed (wet signature and license number) by a California licensed professional engineer:
  - a. Calculations for Dischargers subject to Subchapter N in accordance with Section XI.D;
  - b. Notice of Non-Applicability (NONA) Technical Reports described in Section XX.C for facilities that are engineered and constructed to have contained the maximum historic precipitation event (or series of events)

using the precipitation data collected from the National Oceanic and Atmospheric Agency's website;

- c. NONA Technical Reports described in Section XX.C for facilities located in basins or other physical locations that are not tributaries or hydrologically connected to waters of the United States; and,
- d. SWPPPs for inactive mines described in Section XIII.

### **III. DISCHARGE PROHIBITIONS**

- A.** All discharges of storm water to waters of the United States are prohibited except as specifically authorized by this General Permit or another NPDES permit.
- B.** Except for non-storm water discharges (NSWDs) authorized in Section IV, discharges of liquids or materials other than storm water, either directly or indirectly to waters of the United States, are prohibited unless authorized by another NPDES permit. Unauthorized NSWDs must be either eliminated or authorized by a separate NPDES permit.
- C.** Industrial storm water discharges and authorized NSWDs that contain pollutants that cause or threaten to cause pollution, contamination, or nuisance as defined in section 13050 of the Water Code, are prohibited.
- D.** Discharges that violate any discharge prohibitions contained in applicable Regional Water Board Water Quality Control Plans (Basin Plans), or statewide water quality control plans and policies are prohibited.
- E.** Discharges to ASBS are prohibited in accordance with the California Ocean Plan, unless granted an exception by the State Water Board and in compliance with the Special Protections contained in Resolution 2012-0012.
- F.** Industrial storm water discharges and NSWDs authorized by this General Permit that contain hazardous substances equal to or in excess of a reportable quantity listed in 40 Code of Federal Regulations sections 110.6, 117.21, or 302.6 are prohibited.

### **IV. AUTHORIZED NON-STORM WATER DISCHARGES (NSWDs)**

- A.** The following NSWDs are authorized provided they meet the conditions of Section IV.B:
  - 1. Fire-hydrant and fire prevention or response system flushing;
  - 2. Potable water sources including potable water related to the operation, maintenance, or testing of potable water systems;
  - 3. Drinking fountain water and atmospheric condensate including refrigeration, air conditioning, and compressor condensate;



4. Irrigation drainage and landscape watering provided all pesticides, herbicides and fertilizers have been applied in accordance with the manufacturer's label;
  5. Uncontaminated natural springs, groundwater, foundation drainage, footing drainage;
  6. Seawater infiltration where the seawater is discharged back into the source: and,
  7. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).
- B.** The NSWDs identified in Section IV.A are authorized by this General Permit if the following conditions are met:
1. The authorized NSWDs are not in violation of any Regional Water Board Water Quality Control Plans (Basin Plans) or other requirements, or statewide water quality control plans or policies requirement;
  2. The authorized NSWDs are not in violation of any municipal agency ordinance or requirements;
  3. BMPs are included in the SWPPP and implemented to:
    - a. Reduce or prevent the contact of authorized NSWDs with materials or equipment that are potential sources of pollutants;
    - b. Reduce, to the extent practicable, the flow or volume of authorized NSWDs;
    - c. Ensure that authorized NSWDs do not contain quantities of pollutants that cause or contribute to an exceedance of a water quality standards; and,
    - d. Reduce or prevent discharges of pollutants in authorized NSWDs in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.
  4. The Discharger conducts monthly visual observations (Section XI.A.1) of NSWDs and sources to ensure adequate BMP implementation and effectiveness; and,
  5. The Discharger reports and describes all authorized NSWDs in the Annual Report.
- C.** Firefighting related discharges are not subject to this General Permit and are not subject to the conditions of Section IV.B. These discharges, however, may be subject to Regional Water Board enforcement actions under other sections

of the Water Code. Firefighting related discharges that are contained and are later discharged may be subject to municipal agency ordinances and/or Regional Water Board requirements.

## V. EFFLUENT LIMITATIONS

- A. Dischargers shall implement BMPs that comply with the BAT/BCT requirements of this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.
- B. Industrial storm water discharges from facilities subject to storm water ELGs in Subchapter N shall not exceed those storm water ELGs. The ELGs for industrial storm water discharges subject to Subchapter N are in Attachment F of this General Permit.
- C. Dischargers located within a watershed for which a Total Maximum Daily Load (TMDL) has been approved by U.S. EPA, shall comply with any applicable TMDL-specific permit requirements that ~~have been incorporated into this General Permit in accordance with Section VII.A. Attachment E contains a reference list of potential TMDLs that may apply to Dischargers subject to this General Permit~~ are set forth in Attachment E.
1. Numeric Effluent Limitations (NELs): Responsible Dischargers shall compare all sampling and analytical results obtained from each distinct sampling location (where an individual or combined sample (as authorized by XI.C.5) is obtained from a discharge location(s) to the corresponding instantaneous maximum NEL values in the TMDL Compliance Table E-2. An instantaneous maximum NEL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceeds the instantaneous maximum NEL value. For Dischargers using composite sampling or flow-weighted measurements in accordance with standard practices, the average concentration result per sampling location shall be calculated in accordance with the U.S. EPA's NPDES Storm Water Sampling Guidance Document. An exceedance of an NEL is a violation of this General Permit.
  2. TMDL Numeric Action Levels (TNALs): Responsible Dischargers shall compare all sampling and analytical results obtained from each distinct sampling location (where an individual or combined sample (as authorized by XI.C.5) is obtained from a discharge location(s)) to the corresponding instantaneous maximum TNAL values in the TMDL Compliance Table E-2. An instantaneous maximum TNAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceeds the instantaneous maximum TNAL value. For Dischargers using composite sampling or flow-weighted measurements in accordance

with standard practices, the average concentration result per sampling location shall be calculated in accordance with the U.S. EPA's NPDES Storm Water Sampling Guidance Document. An exceedance of a TNAL is not a violation of this General Permit, though it does require implementation of Exceedance Response Actions.

## VI. RECEIVING WATER LIMITATIONS

- A. Dischargers shall ensure that industrial storm water discharges and authorized NSWDS do not cause or contribute to an exceedance of any applicable water quality standards in any affected receiving water.
- B. Dischargers shall ensure that industrial storm water discharges and authorized NSWDS do not adversely affect human health or the environment.
- C. Dischargers shall ensure that industrial storm water discharges and authorized NSWDS do not contain pollutants in quantities that threaten to cause pollution or a public nuisance.

## VII. TOTAL MAXIMUM DAILY LOADS (TMDLs)

### A. Implementation

1. ~~4.~~ The State Water Board ~~shall reopen~~reopened and ~~amend~~amended this General Permit, including Attachment E, the Fact Sheet and other applicable Permit provisions as necessary, in order to incorporate TMDL-specific permit requirements, as described in the Findings~~38 through 42.~~ ~~Once this General Permit is amended,~~ Section I.F. Dischargers shall comply with the incorporated TMDL-specific ~~permit~~ requirements in accordance with any specified compliance schedule(s) starting on the Effective Date of the TMDL Requirements. TMDL-specific compliance dates that exceed the term of this General Permit may be included for reference, and are enforceable in the event that this General Permit is administratively extended or reissued.
2. ~~2.~~ The State Water Board ~~may, at its~~has the discretion, to reopen this General Permit to add TMDL-specific permit requirements to Attachment E, or to incorporate new TMDLs adopted during the term of this General Permit that include requirements applicable to Dischargers covered by this General Permit.
3. The TMDL-specific requirements are shown in the TMDL Compliance Table E-2, in Attachment E of this General Permit.

- B. New Dischargers applying for NOI coverage under this General Permit that will be discharging to a water body with a 303(d) listed impairment are ineligible for coverage unless the Discharger submits data and/or information, prepared by a QISP, demonstrating that:

1. The Discharger has eliminated all exposure to storm water of the pollutant(s) for which the water body is impaired, has documented the procedures taken to prevent exposure onsite, and has retained such documentation with the SWPPP at the facility;
2. The pollutant for which the water body is impaired is not present at the Discharger's facility, and the Discharger has retained documentation of this finding with the SWPPP at the facility; or,
3. The discharge of any listed pollutant will not cause or contribute to an exceedance of a water quality standard. This is demonstrated if: (1) the discharge complies with the water quality standard at the point of discharge, or (2) if ~~there are sufficient remaining waste load allocations in an approved TMDL and~~ the discharge is controlled at least as stringently as similar discharges subject to that TMDL.

#### C. TMDL Monitoring and Reporting

1. The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit, and additional monitoring required in the TMDL Compliance Table E-2 in Attachment E of this General Permit.
2. The Responsible Discharger shall compare all sampling and analytical results from each sample (individual or combined as authorized by Section XI.C.5) to the corresponding TNAL or NEL values in the TMDL Compliance Table E-2 in Attachment E of this General Permit.
3. The Responsible Discharger is required to calculate, track, and report applicable TNAL or NEL exceedances. The SWPPP is required to be amended with the TNAL or NEL exceedance information, and to be certified and submitted via SMARTS. SMARTS does not calculate a Responsible Discharger's Level status when a TNAL is exceeded.

#### D. Exceedance Response Actions

1. The Responsible Discharger is required to follow the Exceedance Response Action requirements in Section XII of this General Permit when its discharge exceeds a TNAL.
2. The Responsible Discharger retains the same ERA Level status until July 1 following the Effective Date of the TMDL Requirements.
3. The Responsible Discharger with Level 1 or Level 2 status due to a TNAL exceedance is required to incorporate exceedance-related information into its required ERA reports in accordance with Section XII of this General Permit.

- [E. Responsible Dischargers with an NEL exceedance are in violation of this General Permit and must comply with the Water Quality Based Corrective Actions, as defined in this General Permit in Section XX.B. Responsible Dischargers implementing Water Quality Based Corrective Actions are also required to continue complying with the NALs in this General Permit and perform ERAs as necessary for Table 2 exceedances.](#)
- [F. Responsible Dischargers in compliance with an NEL for a TMDL in Attachment E are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the NEL.](#)
- [G. Responsible Dischargers with discharges that do not exceed the level of a TNAL for a TMDL in Attachment E are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the TNAL.](#)

## VIII. DISCHARGES SUBJECT TO THE CALIFORNIA OCEAN PLAN

### A. Discharges to Ocean Waters

1. Dischargers with outfalls discharging to ocean waters that are subject to the model monitoring provisions of the California Ocean Plan shall develop and implement a monitoring plan in compliance with those provisions and any additional monitoring requirements established pursuant to Water Code section 13383. Dischargers who have not developed and implemented a monitoring program in compliance with the California Ocean Plan's model monitoring provisions by July 1, 2015, or seven (7) days prior to commencing of operations, whichever is later, are ineligible to obtain coverage under this General Permit.
2. Dischargers are ineligible for the methods and exceptions provided in Section XI.C of this General permit for any of the outfalls discharging to ocean waters subject to the model monitoring provisions of the California Ocean Plan.

### B. Discharge Granted an Exceptions for Areas of Special Biological Significance (ASBS)

Dischargers who were granted an exception to the California Ocean Plan prohibition against direct discharges of waste to an ASBS pursuant to Resolution 2012-0012<sup>79</sup> amended by Resolution 2012-0031<sup>810</sup> shall comply with the conditions and requirements set forth in Attachment G of this General Permit. Any Discharger that applies for and is granted an exception to the California Ocean Plan prohibition after July 1, 2013 shall comply with the conditions and requirements set forth in the granted exception.

<sup>79</sup> State Water Resources Control Board. Resolution 2012-0012. <[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2012/rs2012\\_0012.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0012.pdf)>. [as of February 4, 2014].

<sup>810</sup> State Water Resources Control Board. Resolution 2012-0031.

## IX. TRAINING QUALIFICATIONS

### A. General

1. A Qualified Industrial Storm Water Practitioner (QISP) is a person (either the Discharger or a person designated by the Discharger) who has completed a State Water Board-sponsored or approved QISP training course<sup>911</sup>, and has registered as a QISP via SMARTS. Upon completed registration the State Water Board will issue a QISP identification number.
2. The Executive Director of the State Water Board or an Executive Officer of a Regional Water Board may rescind any QISP's registration if it is found that the QISP has repeatedly demonstrated an inadequate level of performance in completing the QISP requirements in this General Permit. An individual whose QISP registration has been rescinded may request that the State Water Board review the rescission. Any request for review must be received by the State Water Board no later than 30 days of the date that the individual received written notice of the rescission.
3. Dischargers with Level 1 status shall:
  - a. Designate a person to be the facility's QISP and ensure that this person has attended and satisfactorily completed the State Water Board-sponsored or approved QISP training course.
  - b. Ensure that the facility's designated QISP provides sufficient training to the appropriate team members assigned to perform activities required by this General Permit.

