

State Water Board Resources Control Board Workshop  
Agenda Item #9

# Proposed Statewide NPDES Construction Stormwater General Permit Reissuance

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# Construction Stormwater Permitting Team

Division of  
Water Quality



# Permit Development Process

**Stakeholder outreach and focused meetings**

**Staff-level public workshops and Board public hearing**

**Numerous (10+) focused stakeholder meetings**

**Draft permit development**

**Staff-level public workshops**

**2017 - 2020**

**2020**

**May 2021**

**Summer 2021**

**Fall/Winter 2021/22**

**Staff issuance of informal permit**

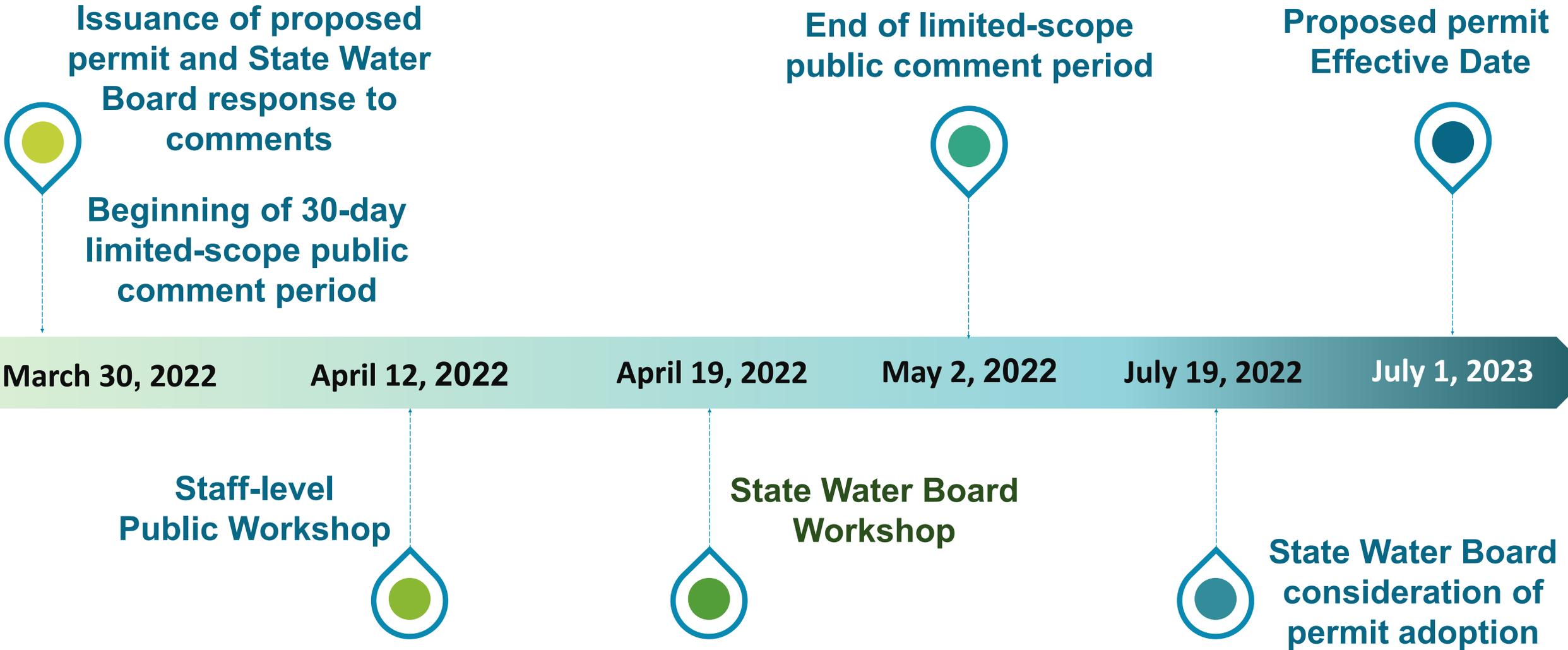
**Continued public workshops and focused meetings**

**Issuance of draft permit for public comments**

**Development of proposed permit**



# Continuing Proposed Permit Reissuance Process



# *Statewide Permit Background*

- The Clean Water Act requires NPDES permitting of construction stormwater discharges
- The State Water Board adopted the existing 2009 statewide NPDES permit
- The existing permit expired in 2014 and is administratively extended until permit reissued

