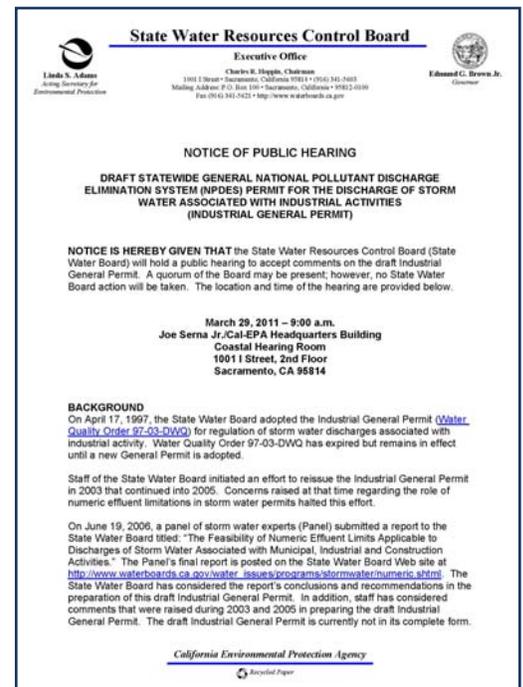
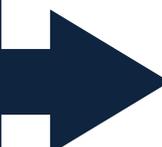


NEW DRAFT INDUSTRIAL GENERAL PERMIT!

On January 28, 2011, the California State Water Resources Control Board (State Water Board) released a draft of the long expected renewal of the Industrial NPDES General Permit which was originally issued in 1992. It was subsequently renewed for another 5-year permit term in 1997 (Order 97-03-DWQ). However, after a couple of attempts to renew the permit in 2003 and 2005, the State Water Board decided not to take any action on the permit until the issue of numeric effluent limits (NELs) were resolved. In 2005 and 2006, the State Water Board assembled a panel of experts to look at the feasibility of incorporating NELs in the Construction and Industrial General NPDES Permits. In 2009, the Construction General Permit was the first to be reissued with NELs for pH and turbidity. Now, the State Water Board is turning its attention to the renewal of the Industrial General Permit and is proposing NELs, as well as, Numeric Action Levels (NALs). But, that is not all! There is a host of other new features and requirements in this proposed permit renewal. WGR has reviewed this permit and believes **dischargers need to become informed and alarmed** about many of the new requirements. To that affect, we are dedicating this edition of *"The Rain Events"* to informing our readers about the proposed changes. We encourage you not to just read about these changes but to **get involved and let your voice be heard**. The State Water Board is receiving comments regarding all aspects of the draft Industrial General Permit. Oral comments can be made during a public hearing to be held in Sacramento on March 29, 2011. Written comments will be received by the Water Board until **12:00 noon on Monday, April 18, 2011**. If these permit changes go through, this permit **will have a significant impact on your compliance program** resulting in increased costs and potential for liability for your business.



Download a copy of the Draft Permit at:
www.waterboards.ca.gov/water_issue_s/programs/stormwater/indstpermits.shtml



“To Do List” for March:

- Monthly Storm Water Observations (Form 4)
- Storm Water Sampling (Some of you are already done! If you haven't yet done so, try to get your second sample.)
- Quarterly Non-Storm Water Observations sometime between now and March 30 (Forms 2 & 3)
- **Keep reading to see what next March might look like!**



The Compliance Corner . . .

What is new in this permit?

With so many new acronyms, qualification and training requirements, monitoring and inspections, and reporting changes, it might be easier to answer what is not new. But, here is a brief summary of some of the significant changes proposed for the permit renewal.