## X. Storm Water Pollution Prevention Plan (SWPPP)

### A. SWPPP Elements

Dischargers shall develop and implement a site-specific SWPPP for each industrial facility covered by this General Permit that shall contain the following elements, as described further in this Section<sup>4012</sup>:

1. Facility Name and Contact Information;
2. Site Map;

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<[http://www.swrcb.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2012/rs2012\\_0031.pdf](http://www.swrcb.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0031.pdf)>. [as of February 4, 2014].

<sup>911</sup> A specialized self-guided State Water Board-sponsored registration and training program will be available as an option for CPBELSG licensed professional civil, mechanical, industrial, and chemical engineers and professional geologists by the effective date of this General Permit.

<sup>4012</sup> Appendix 1 (SWPPP Checklist) of this General Permit is provided to assist the Discharger in including information required in the SWPPP. This checklist is not required to be used.

3. List of Industrial Materials;
4. Description of Potential Pollution Sources;
5. Assessment of Potential Pollutant Sources;
6. Minimum BMPs;
7. Advanced BMPs, if applicable;
8. Monitoring Implementation Plan;
9. Annual Comprehensive Facility Compliance Evaluation (Annual Evaluation);  
and,
10. Date that SWPPP was Initially Prepared and the Date of Each SWPPP  
Amendment, if Applicable.

#### **B. SWPPP Implementation and Revisions**

All Dischargers are required to implement their SWPPP by July 1, 2015 or upon commencement of industrial activity. The Discharger shall:

1. Revise their on-site SWPPP whenever necessary;
2. Certify and submit via SMARTS their SWPPP within 30 days whenever the SWPPP contains significant revision(s); and,
3. With the exception of significant revisions, the Discharger is not required to certify and submit via SMARTS their SWPPP revisions more than once every three (3) months in the reporting year.

#### **C. SWPPP Performance Standards**

1. The Discharger shall ensure a SWPPP is prepared to:
  - a. Identify and evaluate all sources of pollutants that may affect the quality of industrial storm water discharges and authorized NSWDS;
  - b. Identify and describe the minimum BMPs (Section X.H.1) and any advanced BMPs (Section X.H.2) implemented to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDS. BMPs shall be selected to achieve compliance with this General Permit; and,
  - c. Identify and describe conditions or circumstances which may require future revisions to be made to the SWPPP.
2. The Discharger shall prepare a SWPPP in accordance with all applicable SWPPP requirements of this Section. A copy of the SWPPP shall be maintained at the facility.

## **D. Planning and Organization**

### **1. Pollution Prevention Team**

Each facility must have a Pollution Prevention Team established and responsible for assisting with the implementation of the requirements in this General Permit. The Discharger shall include in the SWPPP detailed information about its Pollution Prevention Team including:

- a. The positions within the facility organization (collectively, team members) who assist in implementing the SWPPP and conducting all monitoring requirements in this General Permit;
- b. The responsibilities, duties, and activities of each of the team members; and,
- c. The procedures to identify alternate team members to implement the SWPPP and conduct required monitoring when the regularly assigned team members are temporarily unavailable (due to vacation, illness, out of town business, or other absences).

### **2. Other Requirements and Existing Facility Plans**

- a. The Discharger shall ensure its SWPPP is developed, implemented, and revised as necessary to be consistent with any applicable municipal, state, and federal requirements that pertain to the requirements in this General Permit.
- b. The Discharger may include in their SWPPP the specific elements of existing plans, procedures, or regulatory compliance documents that contain storm water-related BMPs or otherwise relate to the requirements of this General Permit.
- c. The Discharger shall properly reference the original sources for any elements of existing plans, procedures, or regulatory compliance documents included as part of their SWPPP and shall maintain a copy of the documents at the facility as part of the SWPPP.
- d. The Discharger shall document in their SWPPP the facility's scheduled operating hours as defined in Attachment C. Scheduled facility operating hours that would be considered irregular (temporary, intermittent, seasonal, weather dependent, etc.) shall also be documented in the SWPPP.

## **E. Site Map**

1. The Discharger shall prepare a site map that includes notes, legends, a north arrow, and other data as appropriate to ensure the map is clear, legible and understandable.



2. The Discharger may provide the required information on multiple site maps.
3. The Discharger shall include the following information on the site map:
  - a. The facility boundary, storm water drainage areas within the facility boundary, and portions of any drainage area impacted by discharges from surrounding areas. Include the flow direction of each drainage area, on-facility surface water bodies, areas of soil erosion, and location(s) of nearby water bodies (such as rivers, lakes, wetlands, etc.) or municipal storm drain inlets that may receive the facility's industrial storm water discharges and authorized NSWDS;
  - b. Locations of storm water collection and conveyance systems, associated discharge locations, and direction of flow. Include any sample locations if different than the identified discharge locations;
  - c. Locations and descriptions of structural control measures<sup>4413</sup> that affect industrial storm water discharges, authorized NSWDS, and/or run-on;
  - d. Identification of all impervious areas of the facility, including paved areas, buildings, covered storage areas, or other roofed structures;
  - e. Locations where materials are directly exposed to precipitation and the locations where identified significant spills or leaks (Section X.G.1.d) have occurred; and
  - f. Areas of industrial activity subject to this General Permit. Identify all industrial storage areas and storage tanks, shipping and receiving areas, fueling areas, vehicle and equipment storage/maintenance areas, material handling and processing areas, waste treatment and disposal areas, dust or particulate generating areas, cleaning and material reuse areas, and other areas of industrial activity that may have potential pollutant sources.

#### **F. List of Industrial Materials**

The Discharger shall ensure the SWPPP includes a list of industrial materials handled at the facility, and the locations where each material is stored, received, shipped, and handled, as well as the typical quantities and handling frequency.

#### **G. Potential Pollutant Sources**

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<sup>4413</sup> Examples of structural control measures are catch basins, berms, detention ponds, secondary containment, oil/water separators, diversion barriers, etc.

## 1. Description of Potential Pollutant Sources

### a. Industrial Processes

The Discharger shall ensure the SWPPP describes each industrial process including: manufacturing, cleaning, maintenance, recycling, disposal, [generation of by products \(including, but not limited to, air particulate emissions\)](#), and any other activities related to the process. The type, characteristics, and approximate quantity of industrial materials used in or resulting from the process shall be included. Areas protected by containment structures and the corresponding containment capacity shall be identified and described.

### b. Material Handling and Storage Areas

The Discharger shall ensure the SWPPP describes each material handling and storage area, including: the type, characteristics, and quantity of industrial materials handled or stored; the shipping, receiving, and loading procedures; the spill or leak prevention and response procedures; and the areas protected by containment structures and the corresponding containment capacity.

### c. Dust and Particulate Generating Activities

The Discharger shall ensure the SWPPP describes all industrial activities that generate a significant amount of dust or particulate that may be deposited within the facility boundaries. The SWPPP shall describe such industrial activities, including the discharge locations, the source type, and the characteristics of the dust or particulate pollutant. [The Discharger shall ensure the SWPPP identifies any industrial activities and areas that are associated with other regulations or regulated by other permits \(including, but not limited to, air quality permits\) with the potential to expose pollutants to storm water.](#)

### d. Significant Spills and Leaks

The Discharger shall:

- i. Evaluate the facility for areas where spills and leaks can likely occur;
- ii. Ensure the SWPPP includes:
  - a) A list of any industrial materials that have spilled or leaked in significant quantities and have discharged from the facility's storm water conveyance system within the previous five-year period;
  - b) A list of any toxic chemicals identified in 40 Code of Federal Regulations section 302 that have been discharged from the facilities' storm water conveyance system as reported on

U.S. EPA Form R, as well as oil and hazardous substances in excess of reportable quantities (40 C.F.R. §§ 110, 117, and 302) that have discharged from the facility's storm water conveyance system within the previous five-year period;

- c) A list of any industrial materials that have spilled or leaked in significant quantities and had the potential to be discharged from the facility's storm water conveyance system within the previous five-year period; and,
  - iii. Ensure that for each discharge or potential discharge listed above the SWPPP includes the location, characteristics, and approximate quantity of the materials spilled or leaked; approximate quantity of the materials discharged from the facility's storm water conveyance system; the cleanup or remedial actions that have occurred or are planned; the approximate remaining quantity of materials that have the potential to be discharged; and the preventive measures taken to ensure spills or leaks of the material do not reoccur.
- e. NSWDs

The Discharger shall:

- i. Ensure the SWPPP includes an evaluation of the facility that identifies all NSWDs, sources, and drainage areas;
  - ii. Ensure the SWPPP includes an evaluation of all drains (inlets and outlets) that identifies connections to the storm water conveyance system;
  - iii. Ensure the SWPPP includes a description of how all unauthorized NSWDs have been eliminated; and,
  - iv. Ensure all NSWDs are described in the SWPPP. This description shall include the source, quantity, frequency, and characteristics of the NSWDs, associated drainage area, and whether it is an authorized or unauthorized NSWd in accordance with Section IV.
- f. Erodible Surfaces

The Discharger shall ensure the SWPPP includes a description of the facility locations where soil erosion may be caused by industrial activity, contact with storm water, authorized and unauthorized NSWDs, or run-on from areas surrounding the facility.

## 2. Assessment of Potential Pollutant Sources

- a. The Discharger shall ensure that the SWPPP includes a narrative assessment of all areas of industrial activity with potential industrial pollutant sources. At a minimum, the assessment shall include:
  - i. The areas of the facility with likely sources of pollutants in industrial storm water discharges and authorized NSWDS;
  - ii. The pollutants likely to be present in industrial storm water discharges and authorized NSWDS;
  - iii. The approximate quantity, physical characteristics (e.g., liquid, powder, solid, etc.), and locations of each industrial material handled, produced, stored, recycled, or disposed;
  - iv. The degree to which the pollutants associated with those materials may be exposed to, and mobilized by contact with, storm water;
  - v. The direct and indirect pathways by which pollutants may be exposed to storm water or authorized NSWDS;
  - vi. All sampling, visual observation, and inspection records;
  - vii. The effectiveness of existing BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDS;
  - viii. The estimated effectiveness of implementing, to the extent feasible, minimum BMPs to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDS; and,
  - ix. The identification of the industrial pollutants related to the receiving waters with 303(d) listed impairments identified in Appendix 3 or approved TMDLs that may be causing or contributing to an exceedance of a water quality standard in the receiving waters.
- b. Based upon the assessment above, Dischargers shall identify in the SWPPP any areas of the facility where the minimum BMPs described in subsection H.1 below will not adequately reduce or prevent pollutants in storm water discharges in compliance with Section V.A. Dischargers shall identify any advanced BMPs, as described in subsection H.2 below, for those areas.
- c. Based upon the assessment above, Dischargers shall identify any drainage areas with no exposure to industrial activities and materials in accordance with the definitions in Section XVII.
- d. Based upon the assessment above, Dischargers shall identify any additional parameters, beyond the required parameters in Section XI.B.6 that indicate the presence of pollutants in industrial storm water discharges.

## H. Best Management Practices (BMPs)

### 1. Minimum BMPs

The Discharger shall, to the extent feasible, implement and maintain all of the following minimum BMPs to reduce or prevent pollutants in industrial storm water discharges. <sup>4214</sup>

#### a. Good Housekeeping

The Discharger shall:

- i. Observe all outdoor areas associated with industrial activity; including storm water discharge locations, drainage areas, conveyance systems, waste handling/disposal areas, and perimeter areas impacted by off-facility materials or storm water run-on to determine housekeeping needs. Any identified debris, waste, spills, tracked materials, or leaked materials shall be cleaned and disposed of properly;
- ii. Minimize or prevent material tracking;
- iii. Minimize dust generated from industrial materials or activities;
- iv. Ensure that all facility areas impacted by rinse/wash waters are cleaned as soon as possible;
- v. Cover all stored industrial materials that can be readily mobilized by contact with storm water;
- vi. Contain all stored non-solid industrial materials or wastes (e.g., particulates, powders, shredded paper, etc.) that can be transported or dispersed by the wind or contact with storm water;
- vii. Prevent disposal of any rinse/wash waters or industrial materials into the storm water conveyance system;
- viii. Minimize storm water discharges from non-industrial areas (e.g., storm water flows from employee parking area) that contact industrial areas of the facility; and,
- ix. Minimize authorized NSWDS from non-industrial areas (e.g., potable water, fire hydrant testing, etc.) that contact industrial areas of the facility.