# *Statewide Permit Reissuance*

- NPDES permits reissued on a 5-year cycle
- Reissuance incorporates:
  - Implementing statewide and regional water quality control plans (basin plans)
  - Implementation of existing Total Maximum Daily Loads (TMDL)
  - Implementation of state and federal regulations



# Existing Permit Implementation

## Obtain Permit Coverage

- Notice of Intent
- Risk Determination
- Stormwater Pollution Prevention Plan (SWPPP) Development

## Implementation

- Best management practices (BMPs)
- Monitoring
- Reporting
- Active Treatment System
- TMDLs adopted before 2009 (listed without specific requirements)

## Terminate Permit Coverage

- Post-construction BMPs
- Final site stabilization
- Notice of Termination

# *Proposed Permit vs. 2009 Existing Permit*

- Specific total maximum daily load implementation requirements
- Addition of passive treatment technology requirements
- Addition of Notice of Non-Applicability process in permit
- Revised Notice of Termination process
- Updated implementation of statewide water quality control plans
- New requirements for discharges from dewatering activities

# *Proposed Permit vs. 2009 Existing Permit*

- Added demolition activity requirements
- Implementation of new federal Sufficiently Sensitive Test Methods Rule
- Revised monitoring and reporting requirement
- Removal of bioassessment monitoring requirements
- Removal of rain event action plan requirements



# *Proposed Permit Effective Date – July 1, 2023*

- Permit requirements become effective for new projects
- Existing permit is rescinded except for existing projects and for enforcement purposes

# *Proposed Regulatory Transition Period for Existing Projects*

- New provision allowing existing projects to continue coverage under 2009 existing permit
  - Up to 3 years after proposed permit effective date (Up to June 30, 2026)
- Construction projects with issued waste discharge identification number after permit effective date are subject to reissued permit



# *Antidegradation Findings*

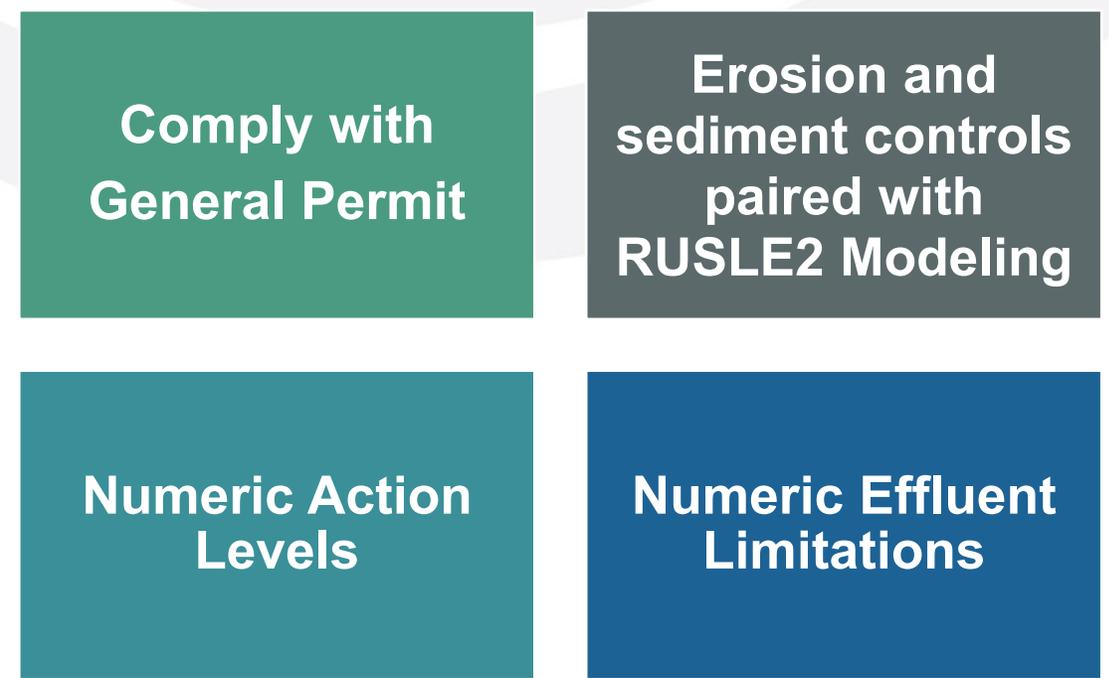
- The reissued permit protects the water quality level necessary to maintain existing and anticipated beneficial uses
- It is not expected that this permit will result in discharges that will degrade high-quality waters
- Any changes in water quality due to authorized discharges are consistent with antidegradation requirements