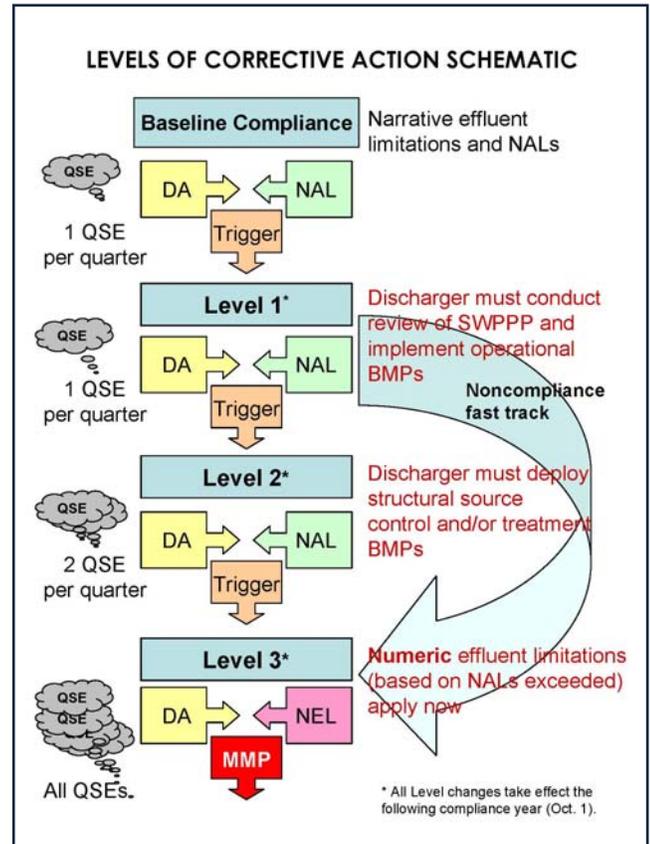
1. **Minimum BMPs** – The proposed permit requires specific mandatory Best Management Practices (BMPs). While most compliant sites, probably already perform many of these BMPs, in prescribing these, the State is taking away the ability of facilities to best determine a pollution prevention program that is customized to each individual facility. For example, forklifts and machinery must now be inspected weekly for leaks. Outdoor waste handling equipment or containers must be inspected and cleaned **daily!** While we understand the intent of the State to make sure industrial facilities have an effective pollution prevention program in place, these types and frequencies of mandated inspections are not necessarily needed at all facilities to maintain an effective program. They add to the existing overall regulatory burden, which has a direct impact on labor costs and other program expenses without necessarily making the facility's pollution prevention program more effective. They also increase the potential for non-compliance; remember, every inspection must be documented and summarized in the annual report and performed by trained individuals. Read pages 22 – 26 of the Order for a full list of the proposed minimum BMPs.
2. **Certifications Required** – The proposed permit requires two new certifications; a Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP). Storm Water Pollution Prevention Plans (SWPPPs) can now only be prepared, revised, or modified by a QSD. The certification requirements for a QSD include meeting two criteria:
 - i. The QSD must be either a California professional civil engineer; a California registered professional geologist or engineering geologist; a California registered landscape architect; or a professional hydrologist registered through the American Institute of Hydrology.
 - ii. The QSD must successfully complete the State Water Board sponsored training course.

The second certification is for a Qualified SWPPP Practitioner (QSP). Only a QSP can perform/oversee the storm water monitoring and facility inspection requirements. The QSP must also successfully complete a State Water Board sponsored training course.

3. **Numeric Action Levels (NALs)** – This is a new term for “benchmarks” which will now be used to evaluate your facility’s “risk” level. For the most part, the NALs follow the Federal Multi-Sector General Permit. A big change incorporated into this permit includes the potential for having variable NAL values for some common heavy metals as calculated using the hardness of the receiving water. Some facilities will see a lowering of already hard to attain benchmarks. For example, the copper benchmark will decrease from 0.06 to 0.03 mg/l for everyone and even as low as 0.01 mg/l for facilities that discharge to a receiving water with a hardness of 100 mg/l. The benchmark for zinc may also be reduced from the current benchmark of 0.117 mg/l to possibly as low as 0.04 mg/l.

4. **Corrective Action Levels** When analytical results meet any of three NAL corrective action triggers (triggers tied to USEPA benchmark values) during a reporting year, dischargers shall comply with prescribed corrective actions depending upon the number of reporting years the triggers have been met.

- First year a trigger is met - **Level 1 Corrective Actions** – Operational source controls are required;
- Second year a trigger is met – **Level 2 Corrective actions** – Structural and/or treatment controls are required; and
- Third year a trigger is met – **Level 3 Corrective Actions** – Imposition of Numeric Effluent Limits.