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<sup>4214</sup> For the purposes of this General Permit, the requirement to implement BMPs “to the extent feasible” requires Dischargers to select, design, install and implement BMPs that reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.

b. Preventive Maintenance

The Discharger shall:

- i. Identify all equipment and systems used outdoors that may spill or leak pollutants;
- ii. Observe the identified equipment and systems to detect leaks, or identify conditions that may result in the development of leaks;
- iii. Establish an appropriate schedule for maintenance of identified equipment and systems; and,
- iv. Establish procedures for prompt maintenance and repair of equipment, and maintenance of systems when conditions exist that may result in the development of spills or leaks.

c. Spill and Leak Prevention and Response

The Discharger shall:

- i. Establish procedures and/or controls to minimize spills and leaks;
- ii. Develop and implement spill and leak response procedures to prevent industrial materials from discharging through the storm water conveyance system. Spilled or leaked industrial materials shall be cleaned promptly and disposed of properly;
- iii. Identify and describe all necessary and appropriate spill and leak response equipment, location(s) of spill and leak response equipment, and spill or leak response equipment maintenance procedures; and,
- iv. Identify and train appropriate spill and leak response personnel.

d. Material Handling and Waste Management

The Discharger shall:

- i. Prevent or minimize handling of industrial materials or wastes that can be readily mobilized by contact with storm water during a storm event;
- ii. Contain all stored non-solid industrial materials or wastes (e.g., particulates, powders, shredded paper, etc.) that can be transported or dispersed by the wind or contact with storm water;
- iii. Cover industrial waste disposal containers and industrial material storage containers that contain industrial materials when not in use;
- iv. Divert run-on and storm water generated from within the facility away from all stockpiled materials;

- v. Clean all spills of industrial materials or wastes that occur during handling in accordance with the spill response procedures (Section X.H.1.c); and,
  - vi. Observe and clean as appropriate, any outdoor material or waste handling equipment or containers that can be contaminated by contact with industrial materials or wastes.
- e. Erosion and Sediment Controls
- For each erodible surface facility location identified in the SWPPP (Section X.G.1.f), the Discharger shall:
- i. Implement effective wind erosion controls;
  - ii. Provide effective stabilization for inactive areas, finished slopes, and other erodible areas prior to a forecasted storm event;
  - iii. Maintain effective perimeter controls and stabilize all site entrances and exits to sufficiently control discharges of erodible materials from discharging or being tracked off the site;
  - iv. Divert run-on and storm water generated from within the facility away from all erodible materials; and,
  - v. If sediment basins are implemented, ensure compliance with the design storm standards in Section X.H.6.
- f. Employee Training Program
- The Discharger shall:
- i. Ensure that all team members implementing the various compliance activities of this General Permit are properly trained to implement the requirements of this General Permit, including but not limited to: BMP implementation, BMP effectiveness evaluations, visual observations, and monitoring activities. If a Discharger enters Level 1 status, appropriate team members shall be trained by a QISP;
  - ii. Prepare or acquire appropriate training manuals or training materials;
  - iii. Identify which personnel need to be trained, their responsibilities, and the type of training they shall receive;
  - iv. Provide a training schedule; and,
  - v. Maintain documentation of all completed training classes and the personnel that received training in the SWPPP.
- g. Quality Assurance and Record Keeping

The Discharger shall:

- i. Develop and implement management procedures to ensure that appropriate staff implements all elements of the SWPPP, including the Monitoring Implementation Plan;
- ii. Develop a method of tracking and recording the implementation of BMPs identified in the SWPPP; and
- iii. Maintain the BMP implementation records, training records, and records related to any spills and clean-up related response activities for a minimum of five (5) years (Section XXI.J.4).

## 2. Advanced BMPs

- a. In addition to the minimum BMPs described in Section X.H.1, the Discharger shall, to the extent feasible, implement and maintain any advanced BMPs identified in Section X.G.2.b, necessary to reduce or prevent discharges of pollutants in its storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.

- b. Advanced BMPs may include one or more of the following BMPs:

- i. Exposure Minimization BMPs

These include storm resistant shelters (either permanent or temporary) that prevent the contact of storm water with the identified industrial materials or area(s) of industrial activity.

- ii. Storm Water Containment and Discharge Reduction BMPs

These include BMPs that divert, infiltrate, reuse, contain, retain, or reduce the volume of storm water runoff. Dischargers are encouraged to utilize BMPs that infiltrate or reuse storm water where feasible.

- iii. Treatment Control BMPs

This is the implementation of one or more mechanical, chemical, biologic, or any other treatment technology that will meet the treatment design standard.

- iv. Other Advanced BMPs

Any additional BMPs not described in subsections b.i through iii above that are necessary to meet the effluent limitations of this General Permit.



### 3. Temporary Suspension of Industrial Activities

For facilities that plan to temporarily suspend industrial activities for ten (10) or more consecutive calendar days during a reporting year, the Discharger may also suspend monitoring if it is infeasible to conduct monitoring while industrial activities are suspended (e.g., the facility is not staffed, or the facility is remote or inaccessible) and the facility has been stabilized. The Discharger shall include in the SWPPP the BMPs necessary to achieve compliance with this General Permit during the temporary suspension of the industrial activity. Once all necessary BMPs have been implemented to stabilize the facility, the Discharger is not required to:

- a. Perform monthly visual observations (Section XI.A.1.a.); or,
- b. Perform sampling and analysis (Section XI.B.) if it is infeasible to do so (e.g. facility is remotely located).

The Discharger shall upload via SMARTS (7) seven calendar days prior to the planned temporary suspension of industrial activities:

- a. SWPPP revisions specifically addressing the facility stabilization BMPs;
- b. The justification for why monitoring is infeasible at the facility during the period of temporary suspension of industrial activities;
- c. The date the facility is fully stabilized for temporary suspension of industrial activities; and,
- d. The projected date that industrial activities will resume at the facility.

Upon resumption of industrial activities at the facility, the Discharger shall, via SMARTS, confirm and/or update the date the facility's industrial activities have resumed. At this time, the Discharger is required to resume all compliance activities under this General Permit.

The Regional Water Boards may review the submitted information pertaining to the temporary suspension of industrial activities. Upon review, the Regional Water Board may request revisions or reject the Discharger's request to temporarily suspend monitoring.

### 4. BMP Descriptions

- a. The Discharger shall ensure that the SWPPP identifies each BMP being implemented at the facility, including:
  - i. The pollutant(s) that the BMP is designed to reduce or prevent in industrial storm water discharges;

- ii. The frequency, time(s) of day, or conditions when the BMP is scheduled for implementation;
  - iii. The locations within each area of industrial activity or industrial pollutant source where the BMP shall be implemented;
  - iv. The individual and/or position responsible for implementing the BMP;
  - v. The procedures, including maintenance procedures, and/or instructions to implement the BMP effectively;
  - vi. The equipment and tools necessary to implement the BMP effectively; and,
  - vii. The BMPs that may require more frequent visual observations beyond the monthly visual observations as described in Section XI.A.1.
- b. The Discharger shall ensure that the SWPPP identifies and justifies each minimum BMP or applicable advanced BMP not being implemented at the facility because they do not reflect best industry practice considering technological availability and economic practicability and achievability.
  - c. The Discharger shall identify any BMPs described in subsection a above that are implemented in lieu of any of the minimum or applicable advanced BMPs.

#### 5. BMP Summary Table

The Discharger shall prepare a table summarizing each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented.

#### 6. Design Storm Standards for Treatment Control BMPs

All new treatment control BMPs employed by the Discharger to comply with Section X.H.2 Advanced BMPs and new sediment basins installed after the effective date of this order shall be designed to comply with design storm standards in this Section, except as provided in an Industrial Activity BMP Demonstration (Section XII.D.2.a). A Factor of Safety shall be incorporated into the design of all treatment control BMPs to ensure that storm water is sufficiently treated throughout the life of the treatment control BMPs. The design storm standards for treatment control BMPs are as follows:

- a. Volume-based BMPs: The Discharger, at a minimum, shall calculate<sup>4315</sup> the volume to be treated using one of the following methods:
  - i. The volume of runoff produced from an 85<sup>th</sup> percentile 24-hour storm event, as determined from local, historical rainfall records;
  - ii. The volume of runoff produced by the 85<sup>th</sup> percentile 24-hour storm event, determined as the maximized capture runoff volume for the facility, from the formula recommended in the Water Environment Federation's Manual of Practice;<sup>4416</sup> or,
  - iii. The volume of annual runoff required to achieve 80% or more treatment, determined in accordance with the methodology set forth in the latest edition of California Stormwater Best Management Practices Handbook<sup>4517</sup>, using local, historical rainfall records.
- b. Flow-based BMPs: The Discharger shall calculate the flow needed to be treated using one of the following methods:
  - i. The maximum flow rate of runoff produced from a rainfall intensity of at least 0.2 inches per hour for each hour of a storm event;
  - ii. The maximum flow rate of runoff produced by the 85<sup>th</sup> percentile hourly rainfall intensity, as determined from local historical rainfall records, multiplied by a factor of two; or,
  - iii. The maximum flow rate of runoff, as determined using local historical rainfall records, that achieves approximately the same reduction in total pollutant loads as would be achieved by treatment of the 85<sup>th</sup> percentile hourly rainfall intensity multiplied by a factor of two.

## I. MONITORING IMPLEMENTATION PLAN

The Discharger shall prepare a Monitoring Implementation Plan in accordance with the requirements of this General Permit. The Monitoring Implementation Plan shall be included in the SWPPP and shall include the following items:

1. An identification of team members assigned to conduct the monitoring requirements;
2. A description of the following in accordance with Attachment H:

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<sup>4315</sup> All hydrologic calculations shall be certified by a California licensed professional engineer in accordance with the Professional Engineers Act (Bus. & Prof. Code § 6700, et seq).

<sup>4416</sup> Water Environment Federation (WEF). Manual of Practice No. 23/ ASCE Manual of Practice No. 87, cited in chapter 5 (1998 Edition) and Cited in Chapter 3 (2012 Edition) .

<sup>4517</sup> California Stormwater Quality Association. Stormwater Best Management Practice New Development and Redevelopment Handbook. < <http://www.casqa.org/> >. [as of July 3, 2013].

- a. Discharge locations;
  - b. Visual observation procedures; and,
  - c. Visual observation response procedures related to monthly visual observations and sampling event visual observations.
3. Justifications for any of the following that are applicable to the facility:
- a. Alternative discharge locations in accordance with Section XI.C.3;
  - b. Representative Sampling Reduction in accordance with Section XI.C.4; or,
  - c. Qualified Combined Samples in accordance with Section XI.C.5.
4. Procedures for field instrument calibration instructions, including calibration intervals specified by the manufacturer; and,
5. An example Chain of Custody form used when handling and shipping water quality samples to the lab.

## **XI. MONITORING**

### **A. Visual Observations**

1. Monthly Visual Observations
  - a. At least once per calendar month, the Discharger shall visually observe each drainage area for the following:
    - i. The presence or indications of prior, current, or potential unauthorized NSWDS and their sources;
    - ii. Authorized NSWDS, sources, and associated BMPs to ensure compliance with Section IV.B.3; and,
    - iii. Outdoor industrial equipment and storage areas, outdoor industrial activities areas, BMPs, and all other potential source of industrial pollutants.
  - b. The monthly visual observations shall be conducted during daylight hours of scheduled facility operating hours and on days without precipitation.
  - c. The Discharger shall provide an explanation in the Annual Report for uncompleted monthly visual observations.
2. Sampling Event Visual Observations

Sampling event visual observations shall be conducted at the same time sampling occurs at a discharge location. At each discharge location where a sample is obtained, the Discharger shall observe the discharge of storm water associated with industrial activity.

- a. The Discharger shall ensure that visual observations of storm water discharged from containment sources (e.g. secondary containment or storage ponds) are conducted at the time that the discharge is sampled.
- b. Any Discharger employing volume-based or flow-based treatment BMPs shall sample any bypass that occurs while the visual observations and sampling of storm water discharges are conducted.
- c. The Discharger shall visually observe and record the presence or absence of floating and suspended materials, oil and grease, discolorations, turbidity, odors, trash/debris, and source(s) of any discharged pollutants.
- d. In the event that a discharge location is not visually observed during the sampling event, the Discharger shall record which discharge locations were not observed during sampling or that there was no discharge from the discharge location.
- e. The Discharger shall provide an explanation in the Annual Report for uncompleted sampling event visual observations.

### 3. Visual Observation Records

The Discharger shall maintain records of all visual observations. Records shall include the date, approximate time, locations observed, presence and probable source of any observed pollutants, name of person(s) that conducted the observations, and any response actions and/or additional SWPPP revisions necessary in response to the visual observations.

4. The Discharger shall revise BMPs as necessary when the visual observations indicate pollutant sources have not been adequately addressed in the SWPPP.

## **B. Sampling and Analysis**

1. A Qualifying Storm Event (QSE) is a precipitation event that:
  - a. Produces a discharge for at least one drainage area; and,
  - b. Is preceded by 48 hours with no discharge from any drainage area.
2. The Discharger shall collect and analyze storm water samples from two (2) QSEs within the first half of each reporting year (July 1 to December 31),

and two (2) QSEs within the second half of each reporting year (January 1 to June 30).

