

**STAFF PRESENTATION
AGENDA ITEM #9**

**State Water Resources Control Board
Public Hearing**

**Proposed Statewide Construction
Stormwater General Permit
Reissuance**

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Division of Water Quality
August 4, 2021

Background

- Federal Clean Water Act prohibits certain stormwater discharges to waters of the U.S. unless in compliance with a National Pollutant Discharge Elimination System (NPDES) permit
- The State Water Board adopted the existing statewide NPDES Construction Stormwater General Permit in 2009
- The existing permit expired in 2014 and is administratively extended until the effective date of a reissued permit
- The draft Permit serves as a proposed reissuance, implementing existing regulatory requirements since adoption of the existing permit

Interested Party Outreach

- Staff hosted five public workshops and facilitated over 25 focused meetings since 2019

| | |
|--|---------------------|
| Public Workshops – Proposed TMDL implementation requirement | September 2019 |
| Release of preliminary staff draft permit and two public workshops | December 2020 |
| Focused interested party meetings | February/March 2021 |
| Release of formal draft and two public workshops | June 2021 |

- Staff continues to engage interested parties
 - Conferences, focused meetings, and the Construction General Permit Training Team
- Staff also seeking feedback on the draft permit from Native American tribes

Discussion of Proposed Changes

Draft Permit Reorganization

Passive Treatment Technology Use Requirements

Total Maximum Daily Load Implementation Requirements

Statewide Water Quality Control Plan Implementation

Dewatering Activity Requirements

Demolition Activity Requirements

Discussion of Proposed Changes

Notice of Non-Applicability Criteria

Notice of Termination Process Revisions

Sufficiently Sensitive Test Methods Rule

Monitoring and Reporting Revisions

Removal of Bioassessment Monitoring

Removal of Rain Event Action Plans

Draft Permit Reorganization

- Staff received feedback that the existing permit is difficult to navigate
- Draft permit reorganization strives to provide a more logical order of requirements and removes repetitiveness
- New Attachments (G, H, I, and J) were added to separate requirements that do not apply to all dischargers
- Appendix 1 – Risk Calculation Worksheet was revised to provide a user-accessible WORD document for permittees



Passive Treatment Technology Use Requirements

Proposed Passive Treatment Technology Use Requirements

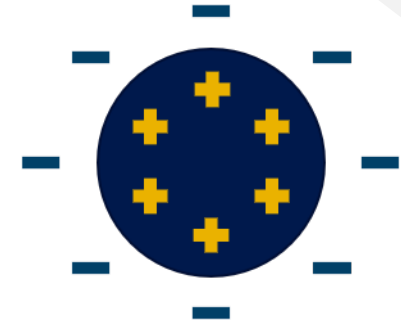
- Treatment chemicals applied for compliance with turbidity requirements
- Existing permit only addresses treatment chemicals used in an active treatment system
- Passive treatment technologies are used outside of a mechanized enclosed system
- U.S. EPA and other states regulate treatment chemicals at construction sites



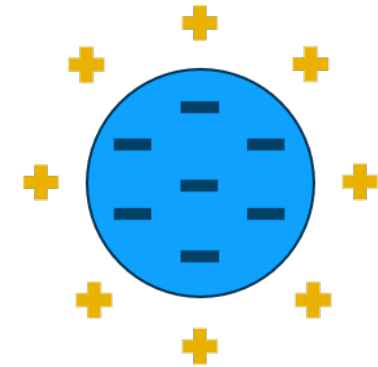
Proposed Passive Treatment Technology Use Requirements

- Requirements (in Attachment G) are specifically for the use of products applied to water
- Cationic chemicals (positively charged ions) are toxic to aquatic life and prohibited for passive treatment
- Anionic and non-ionic chemicals are permitted if non-toxic and properly dosed
 - Permittee must employ a chemical treatment contractor to oversee dosage and application, and report toxicological data
 - Water Board is contracting with Sacramento State University to provide toxicity assessment and dosage tools in the future

Anion Exchanger



Cation Exchanger





Implementation
of Adopted
Total Maximum
Daily Loads

Total Maximum Daily Loads (TMDLs)

TMDLs are:

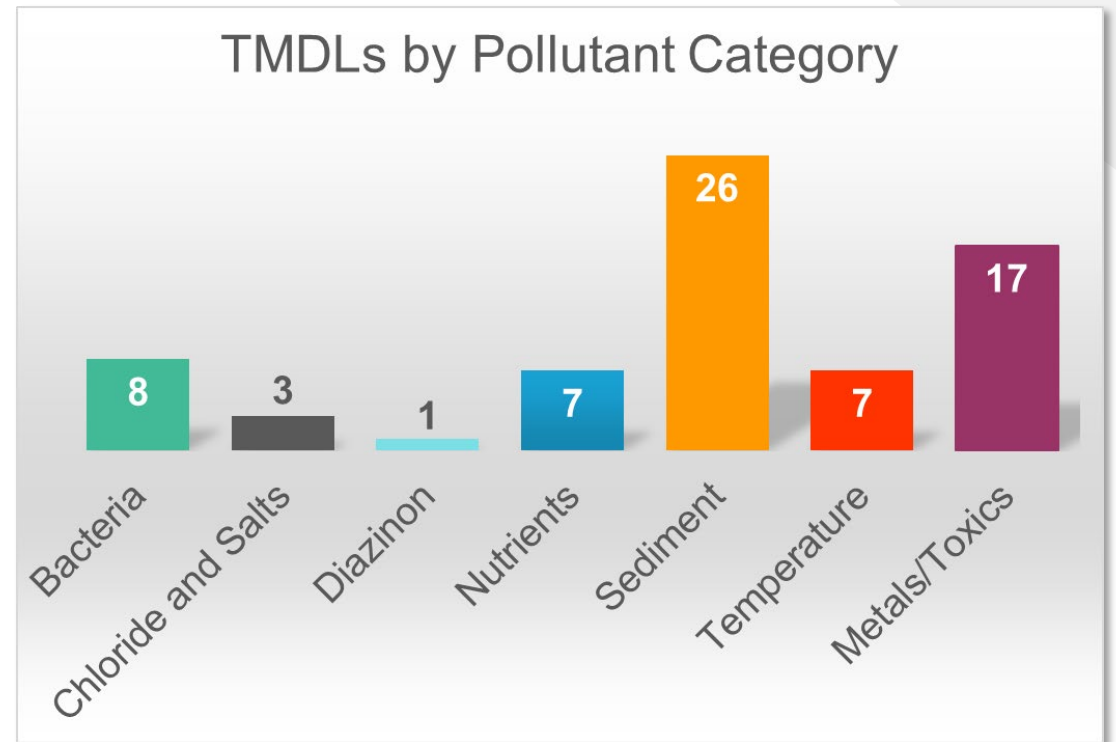
- Existing regulations in Regional Water Board basin plans that address impaired waterbodies
- Adopted by the Regional Water Boards or U.S. Environmental Protection Agency
- A sum of the allowable loads of a pollutant to a waterbody from all identified sources
- Not self-implementing – must be implemented in permits or other Board actions

TMDLs assign waste load allocations to contributing pollutant sources

- Waste load allocations are the maximum pollutant load from each source to be discharged to a waterbody

Proposed Implementation of Adopted TMDLs

- TMDLs applicable to construction stormwater discharges, categorized by pollutant
- Primarily pollutants associated with sediment sources
- “Responsible Dischargers”
 - Permittees that discharge a TMDL pollutant to a TMDL receiving water



Four Categories of Proposed Implementation of Adopted TMDLs

Built on existing permit framework

1 Proposed permit requirements meet the TMDL requirements

2 Mass-based wasteload allocations for sediment and sediment-associated pollutants

3 Concentration-based wasteload allocations specifically assigned in receiving water

4 Concentration-based wasteload allocations specifically assigned at point of discharge

- Above categorization is per federal regulatory requirements

- Staff exercised discretion allowed by federal regulations

1 Comply with General Permit

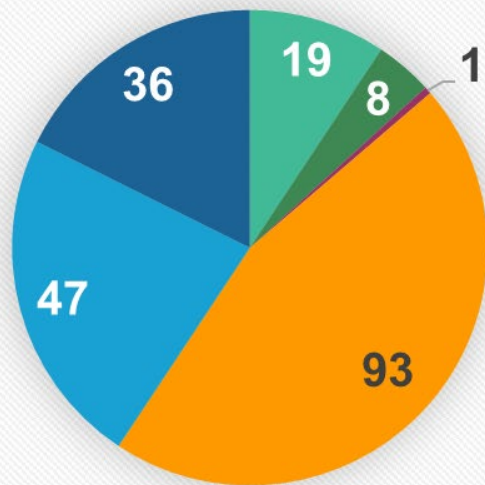
2 Erosion and Sediment Controls paired with RUSLE2 Modeling

3 Numeric Action Levels

4 Numeric Effluent Limitations

Proposed Implementation of Adopted TMDLs

All WLAs by TMDL Implementation Requirement



- Comply with Permit*
- Unique**
- NALs
- Minimum BMPs
- Erosion and Sediment Control, RUSLE2
- NELs

- 204 waste load allocations (WLAs) in TMDLs applicable to construction stormwater dischargers
- 28 WLAs are implemented through compliance with the proposed permit

93 Waste Load Allocations Implemented through Erosion and Sediment Control


- Many TMDLs established mass-based WLAs to address sediment and pollutants associated with sediment
- The draft permit proposes to address the mass-based WLAs through erosion and sediment controls, paired with soil loss modeling
- The soil loss modeling (via RUSLE2) is done to demonstrate compliance with the mass-based WLAs
- Based on the assumptions of the model, dischargers may have to implement additional best management practices to achieve WLAs

47 Waste Load Allocations with Numeric Action Levels

- Numeric actions levels apply when:
 - The construction site drains to a TMDL watershed with numeric action levels
 - The Discharger has the specific pollutant onsite and the potential to discharge
- An exceedance of a numeric action level is not a permit violation
- Sampling of a discharge is required for a specific pollutant only when there is:
 - A spill of material that contains that specific TMDL pollutant, and/or
 - A best management practice is breached or malfunctions, discharging the TMDL pollutant
- Additional corrective actions required when two or more samples are higher than the numeric action level for the same discharge location in a given reporting year