There are three types of triggers:



- A DA exceeds 2.5 the NAL
- A DA exceeds any two NALs in one qualifying storms
- A DA exceeds the same NAL in any two, qualifying storms per reporting year

Acronyms:

- QSE – qualifying storm event
- DA – daily average
- NAL – numeric action level
- SWPPP – storm water pollution prevention plan
- BMP – best management practice
- NEL – numeric effluent limitation
- TBEL – technology-based effluent limitation

5. **Sampling Frequency and Rules** – The sampling frequency is proposed to increase for every facility from two samples per year to sampling the first qualifying storm event of each calendar quarter. The proposed permit also seems to require make-up sampling by stating, “If no sample is collected in a quarter, then an additional storm event shall be sampled the following quarter until four qualifying storm events have been sampled in a reporting year.” If a facility is elevated to Level 2, it would be required to sample the first two qualifying events of each calendar quarter. And, if it has the misfortune of becoming a Level 3 facility, it will be required to sample **every** qualifying storm event (ouch!). A qualifying storm event (QSE) is redefined by the proposed permit to include a storm preceded by **two** consecutive days of dry weather

that has produced a minimum of ¼ inch of rainfall as measured by an on-site rain gauge (yes, you must maintain your own rain gauge!); which occurs during scheduled facility operating hours. The visual inspections and sampling must occur within four hours after a qualified storm event has been determined. All discharge locations are required to be sampled. Please note that the NALs are daily averages of all discharge locations. There is no more sampling exemption for multiple discharge locations that are considered to be substantially similar. However, for such drainage areas, the permit allows up to four locations to be sampled individually and composited by the laboratory into a single sample for analysis.



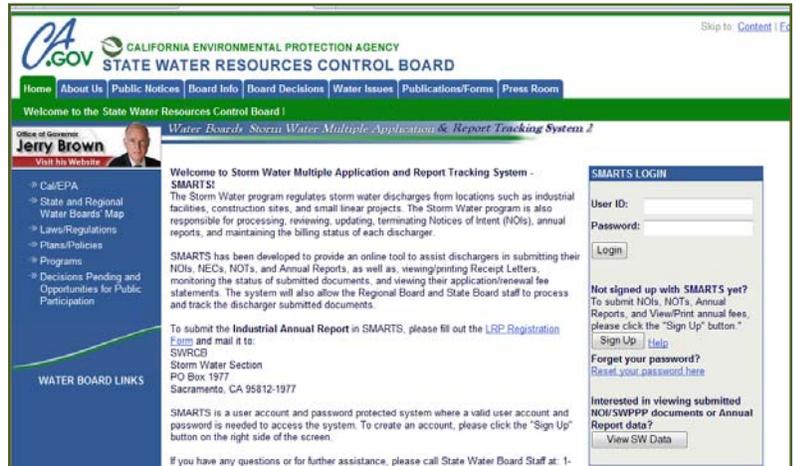
6. **Sampling Parameters** – The main change here is that there is no longer a choice between Total Organic Carbon (TOC) and Oil & Grease. Oil & Grease is now mandated. TOC may still be required if the pollutant assessment for the SWPPP indicates a source of TOC. The old “Table D” was replaced with Table 2 (p. 33 of the proposed Order), which appears to be very similar. The proposed permit requires pH and conductivity to be analyzed using field instruments. For field measurements, each point of discharge must be tested and cannot be composited.
7. **New Inspections** – There are several new inspections required by the proposed permit:
 - a. **Quarterly Pollutant Source Inspections:** Conduct a minimum of four quarterly visual inspections of all areas of industrial activity and associated potential pollutant sources. This is similar to the current ACSCE requirement, which may substitute for one of these new quarterly inspections. Implement any corrective actions and/or SWPPP revisions resulting from the inspection. Prepare a summary and status of the corrective actions and SWPPP revisions resulting from the quarterly inspections. Certify in Annual Report that each quarterly visual inspection was completed.
 - b. **Pre-storm Inspections:** Prior to anticipated storm events, dischargers shall visually observe all storm water drainage areas during operating hours to identify any spills, leaks, or uncontrolled pollutant sources and implement appropriate corrective actions.
 - c. **Mandatory BMP Inspections:** As stated above:
 - i. Daily inspect outdoor material/waste handling equipment or containers that can be contaminated by contact with industrial materials or wastes;
 - ii. Weekly inspect all outdoor areas associated with industrial activities, 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; and
 - iii. Weekly inspect facility equipment and systems (such as forklifts, process machinery, storage containers, etc.) to prevent spills and leaks from occurring due to age, use, malfunction, or damage.