3. Compliance Group Participants are only required to collect and analyze storm water samples from one (1) QSE within the first half of each reporting year (July 1 to December 31) and one (1) QSE within the second half of the reporting year (January 1 to June 30).
4. Except as provided in Section XI.C.4 (Representative Sampling Reduction), samples shall be collected from each drainage area at all discharge locations. The samples must be:
  - a. Representative of storm water associated with industrial activities and any commingled authorized NSWDS; or,
  - b. Associated with the discharge of contained storm water.
5. Samples from each discharge location shall be collected within four (4) hours of:
  - a. The start of the discharge; or,
  - b. The start of facility operations if the QSE occurs within the previous 12-hour period (e.g., for storms with discharges that begin during the night for facilities with day-time operating hours). Sample collection is required during scheduled facility operating hours and when sampling conditions are safe in accordance with Section XI.C.6.a.ii.
6. The Discharger shall analyze all collected samples for the following parameters:
  - a. Total suspended solids (TSS) and oil and grease (O&G);
  - b. pH (see Section XI.C.2);
  - c. Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2). These additional parameters may be modified (added or removed) in accordance with any updated SWPPP pollutant source assessment;
  - d. Additional applicable parameters listed in Table 1 below. These parameters are dependent on the facility Standard Industrial Classification (SIC) code(s);
  - e. Additional applicable industrial parameters related to receiving waters with 303(d) listed impairments or approved TMDLs based on the assessment in Section X.G.2.a.ix. Test methods with lower detection

limits may be necessary when discharging to receiving waters with 303(d) listed impairments or TMDLs;

- f. Additional parameters required by the Regional Water Board. The Discharger shall contact its Regional Water Board to determine appropriate analytical test methods for parameters not listed in Table 2 below. These analytical test methods will be added to SMARTS; and
  - g. For discharges subject to Subchapter N, additional parameters specifically required by Subchapter N. If the discharge is subject to ELGs, the Dischargers shall contact the Regional Water Board to determine appropriate analytical methods for parameters not listed in Table 2 below.
7. The Discharger shall select corresponding NALs, analytical test methods,, and reporting units from the list provided in Table 2 below. SMARTS will be updated over time to add additional acceptable analytical test methods. Dischargers may propose an analytical test method for any parameter or pollutant that does not have an analytical test method specified in Table 2 or in SMARTS. Dischargers may also propose analytical test methods with substantially similar or more stringent method detection limits than existing approved analytical test methods. Upon approval, the analytical test method will be added to SMARTS.
  8. The Discharger shall ensure that the collection, preservation and handling of all storm water samples are in accordance with Attachment H, Storm Water Sample Collection and Handling Instructions.
  9. Samples from different discharge locations shall not be combined or composited except as allowed in Section XI.C.5 (Qualified Combined Samples).
  10. The Discharger shall ensure that all laboratory analyses are performed according to sufficiently sensitive test procedures and conducted according to test procedures under 40 Code of Federal Regulations part 136, including the observation of holding times, unless other test procedures have been specified in this General Permit ~~or~~ by the Regional Water Board ~~,~~ or are required under 40 Code of Federal Regulations Chapter I Subchapter N.
  11. Sampling Analysis Reporting
    - a. The Discharger shall submit all sampling and analytical results for all individual or Qualified Combined Samples via SMARTS within 30 days of obtaining all results for each sampling event.
    - b. The Discharger shall provide the method detection limit when an analytical result from samples taken is reported by the laboratory as a "non-detect" or less than the method detection limit. A value of zero shall not be reported.

- c. The Discharger shall provide the analytical result from samples taken that is reported by the laboratory as below the minimum level (often referred to as the reporting limit) but above the method detection limit.

Reported analytical results [derived from sufficiently sensitive testing methods](#) will be averaged automatically by SMARTS. For any calculations required by this General Permit, SMARTS will assign a value of zero (0) for all results less than the minimum level as reported by the laboratory [after verifying the use of a sufficiently sensitive testing method \(as evidenced by reported MDL and ML\)](#).

**TABLE 1: Additional Analytical Parameters**

<b>SIC code</b>	<b>SIC code Description</b>	<b>Parameters*</b>
102X	Copper Ores	COD; N+N
12XX	Coal Mines	Al; Fe
144X	Sand and Gravel	N+N
207X	Fats and Oils	BOD; COD; N+N
2421	Sawmills & Planning Mills	COD; Zn
2426	Hardwood Dimension	COD
2429	Special Product Sawmills	COD
243X	Millwork, Veneer, Plywood	COD
244X	Wood Containers	COD
245X	Wood Buildings & Mobile Homes	COD
2491	Wood Preserving	As; Cu
2493	Reconstituted Wood Products	COD
263X	Paperboard Mills	COD
281X	Industrial Inorganic Chemicals	Al; Fe; N+N
282X	Plastic Materials, Synthetics	Zn
284X	Soaps, Detergents, Cosmetics	N+N; Zn
287X	Fertilizers, Pesticides, etc.	Fe; N+N; Pb; Zn; P
301X	Tires, Inner Tubes	Zn
302X	Rubber and Plastic Footwear	Zn
305X	Rubber & Plastic Sealers & Hoses	Zn
306X	Misc. Fabricated Rubber Products	Zn
325X	Structural Clay Products	Al
326X	Pottery & Related Products	Al
3297	Non-Clay Refractories	Al
327X	Concrete, Gypsum, Plaster Products (Except 3274)	Fe
3295	Minerals & Earths	Fe
331X	Steel Works, Blast Furnaces, Rolling and Finishing Mills	Al; Zn
332X	Iron and Steel Foundries	Al; Cu; Fe; Zn
335X	Metal Rolling, Drawing, Extruding	Cu; Zn
336X	Nonferrous Foundries (Castings)	Cu; Zn
34XX	Fabricated Metal Products (Except 3479)	Zn; N+N; Fe; Al
3479	Coating and Engraving	Zn; N+N
4953	Hazardous Waste Facilities	NH <sub>3</sub> ; Mg; COD; As; Cn; Pb; HG; Se; Ag
44XX	Water Transportation	Al; Fe; Pb; Zn



45XX	Air Transportation Facilities <sup>4618</sup>	BOD; COD; NH3
4911	Steam Electric Power Generating Facilities	Fe
4953	Landfills and Land Application Facilities	Fe
5015	Dismantling or Wrecking Yards	Fe; Pb; Al
5093	Scrap and Waste Materials (not including source-separated recycling)	Fe; Pb; Al; Zn; COD

<b>*Table 1 Parameter Reference</b>	
<b>Ag</b> – Silver	<b>Mg</b> – Magnesium
<b>Al</b> – Aluminum	<b>N+N</b> - Nitrate & Nitrite Nitrogen
<b>As</b> – Arsenic	<b>NH</b> – Ammonia
<b>BOD</b> – Biochemical Oxygen Demand	<b>Ni</b> – Nickel
<b>Cd</b> - Cadmium	<b>P</b> – Phosphorus
<b>Cn</b> – Cyanide	<b>Se</b> – Selenium
<b>COD</b> – Chemical Oxygen Demand	<b>TSS</b> – Total Suspended Solids
<b>Cu</b> – Copper	<b>Zn</b> – Zinc
<b>Fe</b> – Iron	<b>Pb</b> – Lead
<b>Hg</b> – Mercury	

<sup>4618</sup> Only airports (SIC 4512-4581) where a single Discharger, or a combination of permitted facilities use more than 100,000 gallons of glycol-based deicing chemicals and/or 100 tons or more of urea on an average annual basis, are required to monitor these parameters for those outfalls that collect runoff from areas where deicing activities occur.

**TABLE 2: Parameter NAL Values, Test Methods, and Reporting Units**

PARAMETER	TEST METHOD	REPORTING UNITS	ANNUAL NAL	INSTANTANEOUS MAXIMUM NAL
pH*	See Section XI.C.2	pH units	N/A	Less than 6.0 Greater than 9.0
Suspended Solids (TSS)*, Total	SM 2540-D	mg/L	100	400
Oil & Grease (O&G)*, Total	EPA 1664A	mg/L	15	25
Zinc, Total (H)	EPA 200.8	mg/L	0.26**	
Copper, Total (H)	EPA 200.8	mg/L	0.0332**	
Cyanide, Total	SM 4500–CN C, D, or E	mg/L	0.022	
Lead, Total (H)	EPA 200.8	mg/L	0.262**	
Chemical Oxygen Demand (COD)	SM 5220C	mg/L	120	
Aluminum, Total	EPA 200.8	mg/L	0.75	
Iron, Total	EPA 200.7	mg/L	1.0	
Nitrate + Nitrite Nitrogen	SM 4500-NO3- E	mg/L as N	0.68	
Total Phosphorus	SM 4500-P B+E	mg/L as P	2.0	
Ammonia (as N)	SM 4500-NH3 B+ C or E	mg/L	2.14	
Magnesium, total	EPA 200.7	mg/L	0.064	
Arsenic, Total (c)	EPA 200.8	mg/L	0.15	
Cadmium, Total (H)	EPA 200.8	mg/L	0.0053**	
Nickel, Total (H)	EPA 200.8	mg/l	1.02**	
Mercury, Total	EPA 245.1	mg/L	0.0014	
Selenium, Total	EPA 200.8	mg/L	0.005	
Silver, Total (H)	EPA 200.8	mg/L	0.0183**	
Biochemical Oxygen Demand (BOD)	SM 5210B	mg/L	30	

SM – Standard Methods for the Examination of Water and Wastewater, 18<sup>th</sup> edition

EPA – U.S. EPA test methods

(H) – Hardness dependent

\* Minimum parameters required by this General Permit

\*\*The NAL is the highest value used by U.S. EPA based on their hardness table in the 2008 MSGP.

## C. Methods and Exceptions

1. The Discharger shall comply with the monitoring methods in this General Permit and Attachment H.
2. pH Methods
  - a. Dischargers that are not subject to Subchapter N ELGs mandating pH analysis related to acidic or alkaline sources and have never entered Level 1 status for pH, are eligible to screen for pH using wide range litmus pH paper or other equivalent pH test kits. The pH screen shall be performed as soon as practicable, but no later than 15 minutes after the sample is collected.
  - b. Dischargers subject to Subchapter N ELGs shall either analyze samples for pH using methods in accordance with 40 Code of Federal Regulations 136 for testing storm water or use a calibrated portable instrument for pH.
  - c. Dischargers that enter Level 1 status (see Section XII.C) for pH shall, in the subsequent reporting years, analyze for pH using methods in accordance with 40 Code of Federal Regulations 136 or use a calibrated portable instrument for pH.
  - d. Dischargers using a calibrated portable instrument for pH shall ensure that all field measurements are conducted in accordance with the accompanying manufacturer's instructions.
3. Alternative Discharge Locations
  - a. The Discharger is required to identify, when practicable, alternative discharge locations for any discharge locations identified in accordance with Section XI.B.4 if the facility's discharge locations are:
    - i. Affected by storm water run-on from surrounding areas that cannot be controlled; and/or,
    - ii. Difficult to observe or sample (e.g. submerged discharge outlets, dangerous discharge location accessibility).
  - b. The Discharger shall submit and certify via SMARTS any alternative discharge location or revisions to the alternative discharge locations in the Monitoring Implementation Plan.
4. Representative Sampling Reduction
  - a. The Discharger may reduce the number of locations to be sampled in each drainage area (e.g., roofs with multiple downspouts, loading/unloading areas with multiple storm drains) if the industrial

activities, BMPs, and physical characteristics (grade, surface materials, etc.) of the drainage area for each location to be sampled are substantially similar to one another. To qualify for the Representative Sampling Reduction, the Discharger shall provide a Representative Sampling Reduction justification in the Monitoring Implementation Plan section of the SWPPP.

- b. The Representative Sampling Reduction justification shall include:
  - i. Identification and description of each drainage area and corresponding discharge location(s);
  - ii. A description of the industrial activities that occur throughout the drainage area;
  - iii. A description of the BMPs implemented in the drainage area;
  - iv. A description of the physical characteristics of the drainage area;
  - v. A rationale that demonstrates that the industrial activities and physical characteristics of the drainage area(s) are substantially similar; and,
  - vi. An identification of the discharge location(s) selected for representative sampling, and rationale demonstrating that the selected location(s) to be sampled are representative of the discharge from the entire drainage area.
- c. A Discharger that satisfies the conditions of subsection 4.b.i through v above shall submit and certify via SMARTS the revisions to the Monitoring Implementation Plan that includes the Representative Sampling Reduction justification.
- d. Upon submittal of the Representative Sampling Reduction justification, the Discharger may reduce the number of locations to be sampled in accordance with the Representative Sampling Reduction justification. The Regional Water Board may reject the Representative Sampling Reduction justification and/or request additional supporting documentation. In such instances, the Discharger is ineligible for the Representative Sampling Reduction until the Regional Water Board approves the Representative Sampling Reduction justification.

