

## State Water Resources Control Board

### FREQUENTLY ASKED QUESTIONS

#### Proposed Amendment to the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities<sup>1</sup>

##### 1. What is the Scope of the Proposed General Permit Amendment (proposed Amendment)?

The State Water Resources Control Board (State Water Board) will hold a public meeting on November 6, 2018 to consider adoption of the proposed Amendment. The scope of the proposed Amendment includes the following:

- Implementation of Total Maximum Daily Loads (TMDLs) listed in Attachment E of the existing General Permit

TMDLs are existing sets of regulatory requirements in Regional Water Quality Control Board (Regional Water Board) Basin Plans that address restoration of impaired water bodies. The proposed Amendment includes new permitting requirements to implement TMDLs listed in Attachment E of the General Permit. Industrial storm water dischargers identified as a source in existing TMDLs are required to comply with the TMDL requirements and are referred to as Responsible Dischargers in the proposed Amendment.

In addition to continuing to comply with applicable General Permit requirements, including Numeric Action Levels, the proposed Amendment requires Responsible Dischargers to comply with TMDL-specific Numeric Action Levels (TNALs) and/or Numeric Effluent Limitations (NELs). The proposed TNALs and NELs are pollutant-and water body-specific, and are based on the water body criteria applicable to the TMDL.

The industrial pollutant source assessment required in the General Permit identifies the pollutants in a facility's industrial storm water discharge. Industrial storm water samples collected at the facility are required to be compared to pollutant-specific NALs in the General Permit. Exceedances of TNALs, as defined in the proposed Amendment, require implementation of Exceedance Response Actions. Exceedances of NELs, as defined in the proposed Amendment, are violations of the General Permit, are subject to Water Quality Based Corrective Actions, and, in some cases, mandatory minimum penalties may be required to be assessed as detailed in Water Code section 13385.

See Section II.F of the proposed Amendment's General Permit Fact Sheet for further details.

<sup>1</sup> Proposed Amendment to Order 2014-0057-DWQ amended by Order 2015-0122-DWQ, NPDES General Permit for Storm Water Discharges Associated with Industrial Activities (General Permit)

- Proposed compliance incentives for industrial storm water capture

Attachment I of the proposed Amendment includes new compliance options to incentivize storm water capture; the proposed compliance options include on-site and off-site storm water capture. Dischargers choosing to implement the proposed on-site compliance option are required to implement best management practices (BMPs) that capture, infiltrate, divert, and/or evapotranspire the volume of runoff produced up to and during the 85th percentile 24-hour precipitation event based upon local, historical precipitation data and records. Dischargers choosing to implement the proposed off-site compliance option would enter into a local agreement with the appropriate municipalities or other entities to participate in the development, implementation, and operation of the regional storm water capture BMP or BMPs receiving the industrial storm water discharges.

Dischargers meeting all requirements for implementation of one of the proposed compliance options will be in compliance with or deemed in compliance with a variety of the General Permit's technology and water quality based requirements, including those related to TMDL implementation, and excused from others. See Sections I, II.I, and III.F of the proposed Amendment's Attachment I for further details.

- Federally-promulgated sufficiently sensitive analytical method requirements

The United States Environmental Protection Agency (U.S. EPA) issued updates to the Clean Water Act via the Federal Register on August 19, 2014, to require the use of analytical methods capable of measuring or detecting pollutants at levels specified in NPDES permits. This proposed Amendment incorporates federally-required regulations and requires dischargers to use federally required analytical methods that are sufficiently sensitive to detect and measure pollutants at or below the applicable water quality criteria, action level, or effluent limitation (whichever is lower), as specified in this General Permit.

