

Industrial General Permit Amendment to incorporate Total Maximum Daily Load Implementation Language December 16, 2016

Talking Point 1

- Example 1
 - a. To make the assumption that the MS4 permit will handle compliance is incorrect
 - b. In the cases when the Bacteria TMDL is established can it require sampling?
 - c. Many sites don't think or realize that they are discharging bacteria.
 - i. Metal Recycling sites have bacteria higher than natural levels
 - ii. Understand that this is a flaw in the TMDL and hard to fix with the Industrial General Permit
 - d. If the TMDL does not specifically say that a facility is not a significant source then the assumption is that discharger may be a source and should be testing for bacteria. This could be the legal defense, if the TMDL is silent on the matter. This applies to the bacteria impaired water bodies
 - e. If an NGO/citizen sampling shows elevated levels of bacteria in impaired water bodies then we can show their BMPs are not working and BAT/BCT is not being met.
- Example 2
 - a. Concentration based and mass-based allocations are set in TMDL
 - b. If no waste load allocation is specified then the discharge amount should be zero. Especially if it is a direct discharge to a water body
- Example 3
 - a. Will there be a TMDL objective
 - b. If a value is set for hardness, look at historic values and pick the most conservative/protective.
 - c. Consider setting individual values for each discharger
 - d. Do not change the WQBELs in Los Pen and Chollas creek
 - e. Use Chollas Creek and Los Pen as models for TMDL incorporation
 - f. Absent a flexibility study use the WQBELs

Talking Point 2

- Discharger would be in violation of TMDL and water quality standard if they are at level 2 and compliance date has passed. The Regional Board could then have an enforcement action.
- Permits have been out since the 90's, don't think discharger should have more time to come into compliance. Allowing for more time will increase the load of the enforcement from Regional officers.
- Regional Board agrees that line should be clear and this will help draw out the bad actors.
- If an effluent limit is set for every pollutant then there would not be a need to rule out the blanket date for compliance

- Unclear why the Dischargers would go through a NAL first and then become a NEL?

Talking Point 3

- Model should be available to the public. Reminder that permittees see something different than what water board staff sees.
- Reduce the lag time between when monitoring report are inputted into system and what is available to the public.
- Add legal language along the lines of “under penalty of law” to the compliance reports. They should certify that they’re in compliance.

Talking point 5

None

Talking point 6

- Does the current permit require compliance with local ordinances?

Talking Point 7

- See some benefits to proposed plans
- San Diego Regional BMPs may not show compliance
- If BMPs are local then can have some benefits
- With changing land uses a Regional BMP may not work
- Small dismantlers may not be at a location for long due to high cost and establishing a BMP may not be the best idea for them
- How are you going to figure out how much each dismantler is contributing to each limit?
- Would Regional Board have to read and approve each storm event capture report?
- This may meet the BAT/BCT standard but not TMDL
- Need findings that this will equal compliance with TMDL
- Consider that not all professional engineers are reputable and Regional Board staff may not be able to review all applicants’ documentation.
- NGO’s will go straight for the facility’s site for point of compliance and won’t know there’s a regional BMP.