## 5. Qualified Combined Samples

- a. The Discharger may authorize an analytical laboratory to combine samples of equal volume from as many as four (4) discharge locations if the industrial activities, BMPs, and physical characteristics (grade, surface materials, etc.) within each of the drainage areas are substantially similar to one another.

- b. The Qualified Combined Samples justification shall include:
    - i. Identification and description of each drainage area and corresponding discharge locations;
    - ii. A description of the BMPs implemented in the drainage area;
    - iii. A description of the industrial activities that occur throughout the drainage area;
    - iv. A description of the physical characteristics of the drainage area; and,
    - v. A rationale that demonstrates that the industrial activities and physical characteristics of the drainage area(s) are substantially similar.
  - c. A Discharger that satisfies the conditions of subsection 5.b.i through iv above shall submit and certify via SMARTS the revisions to the Monitoring Implementation Plan that includes the Qualified Combined Samples justification.
  - d. Upon submittal of the Qualified Combined Samples justification revisions in the Monitoring Implementation Plan, the Discharger may authorize the lab to combine samples of equal volume from as many as four (4) drainage areas. The Regional Water Board may reject the Qualified Combined Samples justification and/or request additional supporting documentation. In such instances, the Discharger is ineligible for the Qualified Combined Samples justification until the Regional Water Board approves the Qualified Combined Samples justification.
  - e. Regional Water Board approval is necessary to combine samples from more than four (4) discharge locations.
6. Sample Collection and Visual Observation Exceptions
- a. Sample collection and visual observations are not required under the following conditions:
    - i. During dangerous weather conditions such as flooding or electrical storms; or,
    - ii. Outside of scheduled facility operating hours. The Discharger is not precluded from collecting samples or conducting visual observations outside of scheduled facility operating hours.
  - b. In the event that samples are not collected, or visual observations are not conducted in accordance with Section XI.B.5 due to these exceptions, an explanation shall be included in the Annual Report.

- c. Sample collection is not required for drainage areas with no exposure to industrial activities and materials in accordance with the definitions in Section XVII.
7. Sampling Frequency Reduction Certification
    - a. Dischargers are eligible to reduce the number of QSEs sampled each reporting year in accordance with the following requirements:
      - i. Results from four (4) consecutive QSEs that were sampled (QSEs may be from different reporting years) did not exceed any NALs/TNALs/NELs as defined in Section XII.A and Section V.D.; and
      - ii. The Discharger is in full compliance with the requirements of this General Permit and has updated, certified and submitted via SMARTS all documents, data, and reports required by this General Permit during the time period in which samples were collected.
    - b. The Regional Water Board may notify a Discharger that it may not reduce the number of QSEs sampled each reporting year if the Discharger is subject to an enforcement action.
    - c. An eligible Discharger shall certify via SMARTS that it meets the conditions in subsection 7.a above.
    - d. Upon Sampling Frequency Reduction certification, the Discharger shall collect and analyze samples from one (1) QSE within the first half of each reporting year (July 1 to December 31), and one (1) QSE within the second half of each reporting year (January 1 to June 30). All other monitoring, sampling, and reporting requirements remain in effect.
    - e. Dischargers who participate in a Compliance Group and certify a Sampling Frequency Reduction are only required to collect and analyze storm water samples from one (1) QSE within each reporting year.
    - f. A Discharger may reduce sampling per the Sampling Frequency Reduction certification unless notified by the Regional Water Board that: (1) the Sampling Frequency Reduction certification has been rejected or (2) additional supporting documentation must be submitted. In such instances, a Discharger is ineligible for the Sampling Frequency Reduction until the Regional Water Board provides Sampling Frequency Reduction certification approval. Revised Sampling Frequency Reduction certifications shall be certified and submitted via SMARTS by the Discharger.
    - g. A Discharger loses its Sampling Frequency Reduction certification if an NAL/TNAL/NEL exceedance occurs (Section XII.A and Section V.D.).

## D. Facilities Subject to Federal Storm Water Effluent Limitation Guidelines (ELGs)

1. In addition to the other requirements in this General Permit, Dischargers with facilities subject to storm water ELGs in Subchapter N shall:
  - a. Collect and analyze samples from QSEs for each regulated pollutant specified in the appropriate category in Subchapter N as specified in Section XI.B;
  - b. For Dischargers with facilities subject to 40 Code of Federal Regulations parts 419<sup>4719</sup> and 443<sup>4820</sup>, estimate or calculate the volume of industrial storm water discharges from each drainage area subject to the ELGs and the mass of each regulated pollutant as defined in parts 419 and 443; and,
  - c. Ensure that the volume/mass estimates or calculations required in subsection b are completed by a California licensed professional engineer.
2. Dischargers subject to Subchapter N shall submit the information in Section XI.D.1.a through c in their Annual Report.
3. Dischargers with facilities subject to storm water ELGs in Subchapter N are ineligible for the Representative Sampling Reduction in Section XI.C.4.

## XII. EXCEEDANCE RESPONSE ACTIONS (ERAs)

### A. ~~NALs and NAL Exceedances~~ Exceedance of an NAL or TNAL

The Discharger shall perform sampling, analysis and reporting in accordance with the requirements of this General Permit and shall compare the results to the two types of NAL values in Table 2 to determine whether either type of NAL has been exceeded for each applicable parameter. and shall additionally compare the results to any applicable TNAL found in Attachment E Table E-2 to determine whether a TNAL has been exceeded for each applicable parameter.<sup>21</sup> The two types of potential NAL exceedances are as follows:

1. Annual NAL exceedance: The Discharger shall determine the average concentration for each parameter using the results of all the sampling and analytical results for the entire facility for the reporting year (i.e., all "effluent" data). The Discharger shall compare the average concentration for each parameter to the corresponding annual NAL values in Table 2. For

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<sup>4719</sup> Part 419 - Petroleum refining point source category

<sup>4820</sup> Part 443 - Effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources for the paving and roofing materials (tars and asphalt) point source category

<sup>21</sup> TNALs are implemented as instantaneous maximum values. Annual exceedances are not applicable to TNALs.

Dischargers using composite sampling or flow-weighted measurements in accordance with standard practices, the average concentrations shall be calculated in accordance with the U.S. EPA's NPDES Storm Water Sampling Guidance Document.<sup>4922</sup> An annual NAL exceedance occurs when the average of all the analytical results for a parameter from samples taken within a reporting year exceeds the annual NAL value for that parameter listed in Table 2; and,

2. Instantaneous maximum NAL/TNAL exceedance: The Discharger shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NAL values in Table 2 and TNAL values in Attachment E Table E-2. An instantaneous maximum NAL/TNAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value ~~(for TSS and O&G)~~ or are outside of the instantaneous maximum NAL range for pH.

## B. Baseline Status

At the beginning of a Discharger's NOI Coverage, all Dischargers have Baseline status for all parameters. Upon the effective date of the TMDL Requirements, Responsible Dischargers have Baseline status for all applicable TNALs if 1) the industrial storm water has not previously been sampled for the parameter, or 2) if the Discharger has Baseline status for the NAL for the same parameter.<sup>23</sup>

## C. Level 1 Status

A Discharger's Baseline status for any given parameter shall change to Level 1 status if sampling results indicate an NAL/TNAL exceedance for that same parameter. Level 1 status will commence on July 1 following the reporting year during which the exceedance(s) occurred.<sup>2024</sup> Upon the effective date of the TMDL Requirements, Responsible Dischargers have Level 1 status for any applicable TNAL if the Discharger has Level 1 status for the NAL for the same parameter.<sup>25</sup>

<sup>4922</sup> U.S. EPA. NPDES Storm Water Sampling Guidance Document. <<http://www.epa.gov/npdes/pubs/owm0093.pdf>>. [as of February 4, 2014]

<sup>23</sup> Following this initial assignment, this General Permit's NALs and TNALs operate independently.

<sup>2024</sup> For all sampling results reported before June 30th of the preceding reporting year. If sample results indicating an NAL exceedance are submitted after June 30<sup>th</sup>, the Discharger will change status once those results have been reported.

<sup>25</sup> Following this initial assignment, this General Permit's NALs and TNALs operate independently.



1. Level 1 ERA Evaluation

- a. By October 1 following commencement of Level 1 status for any parameter with sampling results indicating an NAL/TNAL exceedance, the Discharger shall:
- b. Complete an evaluation, with the assistance of a QISP, of the industrial pollutant sources at the facility that are or may be related to the NAL/TNAL exceedance(s); and,
- c. Identify in the evaluation the corresponding BMPs in the SWPPP and any additional BMPs and SWPPP revisions necessary to prevent future NAL/TNAL exceedances and to comply with the requirements of this General Permit. Although the evaluation may focus on the drainage areas where the NAL/TNAL exceedance(s) occurred, all drainage areas shall be evaluated.

2. Level 1 ERA Report

- a. Based upon the above evaluation, the Discharger shall, as soon as practicable but no later than January 1 following commencement of Level 1 status :
  - i. Revise the SWPPP as necessary and implement any additional BMPs identified in the evaluation;
  - ii. Certify and submit via SMARTS a Level 1 ERA Report prepared by a QISP that includes the following:
    - 1) A summary of the Level 1 ERA Evaluation required in subsection C.1 above; and,
    - 2) A detailed description of the SWPPP revisions and any additional BMPs for each parameter that exceeded an NAL/TNAL.
  - iii. Certify and submit via SMARTS the QISP's identification number, name, and contact information (telephone number, e-mail address).
- b. A Discharger's Level 1 status for a parameter will return to Baseline status once a Level 1 ERA report has been completed, all identified additional BMPs have been implemented, and results from four (4) consecutive QSEs that were sampled subsequent to BMP implementation indicate no additional NAL/TNAL exceedances for that parameter.

3. NAL/TNAL Exceedances Prior to Implementation of Level 1 Status BMPs.

Prior to the implementation of an additional BMP identified in the Level 1 ERA Evaluation or October 1, whichever comes first, sampling results for any parameter(s) being addressed by that additional BMP will not be included in the calculations of annual average or instantaneous maximum NAL/TNAL exceedances in SMARTS.

#### D. Level 2 Status

A Discharger's Level 1 status for any given parameter shall change to Level 2 status if sampling results indicate an NAL/TNAL exceedance for that same parameter while the Discharger is in Level 1. Level 2 status will commence on July 1 following the reporting year during which the NAL/TNAL exceedance(s) occurred.<sup>24,26</sup> Upon the effective date of the TMDL Requirements, Responsible Dischargers have Level 2 status for any applicable TNAL if the Discharger has Level 2 status for the NAL for the same parameter.<sup>27</sup>

##### 1. Level 2 ERA Action Plan

- a. Dischargers with Level 2 status shall certify and submit via SMARTS a Level 2 ERA Action Plan prepared by a QISP that addresses each new Level 2 NAL/TNAL exceedance by January 1 following the reporting year during which the NAL/TNAL exceedance(s) occurred. For each new Level 2 NAL/TNAL exceedance, the Level 2 Action Plan will identify which of the demonstrations in subsection D.2.a through c the Discharger has selected to perform. A new Level 2 NAL/TNAL exceedance is any Level 2 NAL/TNAL exceedance for 1) a new parameter in any drainage area, or 2) the same parameter that is being addressed in an existing Level 2 ERA Action Plan in a different drainage area.
- b. The Discharger shall certify and submit via SMARTS the QISP's identification number, name, and contact information (telephone number, e-mail address) if this information has changed since previous certifications.
- c. The Level 2 ERA Action Plan shall at a minimum address the drainage areas with corresponding Level 2 NAL/TNAL exceedances.
- d. All elements of the Level 2 ERA Action Plan shall be implemented as soon as practicable and completed no later than 1 year after submitting the Level 2 ERA Action Plan.

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<sup>24,26</sup> For all sampling results reported before June 30th of the preceding reporting year. If sample results indicating an NAL exceedance are submitted after June 30<sup>th</sup>, the Discharger will change status upon the date those results have been reported into SMARTS.

<sup>27</sup> Following this initial assignment, this General Permit's NALs and TNALs operate independently.

- e. The Level 2 ERA Action Plan shall include a schedule and a detailed description of the tasks required to complete the Discharger's selected demonstration(s) as described below in Section D.2.a through c.