## **2. What are TMDLs and why are they being included in the General Permit?**

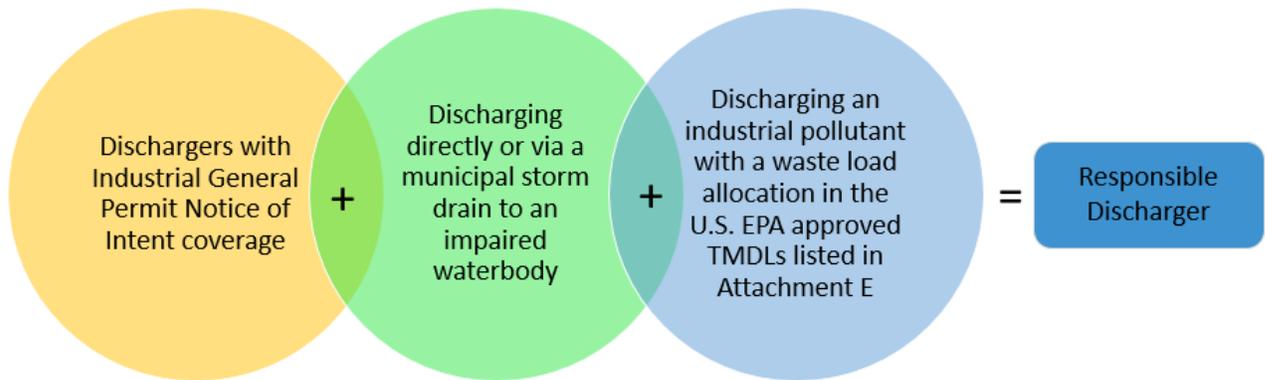
Regional Water Boards adopt water quality objectives to protect beneficial uses of surface waters, such as municipal and domestic water supply, aquatic life spawning, and other aquatic life-based and human health-based uses. The Clean Water Act requires Regional Water Boards to periodically assess water quality and identify those not meeting quality standards and objectives and list those waters as impaired on the 303(d) list. To address impaired waters, the Regional Water Boards must develop a TMDL, which establishes maximum allowable loads to sources of pollutants. TMDLs are typically incorporated into the Regional Water Board Basin Plans. A TMDL establishes pollutant-specific regulatory waste load allocations to identified dischargers (or types of discharges) to restore the impaired water bodies listed on the Clean Water Act section 303(d) list. A TMDL is not self-implementing so the State and Regional Water Boards are required<sup>2</sup> to implement TMDLs through permits, enforcement orders, and/or Water Code section 13267 or 13383 Orders. The proposed Amendment incorporates the necessary TMDL-related requirements based on the corresponding TMDL waste load allocations and other requirements to implement TMDLs that identify industrial storm water discharges as a source of the impairments. The proposed TMDL-related requirements differ from the existing technology-based standards in the existing General Permit because they are water quality based and not based on technical achievability and/or feasibility.

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<sup>2</sup> Required in the 40 Code of Federal Regulations section 130.7. (40 C.F.R. § 122.44(d)(1)(vii).)

**3. Who is required to comply with the proposed TMDL implementation requirements?**

Responsible Dischargers, as defined in Attachment C (Glossary) of the Proposed General Permit Amendment are required to comply with applicable TMDL requirements. Below is a graphical representation of this definition:



**4. What changes have been made to the December 15, 2017, proposed Amendment compared to the September 26, 2018, proposed Amendment?**

- Clarified that the TNAL are BMP-based Water Quality Based Effluent Limitations;
- Refined definition of Responsible Discharger;
- Added definitions of key terms used in the proposed Amendment to the Order and the Glossary;
- Clarified the TNAL Exceedance Response Action (ERA) process;
- Clarified the watershed/water body scope of applicability each TMDL addresses, including whether the discharge requirements are assigned: 1) at the watershed scale, 2) to direct discharges into a specific water body, or 3) to direct discharges into a specific water body and its tributaries;
- Added more detail to reasoning for incorporating TMDL requirements as NELs, TNALs, or no additional requirements
- Changed seven TMDL translations from NELs to compliance through existing General Permit requirements;
- Changed four TMDL translations from TNALs to compliance through existing General Permit requirements;
- Changed seven TMDL translations from TNALs to NELs;
- Corrected and clarified TMDL compliance deadlines;
- Clarified Sufficiently Sensitive Test Method requirements; and
- Refined Attachment I (Compliance Options) requirements.

**5. How can I stay informed?**

- Visit the proposed Amendment web page: [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/industrial.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.html), and
- Subscribe to the "Storm Water Industrial Permitting Issues" Lyris under the "Water Quality" category: [https://www.waterboards.ca.gov/resources/email\\_subscriptions/swrcb\\_subscribe.html](https://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.html).

As specified in the September 26, 2018 Public Notice, the public is welcome to participate in the following opportunities related to the proposed Amendment:

- October 24, 2018: State Water Board staff will be hosting a public workshop in Sacramento, and
- November 6, 2018: The State Water Board meeting to consider adoption of the proposed Amendment.