- d. **Monthly storm water storage and containment inspections:** Check impoundments to detect for leaks and ensure maintenance of adequate freeboard.

8. Electronic Filing & Reporting Requirements:

The proposed permit language requires permittees to file Permit Registration Documents (PRDs) into SMARTS; which is the State Water Board's online system and replaces the old NOI procedure. Prior to filing PRDs, the Legally Responsible Person (LRP) for each facility will need to establish an account on SMARTS and designate approved data submitters. Annual reports, due



on July 15, will be only accepted on the SMARTS system. All analytical results for both field and laboratory testing will be required to be submitted onto SMARTS within 30 days of obtaining the results. NAL or NEL exceedance reports will be required to be uploaded onto SMARTS within 30 days of the exceedance.

- 9. No More Group Monitoring:** The group monitoring option is not included in the proposed permit. Those who participated in group monitoring (many auto dismantlers and trucking companies) will now need to develop their own SWPPP and perform their own monitoring.

- 10. Sampling and Analysis Reduction Option:** The proposed permit allows for a sampling and analysis reduction option for all non-Level 3 dischargers. To qualify for the reductions the discharger must have sampled ten consecutive quarters in which qualifying storm events occurred and NALs were not exceeded. The discharger must also have been in full compliance with all other aspects of the permit.

Permit Timeline

So, when will all of this take place? The following is the estimated timeline for implementation of the new permit:

January 28, 2011	Draft Industrial General Permit released
March 29, 2011	Public Hearing to receive comments on the new proposed permit language will be held at the Cal-EPA Building in Sacramento
April 18, 2011	Written comments on the permit are due by 12 Noon
Fall 2011	Revised Tentative Draft Industrial General Permit issued
Winter 2012	Anticipated permit adoption date (depending upon hearing schedules)
Spring 2012	Establish the LRP account, file new PRDs, revise the SWPPP, and comply with the new permit requirements





We Have a February Contest Winner !!!

Justin Padilla submitted the winning answer!

What is the frequency of sampling in the proposed Industrial General Permit?

To find out what was his answer, look at #5 in the above section on “What is New in This Permit”

Justin will receive a \$25 eGiftCard to



Top 4 Issues with this Permit!

While I think we would all agree we want to protect water quality and preserve California's incredible bodies of water which we all enjoy and from which we receive many benefits; we want to do so in a way that is efficient and effective. California businesses have already been overburdened with a multitude of environmental, health & safety, labor, and fiscal regulations to such an extent that it is tipping the scale towards making many businesses economically infeasible. Obviously regulations are necessary to protect the environment and the public, and to prevent those who would “cut corners” from having an economic advantage over businesses who are conscientious and responsible. But, regulations must be made in a way that are based on sound reasoning and, in the least obtrusive manner, can provide the desired results. Many times regulatory agencies have a tendency to become so prescriptive in their requirements that they unintentionally set up the regulated community to non-compliance and increased liability. When we start going through the motions just to comply with the permit language (i.e. performing daily inspections of waste storage containers), we diminish the business' ability to perform meaningful pollution prevention activities by wasting costs and labor on meaningless activities and documentation. This proposed permit includes several illustrations of over-prescriptive requirements. The following are the **top 4 issues** WGR has identified with the proposed permit, which we would like to see the State address:

1 The Fact Sheet for the proposed permit states (p. 2), “*The NALs [for this permit] are derived from the USEPA’s Multi-Sector General Permit (MSGP).*” For the most part that is true. However, there is one analytical parameter which was dropped from the most recent revision of the Federal MSGP; conductivity. The proposed permit continues to incorporate a benchmark for conductivity of 200 umhos/cm. This benchmark has been proven to be problematic, and even controversial, in the past. (Refer to the *January and February 2011 Rain Events Newsletters.*) The proposed permit does not provide a rationale for the inclusion of the 200 conductivity benchmark. There does not appear to be scientific justification for this benchmark either. It appears to be based more on history or statistics. In many cases around the State, the conductivity of the receiving water is much higher than 200 umhos/cm. Many facilities near marine bodies of water have been documented to experience elevated conductivity for no other apparent reason than air deposition of salt containing sprays and mists. There are cases where uncontaminated shallow groundwater coming into contact with storm water runoff causes conductivity to be considerably higher than 200 umhos/cm. This is all alarming because the conductivity benchmark/NAL alone may cause many facilities to be quickly elevated to Level 2 or 3. Why should this occur when the Water Quality Standard (WQS) for the receiving water is much higher than 200? WGR would like to see the State follow the USEPA’s lead in removing conductivity from the required testing and NAL triggers. We believe the Receiving Water Limitations on page 15 of the Order provides more than enough controls to prevent a facility from discharging water with an elevated conductivity that would cause or contribute to a WQS exceedance.

2

As mention in the “What is new in this permit” section, the sampling frequency has increased to a minimum of four times per year (once per calendar quarter with a sample make-up clause for quarters without a sample). In the explanation provided in the Fact Sheet for the monitoring changes (pages 24 – 28), the rationale for needing to increase the sampling frequency was not adequately provided. Why are two additional samples a year needed of all facilities, especially if a facility was consistently within their benchmark values? What can possibly be gained for the discharger or for the State with this information? Why does the State believe two samples per year are no longer adequate? No rationale is provided in the Fact Sheet or permit. Similarly, on page 38 of the Order, the permit allows for the reduction of sampling for a facility which has 10 consecutive quarters of results below the NALs. But the language in the Order and the Fact Sheet precludes going back in time to show NALs have not been exceed (e.g. “*must have sampled ten consecutive quarters in which qualifying storm events occurred*”). No rationale is provided as to why past data is not acceptable to qualify for a sampling reduction. Many facilities have more than ten historic samples all showing non-detect or below NAL results. Why are these facilities not given credit for their past results? Also, what is the basis for 10 consecutive quarters? Why not 8 or 6? This provision of the permit appears to be arbitrary and not supported by technical or scientific rationale. However, we see the flip side is not true for the discharger. The proposed permit language allows past data to be used as a NAL corrective action trigger and elevate a facility to a Level 2 or 3 (Order page 40 and 41 state, “If in **any subsequent** reporting year ...). **So according to this permit, past data is not allowed to help you, but can be used against you!**

3

Minimum BMPs are now incorporated into this permit. Because we have visited literally hundreds of industrial facilities, WGR understands why the State would be tempted to do this. Many businesses will take the path of least resistance and do the absolute minimum required. But, in attempting to become so prescriptive in BMPs and applying a “one-size-fits-all” approach, the State is really penalizing those businesses who have been implementing an effective program. Why should a business which has consistently had discharges below benchmarks and no history of non-compliance now be compelled to do more? This causes a good environmental player to be exposed for potential non-compliance; what if they forget to check the trash bin on Wednesday? Are they out of compliance? Did it really change the effectiveness of their program? If visual inspection and monitoring data indicate no problems, why should the business be compelled to inspect their forklifts weekly or their trash containers daily? It is another example of arbitrarily loading businesses with an unnecessary permit burden and exposing them to unnecessary violations.

4

The proposed permit requires two new certifications; a Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP). We understand the State Water Board’s desire to have persons who develop and implement SWPPPs to have a good working knowledge of the regulations and the principals involved including pollution prevention, source reduction, and treatment control. However, we are very much opposed to the way the State is attempting to accomplish this. In the Fact Sheet (page 15), the State Water Board writes, “*This General Permit **requires** dischargers to hire a Qualified SWPPP Developer (QSD) who has completed the statewide training protocol*”. Since when does a NPDES permit obligate a business to hire anyone; especially to prepare something as fundamental to the permit as a SWPPP? We understand the need to occasionally request the services of a laboratory, a biologist, or even an engineer. But to require a business to either hire a new employee or a consultant should not be mandated by the Water Board and is not consistent with how we operate in California. For example, a home owner can build a house without a contractor’s license as an “owner-builder” or sell his house without a realtor; or a person can choose to represent themselves at court. It is ridiculous and beyond reason to mandate a business owner to hire an outside party to write a SWPPP, when the owner is more than capable to read and understand the permit and knows his business operation and how to prevent pollutants better than anyone else.