## 2. Level 2 ERA Technical Report

On January 1 of the reporting year following the submittal of the Level 2 ERA Action Plan, a Discharger with Level 2 status shall certify and submit a Level 2 ERA Technical Report prepared by a QISP that includes one or more of the following demonstrations:

### a. Industrial Activity BMPs Demonstration

This shall include the following requirements, as applicable:

- i. Shall include a description of the industrial pollutant sources and corresponding industrial pollutants that are or may be related to the NAL/TNAL exceedance(s);
- ii. Shall include an evaluation of all pollutant sources associated with industrial activity that are or may be related to the NAL/TNAL exceedance(s);
- iii. Where all of the Discharger's implemented BMPs, including additional BMPs identified in the Level 2 ERA Action Plan, achieve compliance with the effluent limitations of this General Permit and are expected to eliminate future NAL/TNAL exceedance(s), the Discharger shall provide a description and analysis of all implemented BMPs;
- iv. In cases where all of the Discharger's implemented BMPs, including additional BMPs identified in the Level 2 ERA Action Plan, achieve compliance with the effluent limitations of this General Permit but are not expected to eliminate future NAL/TNAL exceedance(s), the Discharger shall provide, in addition to a description and analysis of all implemented BMPs:
  - 1) An evaluation of any additional BMPs that would reduce or prevent NAL/TNAL exceedances;
  - 2) Estimated costs of the additional BMPs evaluated; and,
  - 3) An analysis describing the basis for the selection of BMPs implemented in lieu of the additional BMPs evaluated but not implemented.
- v. The description and analysis of BMPs required in subsection a.iii above shall specifically address the drainage areas where the NAL/TNAL exceedance(s) responsible for the Discharger's Level 2

status occurred, although any additional Level 2 ERA Action Plan BMPs may be implemented for all drainage areas; and,

- vi. If an alternative design storm standard for treatment control BMPs (in lieu of the design storm standard for treatment control BMPs in Section X.H.6 in this General Permit) will achieve compliance with the effluent limitations of this General Permit, the Discharger shall provide an analysis describing the basis for the selection of the alternative design storm standard.

b. Non-Industrial Pollutant Source Demonstration

This shall include:

- i. A statement that the Discharger has determined that the exceedance of the NAL/TNAL is attributable solely to the presence of non-industrial pollutant sources. (The pollutant may also be present due to industrial activities, in which case the Discharger must demonstrate that the pollutant contribution from the industrial activities by itself does not result in an NAL/TNAL exceedance.) The sources shall be identified as either run-on from adjacent properties, aerial deposition from man-made sources, or as generated by on-site non-industrial sources;
- ii. A statement that the Discharger has identified and evaluated all potential pollutant sources that may have commingled with storm water associated with the Discharger's industrial activity and may be contributing to the NAL/TNAL exceedance;
- iii. A description of any on-site industrial pollutant sources and corresponding industrial pollutants that are contributing to the NAL/TNAL exceedance;
- iv. An assessment of the relative contributions of the pollutant from (1) storm water run-on to the facility from adjacent properties or non-industrial portions of the Discharger's property or from aerial deposition and (2) the storm water associated with the Discharger's industrial activity;
- v. A summary of all existing BMPs for that parameter; and,
- vi. An evaluation of all on-site/off-site analytical monitoring data demonstrating that the NAL/TNAL exceedances are caused by pollutants in storm water run-on to the facility from adjacent properties or non-industrial portions of the Discharger's property or from aerial deposition.

c. Natural Background Pollutant Source Demonstration

This shall include:

- i. A statement that the Discharger has determined that the NAL/TNAL exceedance is attributable solely to the presence of the pollutant in the natural background that has not been disturbed by industrial activities. (The pollutant may also be present due to industrial activities, in which case the Discharger must demonstrate that the pollutant contribution from the industrial activities by itself does not result in an NAL/TNAL exceedance);
- ii. A summary of all data previously collected by the Discharger, or other identified data collectors, that describes the levels of natural background pollutants in the storm water discharge;
- iii. A summary of any research and published literature that relates the pollutants evaluated at the facility as part of the Natural Background Source Demonstration;
- iv. Map showing the reference site location in relation to facility along with available land cover information;
- v. Reference site and test site elevation;
- vi. Available geology and soil information for reference and test sites;
- vii. Photographs showing site vegetation;
- viii. Site reconnaissance survey data regarding presence of roads, outfalls, or other human-made structures; and,
- ix. Records from relevant state or federal agencies indicating no known mining, forestry, or other human activities upstream of the proposed reference site.

3. Level 2 ERA Technical Report Submittal

- a. The Discharger shall certify and submit via SMARTS the Level 2 ERA Technical Report described in Section D.2 above.
- b. The State Water Board and Regional Boards (Water Boards) may review the submitted Level 2 ERA Technical Reports. Upon review of a Level 2 ERA Technical Report, the Water Boards may reject the Level 2 ERA Technical Report and direct the Discharger to take further action(s) to comply with this General Permit.

- c. Dischargers with Level 2 status who have submitted the Level 2 ERA Technical Report are only required to annually update the Level 2 ERA Technical Report based upon additional NAL/TNAL exceedances of the same parameter and same drainage area (if the original Level 2 ERA Technical Report contained an Industrial Activity BMP Demonstration and the implemented BMPs were expected to eliminate future NAL/TNAL exceedances in accordance with Section XII.D.2.a.ii), facility operational changes, pollutant source(s) changes, and/or information that becomes available via compliance activities (monthly visual observations, sampling results, annual evaluation, etc.). The Level 2 ERA Technical Report shall be prepared by a QISP and be certified and submitted via SMARTS by the Discharger with each Annual Report. If there are no changes prompting an update of the Level 2 ERA Technical Report, as specified above, the Discharger will provide this certification in the Annual Report that there have been no changes warranting re-submittal of the Level 2 ERA Technical Report.
  - d. Dischargers are not precluded from submitting a Level 2 ERA Action Plan or ERA Technical Report prior to entering Level 2 status if information is available to adequately prepare the report and perform the demonstrations described above. A Discharger who chooses to submit a Level 2 ERA Action Plan or ERA Technical Report prior to entering Level 2 status will automatically be placed in Level 2 in accordance to the Level 2 ERA schedule.
4. Eligibility for Returning to Baseline Status
- a. Dischargers with Level 2 status who submit an Industrial Activity BMPs Demonstration in accordance with subsection 2.a.i through iii above and have implemented BMPs to prevent future NAL/TNAL exceedance(s) for the Level 2 parameter(s) shall return to baseline status for that parameter, if results from four (4) subsequent consecutive QSEs sampled indicate no additional NAL/TNAL exceedance(s) for that parameter(s). If future NAL/TNAL exceedances occur for the same parameter(s), the Discharger's Baseline status will return to Level 2 status on July 1 in the subsequent reporting year during which the NAL/TNAL exceedance(s) occurred. These Dischargers shall update the Level 2 ERA Technical Report as required above in Section D.3.c.
  - b. Dischargers are ineligible to return to baseline status if they submit any of the following:
    - i. A industrial activity BMP demonstration in accordance with subsection 2.a.iv above;
    - ii. An non-industrial pollutant source demonstration; or,
    - iii. A natural background pollutant source demonstration.

5. Level 2 ERA Implementation Extension

- a. Dischargers that need additional time to submit the Level 2 ERA Technical Report shall be automatically granted a single time extension for up to six (6) months upon submitting the following items into SMARTS, as applicable:
  - i. Reasons for the time extension;
  - ii. A revised Level 2 ERA Action Plan including a schedule and a detailed description of the necessary tasks still to be performed to complete the Level 2 ERA Technical Report; and
  - iii. A description of any additional temporary BMPs that will be implemented while permanent BMPs are being constructed.
- b. The Regional Water Boards will review Level 2 ERA Implementation Extensions for completeness and adequacy. Requests for extensions that total more than six (6) months are not granted unless approved in writing by the Water Boards. The Water Boards may (1) reject or revise the time allowed to complete Level 2 ERA Implementation Extensions, (2) identify additional tasks necessary to complete the Level 2 ERA Technical Report, and/or (3) require the Discharger to implement additional temporary BMPs.

**XIII. INACTIVE MINING OPERATION CERTIFICATION**

- A.** Inactive mining operations are defined in Part 3 of Attachment A of this General Permit. The Discharger may, in lieu of complying with the General Permit requirements described in subsection B below, certify and submit via SMARTS that their inactive mining operation meets the following conditions:
  - 1. The Discharger has determined and justified in the SWPPP that it is impracticable to implement the monitoring requirements in this General Permit for the inactive mining operation;
  - 2. A SWPPP has been signed (wet signature and license number) by a California licensed professional engineer and is being implemented in accordance with the requirements of this General Permit; and,
  - 3. The facility is in compliance with this General Permit, except as provided in subsection B below.
- B.** The Discharger who has certified and submitted that they meet the conditions in subsection A above, are not subject to the following General Permit requirements:

1. Monitoring Implementation Plan in Section X.I;
2. Monitoring Requirements in Section XI;
3. Exceedance Response Actions (ERAs) in Section XII; and,
4. Annual Report Requirements in Section XVI.

**C. Inactive Mining Operation Certification Submittal Schedule**

1. The Discharger shall certify and submit via SMARTS NOI coverage PRDs listed in Section II.B.1 and meet the conditions in subsection A above.
2. The Discharger shall annually inspect the inactive mining site and certify via SMARTS no later than July 15th of each reporting year, that their inactive mining operation continues to meet the conditions in subsection A above.
3. The Discharger shall have a California licensed professional engineer review and update the SWPPP if there are changes to their inactive mining operation or additional BMPs are needed to comply with this General Permit. Any significant updates to the SWPPP shall be signed (wet signature and license number) by a California license professional engineer.
4. The Discharger shall certify and submit via SMARTS any significantly revised SWPPP within 30 days of the revision(s).

**XIV. COMPLIANCE GROUPS AND COMPLIANCE GROUP LEADERS**

**A. Compliance Group Qualification Requirements**

1. Any group of Dischargers of the same industry type or any QISP representing Dischargers of the same industry type may form a Compliance Group. A Compliance Group shall consist of Dischargers that operate facilities with similar types of industrial activities, pollutant sources, and pollutant characteristics (e.g., scrap metals recyclers would join a different group than paper recyclers, truck vehicle maintenance facilities would join a different group than airplane vehicle maintenance facilities, etc.). A Discharger participating in a Compliance Group is termed a Compliance Group Participant. Participation in a Compliance Group is not required. Compliance Groups may be formed at any time.
2. Each Compliance Group shall have a Compliance Group Leader.
3. To establish a Compliance Group, the Compliance Group Leader shall register as a Compliance Group Leader via SMARTS. The registration shall include documentation demonstrating compliance with the Compliance Group qualification requirements above and a list of the Compliance Group Participants.



4. Each Compliance Group Participant shall register as a member of an established Compliance Group via SMARTS.
5. The Executive Director of the State Water Board may review Compliance Group registrations and/or activities for compliance with the requirements of this General Permit. The Executive Director may reject the Compliance Group, the Compliance Group Leader, or individual Compliance Group Participants within the Compliance Group.

## **B. Compliance Group Leader Responsibilities**

1. A Compliance Group Leader must complete a State Water Board sponsored or approved training program for Compliance Group Leaders.
2. The Compliance Group Leader shall assist Compliance Group Participants with all compliance activities required by this General Permit.
3. A Compliance Group Leader shall prepare a Consolidated Level 1 ERA Report for all Compliance Group Participants with Level 1 status for the same parameter. Compliance Group Participants who certify and submit these Consolidated Level 1 ERA Reports are subject to the same provisions as individual Dischargers with Level 1 status, as described in Section XII.C. A Consolidated Level 1 ERA Report is equivalent to a Level 1 ERA Report.
4. The Compliance Group Leader shall update the Consolidated Level 1 ERA Report as needed to address additional Compliance Group Participants with ERA Level 1 status.
5. A Compliance Group Leader shall prepare a Level 2 ERA Action Plan specific to each Compliance Group Participant with Level 2 status. Compliance Group Participants who certify and submit these Level 2 ERA Action Plans are subject to the same provisions as individual Dischargers with Level 2 status, as described in Section XII.D.
6. A Compliance Group Leader shall prepare a Level 2 ERA Technical Report specific to each Compliance Group Participant with Level 2 status. Compliance Group Participants who certify and submit these Level 2 ERA Technical Reports are subject to the same provisions as individual Dischargers with Level 2 status, as described in Section XII.D.
7. The Compliance Group Leader shall inspect all the facilities of the Compliance Group Participants that have entered Level 2 status prior to preparing the individual Level 2 ERA Technical Report.
8. The Compliance Group Leader shall revise the Consolidated Level 1 ERA Report, individual Level 2 ERA Action Plans, or individual Level 2 Technical Reports in accordance with any comments received from the Water Boards.

9. The Compliance Group Leader shall inspect all the facilities of the Compliance Group Participants at a minimum of once per reporting year (July 1 to June 30).

### **C. Compliance Group Participant Responsibilities**

1. Each Compliance Group Participant is responsible for permit compliance for the Compliance Group Participant's facility and for ensuring that the Compliance Group Leader's activities related to the Compliance Group Participant's facility comply with this General Permit.
2. Compliance Group Participants with Level 1 status shall certify and submit via SMARTS the Consolidated Level 1 ERA Report. The Compliance Group Participants shall certify that they have reviewed the Consolidated Level 1 ERA Report and have implemented any required additional BMPs. Alternatively, the Compliance Group Participant may submit an individual Level 1 ERA Report in accordance with the provisions in Section XII.C.2.
3. Compliance Group Participants with Level 2 status shall certify and submit via SMARTS their individual Level 2 ERA Action Plan and Technical Report prepared by their Compliance Group Leader. Each Compliance Group Participant shall certify that they have reviewed the Level 2 ERA Action Plan and Technical Report and will implement any required additional BMPs.
4. Compliance Group Participants can at any time discontinue their participation in their associated Compliance Group via SMARTS. Upon discontinuation, the former Compliance Group Participant is immediately subject to the sampling and analysis requirements described in Section XI.B.2.