36 Numeric Effluent Limitations in Two Regions

- Applicable for specific Los Angeles and San Diego TMDLs per federal regulations
- Numeric effluent limitations apply when:
 - The construction site drains to a TMDL watershed with numeric effluent limits
 - The Discharger has the specific pollutant onsite and the potential to discharge
- Sampling of a discharge is required for a specific pollutant only when there is:
 - A spill of material that contains that specific TMDL pollutant, and/or
 - A best management practice is breached or malfunctions, discharging the TMDL pollutant
- A permit violation occurs only when two or more samples are higher than the numeric effluent limitation for the same discharge location in a reporting year



Other Proposed Permit Changes



Implementation of Water Quality Control Plan Requirements

- California Ocean Plan
 - Direct ocean discharges must be monitored per Ocean Plan model monitoring provisions
 - Attachment I includes additional requirements applicable to direct discharges to Areas of Special Biological Significance
- Inland Surface Waters, Enclosed Bays, and Estuaries Plan (known as ISWEBE)
- Statewide prohibition of trash/debris discharges, per Statewide Trash Provisions, are applicable to all construction stormwater discharges

Proposed Authorized Dewatering Activity Requirements

- Attachment J includes construction site dewatering requirements
 - Based on U.S. EPA 2017 NPDES Construction Stormwater General Permit
- Requirements do not override requirements of other applicable NPDES permit for dewatering discharges
- Proposed requirements apply to mechanical pumping or syphoning of water collected in surface impoundments and subsurface areas
- Dischargers required to comply with specific dewatering prohibitions, Regional Water Board requests, monitoring, and best management practices

Proposed Demolition Activity Requirements

- To prevent stormwater exposure to materials such as asbestos, lead paint, or PCBs
- Applicable only to demolition activities of projects with Construction Stormwater General Permit coverage





Proposed Notice of Non-Applicability Criteria

- California Water Code allows for a Notice of Non-Applicability to an NPDES permit
- Applies to projects that are hydrologically disconnected from waters of the U.S.
- Requires technical justification prepared by a professional engineer or geologist
- Must receive Regional Water Board concurrence prior to approval

Proposed Notice of Termination Process Revisions

- Dischargers must electronically certify and submit a complete Notice of Termination and obtain approval prior to ending permit coverage
- The proposed permit increases the efficiency of Regional Water Board approval:
 - Dischargers submit project-specific information (final site map, visual inspection, photo documentation, post-construction specifications, etc.)
 - Automatic Notice of Termination approval if Water Board staff review not initiated within 30 days of complete submittal

Implementation of Federal Sufficiently Sensitive Test Method Rule

- NPDES permits must require standard analytical methods for water quality sampling
- Minimum level of pollutant quantification must be equal or below water quality criteria or permit limitation
- In proposed permit, minimum levels required to be equal or below pollutant numeric action level or numeric effluent limit



Proposed Monitoring and Reporting Requirement Revisions

- Qualified Developers and Practitioners for stormwater pollution prevention plans must perform on-site visual inspections
- Samples must be collected during Qualifying Precipitation Events
 - Rain events that:
 - Produce 0.5 inches of precipitation within a 24-hour period and
 - Are extended for each subsequent 24-hour period of 0.25 inches or more
- pH and turbidity numeric action levels are established as the daily average of at least 3 samples per sampling location per day

Proposed Removal of Bioassessment Monitoring Requirements

- Bioassessment monitoring requirements in existing permit were intended to align with forthcoming State Water Board biological integrity policy
- Surface Water Ambient Monitoring Program (SWAMP) is proposing to study biological impacts of stormwater discharges on downstream environments
- Bioassessment requirements removed
 - To be considered in future permit reissuances after statewide policy or guidance is established

Proposed Removal of Rain Event Action Plan Requirements

- Existing permit requires rain event action plans to include on-site inspections prior to a precipitation event
- Draft permit includes an action-based strategy in place of checklist or reporting-based rain event action plan
- Action-based strategy includes:
 - Qualified SWPPP Developer involvement over the life of the project
 - Additional inspections and visual observations
 - Documentation and implementation of corrective actions

Anticipated Next Steps

Noon - August 13, 2021



PUBLIC COMMENT
PERIOD CLOSSES

Fall 2021



STAFF RESPONSE
TO COMMENTS

To be scheduled



BOARD
CONSIDERATION OF
ADOPTION

Existing Permit In Effect

- Existing Construction Stormwater General Permit is in effect until the Effective Date of a future adopted permit reissuance
- A proposed permit Effective Date will be included in the final draft permit for State Water Board consideration of adoption
- The Effective Date is based on the amount of time that:
 - Staff needs to enhance the SMARTS database, develop informational tools, and update the qualified stormwater professional training program
 - Board chooses to allow dischargers to prepare for compliance with new permit

Thank you!



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