WGR is also opposed to the extremely narrow QSD qualification requirements contained in this proposed permit. While we understand the need to involve a California professional civil engineer (PE) in some design aspects at certain facilities, it is our experience that the vast majority of facility

SWPPPs do not require that level of engineering oversight. The proposed permit also allows a California professional geologist or engineering geologist; a California registered landscape architect; or a professional hydrologist registered through the American Institute of Hydrology to qualify as a QSD. However, no other persons are qualified to be a QSD at an industrial facility. What in the professional background makes a geologist or landscape architect more qualified to write a SWPPP for an industrial site than other valid professions such as a chemist, chemical engineer, industrial hygienist, environmental scientist, or mechanical engineer? No rationale is provided by the permit or the fact sheet regarding the narrowness of the list of qualified professionals and why other professional backgrounds are excluded. Wouldn't a chemist or environmental scientist be far more qualified than a landscape architect to discuss pollution prevention and contaminants at an industrial site? WGR would like to see the State Water Board reconsider their QSD qualifications and open it up to any professional background relevant to identifying pollutants and assessing pollution prevention measures. The current list appears to be arbitrarily restrictive.

The proposed permit requires QSDs and QSPs to successfully complete a State Water Board sponsored or approved training course. This same process is currently being required of QSDs and QSPs under the Construction General Permit, where QSDs must pay \$300 – \$700 to attend a 3-day course; go to a Regional Water Quality Control Board office to take an exam and many times not be able to get an exam date for 30 to 90 days after the class; wait up to 8 weeks to get the exam results; and pay \$95 every two years to the California Stormwater Quality Association (CASQA). This process is proving to be very cumbersome and inefficient. Think about the amount of lost work time, labor costs and other expenses paid by company businesses to send an employee through this training. Surely, the State can come up with something better. If the objective is to educate personnel concerning the permit, why not have a low cost internet based video training module and an on-line proficiency test that facility personnel can view as their schedules allow? Do we have to burden California businesses with these extra costs?

There are many other issues and inconsistencies with the proposed permit. We will continue to bring these to your attention as we work through this permit renewal process. Please continue to check out the monthly Rain Events newsletter for updates on these and other issues.



March *STORM WATER CONTEST*

Try it out! You can win!

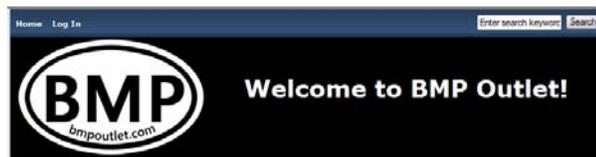
By March 31, submit a response for the following question by email to jteravskis@wgr-sw.com.

What is current due date for the annual storm water report and what is new proposed due date?

All persons submitting correct answers will be placed in a drawing. The winner will receive a \$25 eGiftCard to .

Announcing the New and Improved Webstore!

bmpoutlet.com has a new look with an easier to use menu and shopping cart. New storm water BMPs are being added nearly every week. Need some BMP ideas? How is your spill kit? Check out bmpoutlet.com !



Let's have a Green Tea Party!

Want to get involved but don't know how or what to say?

Log on to:

<http://cagreenteaparty.org/>

- Follow the issues with the proposed permit;
- Copy and paste prepared comment language on the issues for your own response letter;
- Get mailing and email instructions to submit comments;
- Join in on a blog discussion on the issues; or
- Post your own issues with the proposed permit.



Please contact us if you have any questions ...

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Bill Senner, bsenner@wgr-sw.com, (310) 629-5260

Happy St. Patrick's Day!
Not only the Irish are green.