## **XV. ANNUAL COMPREHENSIVE FACILITY COMPLIANCE EVALUATION (ANNUAL EVALUATION)**

The Discharger shall conduct one Annual Evaluation for each reporting year (July 1 to June 30). If the Discharger conducts an Annual Evaluation fewer than eight (8) months, or more than sixteen (16) months, after it conducts the previous Annual Evaluation, it shall document the justification for doing so. The Discharger shall revise the SWPPP, as appropriate, and implement the revisions within 90 days of the Annual Evaluation. At a minimum, Annual Evaluations shall consist of:

- A.** A review of all sampling, visual observation, and inspection records conducted during the previous reporting year;
- B.** An inspection of all areas of industrial activity and associated potential pollutant sources for evidence of, or the potential for, pollutants entering the storm water conveyance system;

- C. An inspection of all drainage areas previously identified as having no exposure to industrial activities and materials in accordance with the definitions in Section XVII;
- D. An inspection of equipment needed to implement the BMPs;
- E. An inspection of any BMPs;
- F. A review and effectiveness assessment of all BMPs for each area of industrial activity and associated potential pollutant sources to determine if the BMPs are properly designed, implemented, and are effective in reducing and preventing pollutants in industrial storm water discharges and authorized NSWDS; and,
- G. An assessment of any other factors needed to comply with the requirements in Section XVI.B.

## **XVI. ANNUAL REPORT**

- A. The Discharger shall certify and submit via SMARTS an Annual Report no later than July 15<sup>th</sup> following each reporting year using the standardized format and checklists in SMARTS.
- B. The Discharger shall include in the Annual Report:
  - 1. A Compliance Checklist that indicates whether a Discharger complies with, and has addressed all applicable requirements of this General Permit;
  - 2. An explanation for any non-compliance of requirements within the reporting year, as indicated in the Compliance Checklist;
  - 3. An identification, including page numbers and/or sections, of all revisions made to the SWPPP within the reporting year; and,
  - 4. The date(s) of the Annual Evaluation.

## **XVII. CONDITIONAL EXCLUSION - NO EXPOSURE CERTIFICATION (NEC)**

- A. Discharges composed entirely of storm water that has not been exposed to industrial activity are not industrial storm water discharges. Dischargers are conditionally excluded from complying with the SWPPP and monitoring requirements of this General Permit if all of the following conditions are met:
  - 1. There is no exposure of Industrial Materials and Activities to rain, snow, snowmelt, and/or runoff;
  - 2. All unauthorized NSWDS have been eliminated and all authorized NSWDS meet the conditions of Section IV;
  - 3. The Discharger has certified and submitted via SMARTS PRDs for NEC coverage pursuant to the instructions in Section II.B.2; and,

4. The Discharger has satisfied all other requirements of this Section.

## **B. NEC Specific Definitions**

1. No Exposure - all Industrial Materials and Activities are protected by a Storm-Resistant Shelter to prevent all exposure to rain, snow, snowmelt, and/or runoff.
2. Industrial Materials and Activities - includes, but is not limited to, industrial material handling activities or equipment, machinery, raw materials, intermediate products, by-products, final products, and waste products.
3. Material Handling Activities - includes the storage, loading and unloading, transportation, or conveyance of any industrial raw material, intermediate product, final product, or waste product.
4. Sealed - banded or otherwise secured, and without operational taps or valves.
5. Storm-Resistant Shelters - includes completely roofed and walled buildings or structures. Also includes structures with only a top cover supported by permanent supports but with no side coverings, provided material within the structure is not subject to wind dispersion (sawdust, powders, etc.), or track-out, and there is no storm water discharged from within the structure that comes into contact with any materials.

## **C. NEC Qualifications**

To qualify for an NEC, a Discharger shall:

1. Except as provided in subsection D below, provide a Storm-Resistant Shelter to protect Industrial Materials and Activities from exposure to rain, snow, snowmelt, run-on, and runoff;
2. Inspect and evaluate the facility annually to determine that storm water exposed to industrial materials or equipment has not and will not be discharged to waters of the United States. Evaluation records shall be maintained for five (5) years in accordance with Section XXI.J.4;
3. Register for NEC coverage by certifying that there are no discharges of storm water contaminated by exposure to Industrial Materials and Activities from areas of the facility subject to this General Permit, and certify that all unauthorized NSWDS have been eliminated and all authorized NSWDS meet the conditions of Section IV (Authorized NSWDS). NEC coverage and annual renewal requires payment of an annual fee in accordance with California Code of Regulations, title 23, section 2200 et seq.; and,
4. Submit PRDs for NEC coverage shall be prepared and submitted in accordance with the:

- a. Certification requirements in Section XXI.K; and,
- b. Submittal schedule in accordance with Section II.B.2.

**D. NEC Industrial Materials and Activities - Storm-Resistant Shelter Not Required**

To qualify for NEC coverage, a Storm-Resistant Shelter is not required for the following:

1. Drums, barrels, tanks, and similar containers that are tightly Sealed, provided those containers are not deteriorated, do not contain residual industrial materials on the outside surfaces, and do not leak;
2. Adequately maintained vehicles used in material handling;
3. Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt);
4. Any Industrial Materials and Activities that are protected by a temporary shelter for a period of no more than ninety (90) days due to facility construction or remodeling; and,
5. Any Industrial Materials and Activities that are protected within a secondary containment structure that will not discharge storm water to waters of the United States.

**E. NEC Limitations**

1. NEC coverage is available on a facility-wide basis only, not for individual outfalls. If a facility has industrial storm water discharges from one or more drainage areas that require NOI coverage, Dischargers shall register for NOI coverage for the entire facility through SMARTS in accordance with Section II.B.2. Any drainage areas on that facility that would otherwise qualify for NEC coverage may be specially addressed in the facility SWPPP by including an NEC Checklist and a certification statement demonstrating that those drainage areas of the facility have been evaluated; and that none of the Industrial Materials or Activities listed in subsection C above are, or will be in the foreseeable future, exposed to precipitation.
2. If circumstances change and Industrial Materials and Activities become exposed to rain, snow, snowmelt, and/or runoff, the conditions for this exclusion shall no longer apply. In such cases, the Discharger may be subject to enforcement for discharging without a permit. A Discharger with NEC coverage that anticipates changes in circumstances should register for NOI coverage at least seven (7) days before anticipated exposure.
3. The Regional Water Board may deny NEC coverage and require NOI coverage upon determining that:

- a. Storm water is exposed to Industrial Materials and Activities; and/or
- b. The discharge has a reasonable potential to cause or contribute to an exceedance of an applicable water quality standards.

**F. NEC Permit Registration Documents Required for Initial NEC Coverage**

A Discharger shall submit via SMARTS the following PRDs for NEC coverage to document the applicability of the conditional exclusion:

1. The NEC form, which includes:
  - a. The legal name, postal address, telephone number, and e-mail address of the Discharger;
  - b. The facility business name and physical mailing address, the county name, and a description of the facility location if the facility does not have a physical mailing address; and,
  - c. Certification by the Discharger that all PRDs submitted are correct and true and the conditions of no exposure have been met.
2. An NEC Checklist prepared by the Discharger demonstrating that the facility has been evaluated; and that none of the following industrial materials or activities are, or will be in the foreseeable future, exposed to precipitation:
  - a. Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed;
  - b. Materials or residuals on the ground or in storm water inlets from spills/leaks;
  - c. Materials or products from past industrial activity;
  - d. Material handling equipment (except adequately maintained vehicles);
  - e. Materials or products during loading/unloading or transporting activities;
  - f. Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);
  - g. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;
  - h. Materials or products handled/stored on roads or railways owned or maintained by the Discharger;
  - i. Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);

- j. Application or disposal of processed wastewater (unless already covered by an NPDES permit); and,
- k. Particulate matter or visible deposits of residuals from roof stacks/vents evident in the storm water outflow.

3. Site Map (see Section X.E).

**G. Requirements for Annual NEC Coverage Recertification**

By October 1 of each reporting year beginning in 2015, any Discharger who has previously registered for NEC coverage shall either submit and certify an NEC demonstrating that the facility has been evaluated, and that none of the Industrial Materials or Activities listed above are, or will be in the foreseeable future, exposed to precipitation, or apply for NOI coverage.

**H. NEC Certification Statement**

All NEC certifications and re-certifications shall include the following certification statement:

*I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of 'no exposure' and obtaining an exclusion from NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed in subsection C above). I understand that I am obligated to submit a no exposure certification form annually to the State Water Board and, if requested, to the operator of the local Municipal Separate Storm Sewer System (MS4) into which this facility discharges (where applicable). I understand that I must allow the Water Board staff, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

**XVIII. SPECIAL REQUIREMENTS - PLASTIC MATERIALS**

- A. Facilities covered under this General Permit that handle Plastic Materials are required to implement BMPs to eliminate discharges of plastic in storm water in

addition to the other requirements of this General Permit that are applicable to all other Industrial Materials and Activities. Plastic Materials are virgin and recycled plastic resin pellets, powders, flakes, powdered additives, regrind, dust, and other similar types of preproduction plastics with the potential to discharge or migrate off-site. Any Dischargers' facility handling Plastic Materials will be referred to as Plastics Facilities in this General Permit. Any Plastics Facility covered under this General Permit that manufactures, transports, stores, or consumes these materials shall submit information to the State Water Board in their PRDs, including the type and form of plastics, and which BMPs are implemented at the facility to prevent illicit discharges. Pursuant to Water Code section 13367, Plastics Facilities are subject to mandatory, minimum BMPs.

1. At a minimum, Plastics Facilities shall implement and include in the SWPPP:
  - a. Containment systems at each on-site storm drain discharge location down gradient of areas containing plastic material. The containment system shall be designed to trap all particles retained by a 1mm mesh screen, with a treatment capacity of no less than the peak flow rate from a one-year, one-hour storm.
  - b. When a containment system is infeasible, or poses the potential to cause an illicit discharge, the facility may propose a technically feasible alternative BMP or suite of BMPs. The alternative BMPs shall be designed to achieve the same or better performance standard as a 1mm mesh screen with a treatment capacity of the peak flow rate from a one-year, one-hour storm. Alternative BMPs shall be submitted to the Regional Water Board for approval.
  - c. Plastics Facilities shall use durable sealed containers designed not to rupture under typical loading and unloading activities at all points of plastic transfer and storage.
  - d. Plastics Facilities shall use capture devices as a form of secondary containment during transfers, loading, or unloading Plastic Materials. Examples of capture devices for secondary containment include, but are not limited to catch pans, tarps, berms or any other device that collects errant material.
  - e. Plastics Facilities shall have a vacuum or vacuum-type system for quick cleanup of fugitive plastic material available for employees.
  - f. Pursuant to Water Code section 13367(e)(1), Plastics Facilities that handle Plastic Materials smaller than 1mm in size shall develop a containment system designed to trap the smallest plastic material handled at the facility with a treatment capacity of at least the peak flow rate from a one-year, one-hour storm, or develop a feasible alternative BMP or suite of BMPs that are designed to achieve a similar or better



performance standard that shall be submitted to the Regional Water Board for approval.

2. Plastics Facilities are exempt from the Water Code requirement to install a containment system under section 13367 of the Water Code if they meet one of the following requirements that are determined to be equal to, or exceed the performance requirements of a containment system:
  - a. The Discharger has certified and submitted via SMARTS a valid No Exposure Certification (NEC) in accordance with Section XVII; or
  - b. Plastics Facilities are exempt from installing a containment system, if the following suite of eight (8) BMPs is implemented. This combination of BMPs is considered to reduce or prevent the discharge of plastics at a performance level equivalent to or better than the 1mm mesh and flow standard in Water Code section 13367(e)(1).
    - i. Plastics Facilities shall annually train employees handling Plastic Materials. Training shall include environmental hazards of plastic discharges, employee responsibility for corrective actions to prevent errant Plastic Materials, and standard procedures for containing, cleaning, and disposing of errant Plastic Materials.
    - ii. Plastics Facilities shall immediately fix any Plastic Materials containers that are punctured or leaking and shall clean up any errant material in a timely manner.
    - iii. Plastics Facilities shall manage outdoor waste disposal of Plastic Materials in a manner that prevents the materials from leaking from waste disposal containers or during waste hauling.
    - iv. Plastics Facilities that operate outdoor conveyance systems for Plastic Materials shall maintain the system in good operating condition. The system shall be sealed or filtered in such a way as to prevent the escape of materials when in operation. When not in operation, all connection points shall be sealed, capped, or filtered so as to not allow material to escape. Employees operating the conveyance system shall be trained how to operate in a manner that prevents the loss of materials such as secondary containment, immediate spill response, and checks to ensure the system is empty during connection changes.
    - v. Plastics Facilities that maintain outdoor storage of Plastic Materials shall do so in a durable, permanent structure that prevents exposure to weather that could cause the material to migrate or discharge in storm water.
    - vi. Plastics Facilities shall maintain a schedule for regular housekeeping and routine inspection for errant Plastic Materials. The Plastics Facility shall ensure that their employees follow the schedule.

- vii. PRDs shall include the housekeeping and routine inspection schedule, spill response and prevention procedures, and employee training materials regarding plastic material handling.
- viii. Plastics Facilities shall correct any deficiencies in the employment of the above BMPs that result in errant Plastic Materials that may discharge or migrate off-site in a timely manner. Any Plastic Materials that are discharged or that migrate off-site constitute an illicit discharge in violation of this General Permit.

## **XIX. REGIONAL WATER BOARD AUTHORITIES**

- A.** The Regional Water Boards may review a Discharger's PRDs for NOI or NEC coverage and administratively reject General Permit coverage if the PRDs are deemed incomplete. The Regional Water Boards may take actions that include rescinding General Permit coverage, requiring a Discharger to revise and re-submit their PRDs (certified and submitted by the Discharger) within a specified time period, requiring the Discharger to apply for different General Permit coverage or a different individual or general permit, or taking no action.
- B.** The Regional Water Boards have the authority to enforce the provisions and requirements of this General Permit. This includes, but is not limited to, reviewing SWPPPs, Monitoring Implementation Plans, ERA Reports, and Annual Reports, conducting compliance inspections, and taking enforcement actions.
- C.** As appropriate, the Regional Water Boards may issue NPDES storm water general or individual permits to a Discharger, categories of Dischargers, or Dischargers within a watershed or geographic area. Upon issuance of such NPDES permits, this General Permit shall no longer regulate the affected Discharger(s).
- D.** The Regional Water Boards may require a Discharger to revise its SWPPP, ERA Reports, or monitoring programs to achieve compliance with this General Permit. In this case, the Discharger shall implement these revisions in accordance with a schedule provided by the Regional Water Board.
- E.** The Regional Water Boards may approve requests from a Discharger to include co-located, but discontinuous, industrial activities within the same facility under a single NOI or NEC coverage.
- F.** Consistent with 40 Code of Federal Regulations section 122.26(a)(9)(i)(D), the Regional Water Boards may require any discharge that is not regulated by this General Permit, that is determined to contribute to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States, to be covered under this General Permit as appropriate. Upon designation, the Discharger responsible for the discharge shall obtain coverage under this General Permit.

- G.** The Regional Water Boards may review a Discharger's Inactive Mining Operation Certification and reject it at any time if the Regional Water Board determines that access to the facility for monitoring purposes is practicable or that the facility is not in compliance with the applicable requirements of this General Permit.
- H.** The Regional Water Boards may require a Discharger to implement additional measures including, but not limited to, assigning a QISP to re-evaluate the facility's pollutant source assessment to ensure compliance with TMDL-related requirements in this General Permit.
- I.** ~~H.~~ All Regional Water Board actions that modify a Discharger's obligations under this General Permit must be in writing and should also be submitted in SMARTS.

## **XX. SPECIAL CONDITIONS**

### **A. Reopener Clause**

This General Permit may be reopened and amended to incorporate TMDL-related provisions. This General Permit may also be modified, revoked and reissued, or terminated for cause due to promulgation of amended regulations, water quality control plans or water quality control policies, receipt of U.S. EPA guidance concerning regulated activities, judicial decision, or in accordance with 40 Code of Federal Regulations sections 122.62, 122.63, 122.64, and 124.5.

### **B. Water Quality Based Corrective Actions**

1. Upon determination by the Discharger or written notification by the Regional Water Board that industrial storm water discharges and/or authorized NSWDS contain pollutants that are in violation of Receiving Water Limitations (Section VI) or in the event that a Responsible Discharger's industrial storm water discharge exceeds an NEL in Attachment E, the Discharger shall:
  - a. Conduct a facility evaluation to identify pollutant source(s) within the facility that are associated with industrial activity and whether the BMPs described in the SWPPP have been properly implemented;
  - b. Assess the facility's SWPPP and its implementation to determine whether additional BMPs or SWPPP implementation measures are necessary to reduce or prevent pollutants in industrial storm water discharges to meet the Receiving Water Limitations (Section VI); and,
  - c. Certify and submit via SMARTS documentation based upon the above facility evaluation and assessment that:

- i. Additional BMPs and/or SWPPP implementation measures have been identified and included in the SWPPP to meet the Receiving Water Limitations (Section VI) [or applicable NELs \(Attachment E\)](#); or
  - ii. No additional BMPs or SWPPP implementation measures are required to reduce or prevent pollutants in industrial storm water discharges to meet the Receiving Water Limitations (Section VI) [or applicable NELs \(Attachment E\)](#).
2. The Regional Water Board may reject the Dischargers water quality based corrective actions and/or request additional supporting documentation.

**C. Requirements for Dischargers Claiming “No Discharge” through the Notice of Non-Applicability (NONA)**

1. For the purpose of the NONA, the Entity (Entities) is referring to the person(s) defined in section 13399.30 of the Water Code.
2. Entities who are claiming “No Discharge” through the NONA shall meet the following eligibility requirements:
  - a. The facility is engineered and constructed to have contained the maximum historic precipitation event (or series of events) using the precipitation data collected from the National Oceanic and Atmospheric Agency’s website (or other nearby precipitation data available from other government agencies) so that there will be no discharge of industrial storm water to waters of the United States; or,
  - b. The facility is located in basins or other physical locations that are not hydrologically connected to waters of the United States.
3. When claiming the “No Discharge” option, Entities shall submit and certify via SMARTS both the NONA and a No Discharge Technical Report. The No Discharge Technical Report shall demonstrate the facility meets the eligibility requirements described above.
4. The No Discharge Technical Report shall be signed (wet signature and license number) by a California licensed professional engineer.

**XXI. STANDARD CONDITIONS**

**A. Duty to Comply**

Dischargers shall comply with all standard conditions in this General Permit. Permit noncompliance constitutes a violation of the Clean Water Act and the Water Code and is grounds for enforcement action and/or removal from General Permit coverage.

Dischargers shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions.

## **B. Duty to Reapply**

Dischargers that wish to continue an activity regulated under this General Permit after the expiration date of this General Permit shall apply for and obtain authorization from the Water Boards as required by the new general permit once it is issued.

## **C. General Permit Actions**

1. This General Permit may be modified, revoked and reissued, or terminated for cause. Submittal of a request by the Discharger for General Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not annul any General Permit condition.
2. If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge, and that standard or prohibition is more stringent than any limitation on the pollutant in this General Permit, this General Permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition.

## **D. Need to Halt or Reduce Activity Not a Defense**

In an enforcement action, it shall not be a defense for a Discharger that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit.

## **E. Duty to Mitigate**

Dischargers shall take all responsible steps to reduce or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment.

## **F. Proper Operation and Maintenance**

Dischargers shall at all times properly operate and maintain any facilities and systems of treatment and control (and related equipment and apparatuses) which are installed or used by the Discharger to achieve compliance with the conditions of this General Permit. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance may require the operation of backup or auxiliary facilities or similar systems installed by a Discharger when necessary to achieve compliance with the conditions of this General Permit.

## **G. Property Rights**

This General Permit does not convey any property rights of any sort or any exclusive privileges. It also does not authorize any injury to private property or any invasion of personal rights, nor does it authorize any infringement of federal, state, or local laws and regulations.

## **H. Duty to Provide Information**

Upon request by the relevant agency, Dischargers shall provide information to determine compliance with this General Permit to the Water Boards, U.S. EPA, or local Municipal Separate Storm Sewer System (MS4) within a reasonable time. Dischargers shall also furnish, upon request by the relevant agency, copies of records that are required to be kept by this General Permit.

## **I. Inspection and Entry**

Dischargers shall allow the Water Boards, U.S. EPA, and local MS4 (including any authorized contractor acting as their representative), to:

1. Enter upon the premises at reasonable times where a regulated industrial activity is being conducted or where records are kept under the conditions of this General Permit;
2. Access and copy at reasonable times any records that must be kept under the conditions of this General Permit;
3. Inspect the facility at reasonable times; and,
4. Sample or monitor at reasonable times for the purpose of ensuring General Permit compliance.

## **J. Monitoring and Records**

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. If Dischargers monitor any pollutant more frequently than required, the results of such monitoring shall be included in the calculation and reporting of the data submitted.
3. Records of monitoring information shall include:
  - a. The date, exact location, and time of sampling or measurement;
  - b. The date(s) analyses were performed;
  - c. The individual(s) that performed the analyses;
  - d. The analytical techniques or methods used; and,

- e. The results of such analyses.
4. Dischargers shall retain, for a period of at least five (5) years, either a paper or electronic copy of all storm water monitoring information, records, data, and reports required by this General Permit. Copies shall be available for review by the Water Board's staff at the facility during scheduled facility operating hours.
5. Upon written request by U.S. EPA or the local MS4, Dischargers shall provide paper or electronic copies of Annual Reports or other requested records to the Water Boards, U.S. EPA, or local MS4 within ten (10) days from receipt of the request.

#### **K. Electronic Signature and Certification Requirements**

1. All Permit Registration Documents (PRDs) for NOI and NEC coverage shall be certified and submitted via SMARTS by the Discharger's Legally Responsible Person (LRP). All other documents may be certified and submitted via SMARTS by the LRP or by their designated Duly Authorized Representative.
2. When a new LRP or Duly Authorized Representative is designated, the Discharger shall ensure that the appropriate revisions are made via SMARTS. In unexpected or emergency situations, it may be necessary for the Discharger to directly contact the State Water Board's Storm Water Section to register for SMARTS account access in order to designate a new LRP.
3. Documents certified and submitted via SMARTS by an unauthorized or ineligible LRP or Duly Authorized Representative are invalid.
4. LRP eligibility is as follows:
  - a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
    - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function; or
    - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has

been assigned or delegated to the manager in accordance with corporate procedures.

- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
  - c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. This includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA).
5. Duly Authorized Representative eligibility is as follows:
- a. The Discharger must authorize via SMARTS any person designated as a Duly Authorized Representative;
  - b. The authorization shall specify that a person designated as a Duly Authorized Representative has responsibility for the overall operation of the regulated facility or activity, such as a person that is a manager, operator, superintendent, or another position of equivalent responsibility, or is an individual who has overall responsibility for environmental matters for the company; and,
  - c. The authorization must be current (it has been updated to reflect a different individual or position) prior to any report submittals, certifications, or records certified by the Duly Authorized Representative.

#### **L. Certification**

Any person signing, certifying, and submitting documents under Section XXI.K above shall make the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons that manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

#### **M. Anticipated Noncompliance**

Dischargers shall give advance notice to the Regional Water Board and local MS4 of any planned changes in the industrial activity that may result in noncompliance with this General Permit.



**N. Penalties for Falsification of Reports**

Clean Water Act section 309(c)(4) provides that any person that knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit, including reports of compliance or noncompliance shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or by both.

**O. Oil and Hazardous Substance Liability**

Nothing in this General Permit shall be construed to preclude the initiation of any legal action or relieve the Discharger from any responsibilities, liabilities, or penalties to which the Discharger is or may be subject to under section 311 of the Clean Water Act.

**P. Severability**

The provisions of this General Permit are severable; if any provision of this General Permit or the application of any provision of this General Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this General Permit shall not be affected thereby.

**Q. Penalties for Violations of Permit Conditions**

1. Clean Water Act section 309 provides significant penalties for any person that violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act or any permit condition or limitation implementing any such section in a permit issued under section 402. Any person that violates any permit condition of this General Permit is subject to a civil penalty not to exceed \$37,500<sup>2228</sup> per calendar day of such violation, as well as any other appropriate sanction provided by section 309 of the Clean Water Act.
2. The Porter-Cologne Water Quality Control Act also provides for civil and criminal penalties, which may be greater than penalties under the Clean Water Act.

**R. Transfers**

Coverage under this General Permit is non-transferrable. When operation of the facility has been transferred to another entity, or a facility is relocated, new PRDs for NOI and NEC coverage must be certified and submitted via SMARTS prior to the transfer, or at least seven (7) days prior to the first day of operations for a relocated facility.

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<sup>2228</sup> May be further adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act.

**S. Continuation of Expired General Permit**

If this General Permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 40 Code of Federal Regulations 122.6 and remain in full force and effect.