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# *Proposed Total Maximum Daily Load (TMDL) Implementation Summary*

- The proposed permit implements 69 existing TMDLs
  - Requirements do not apply to all dischargers
- Requirements fit withing four primary implementation categories
- Compliance with TMDL-related numeric action level and numeric effluent limitation
  - Site pollutant source assessment
  - Non-visible pollutant monitoring only if pollutant is present, and BMPs are breached, malfunction or fail, or a spill

## TMDL Implementation Categories





# *Changes to Previous Draft TMDL Implementation Requirements*

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- Clarified TMDL-related sampling, exceedances, and reporting requirements
- Added implementation of Santa Monica Bay Beaches Bacteria TMDL
- Modified nitrogen-based nutrient numeric effluent limitations to numeric action levels
  - Available best management practices to reduce nitrogen not appropriate for temporary construction sites

## *Changes to Previous Draft TMDL Implementation Requirements*

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- Proposed TSS numeric effluent limitations of 100 mg/L to implement two TMDLs
  - Certain metals
  - Organochlorine pesticide and PCB
- Soil screening analysis as part of pollutant source assessment

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# *Proposed Passive Treatment Requirements*



- Proposed requirements to regulate use of treatment chemicals outside of enclosed systems
- Revised list of authorized use of polyacrylamide treatment chemicals.
- Revised qualifications for trained person implementing passive treatment
- Office of Water Programs finalizing recommendations and validating tools for dosing and residual tests

# *Proposed Dewatering Requirements*

- Dischargers subject to another State or Regional Water Board permit for dewatering are not subject to Attachment J requirements.
- Dischargers are required to notify applicable Regional Water Board staff and municipal separate storm sewer system within 24 hours
- Dischargers are required to comply with receiving water limitations, best management practices, monitoring, and reporting
- Dewatering discharges (not construction operations) shall cease if dewatering discharges exceed pH or turbidity numeric action levels.



# *Proposed Inspections and Monitoring Requirements*

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- Precipitation forecast amounts, not accumulations, are now the basis for all storm-related inspections
- The permit includes longer timeframes for pre- and post-precipitation event inspections
- pH and turbidity daily averages are calculated per discharge location using a minimum of 3 samples
- Non-visible pollutant monitoring triggered by failure to implement BMPs or a BMP breach, failure, or malfunction



## *Modified Requirements for Qualified Stormwater Professionals*

- Qualified stormwater professionals are required to review new permit requirements when recertifying
- Qualified stormwater professionals are required to complete 6 hours of continuing education annually
- Qualified SWPPP Practitioners must train delegates according to their assigned tasks

# *New Requirements for Inactive Sites*

- Dischargers can reduce monitoring if construction activities discontinue
- Requires photos of temporary stabilization
- Includes sites that are inaccessible in winter



# Revising Coverage – Reducing Acreage

- Criteria for coverage termination for residential lots with unfinished landscaping areas:



- Home is sold to individual homeowners



- Lot is less than acre of disturbance



- Temporarily stabilization BMPs
- Contract to maintain until stabilized

# *Proposed Changes to Notice of Termination (NOT)*



- Final site map must contain key features (i.e., roadways, waterbodies).
  - Dischargers are no longer required to include elevation contours on its final site map.
- Revised 'final stabilization' definition to include non-vegetative methods.
- Clarification: 70% of natural conditions of the local *undisturbed* areas is acceptable in areas with naturally low vegetation (e.g., desert).

# *Proposed Notice of Non-Applicability (NONA)*

- The NONA option is only available for construction site locations not hydrologically connected to waters of the United States.
- A California licensed Professional Engineer and Geologist with relevant hydrologic expertise must prepare the 'No Discharge Technical Report'.
- Requirement for Regional Water Board Executive Officer concurrence prior to submitting a NONA, is removed.
- SMARTS will be updated to accept all necessary submissions by the effective date of the proposed permit.



# *Linear Underground/ Overhead Projects (LUP)*

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- Programmatic permitting now applies to all LUP risk types
  - Increased administrative efficiency
- Dischargers may delineate LUP segments by:
  - Contractor
  - Project phasing
  - Topography or watersheds, or
  - Jurisdictional boundaries.
- Regional Water Boards staff can require LUPs to comply with permit requirements for traditional construction projects



# Cost of Compliance

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- Commenters stated that the proposed permit will increase cost of compliance.
- Per State Water Board Resolution 2013-0029
  - Proposed requirements minimized to requirements necessary to protect beneficial uses of receiving waters
- Cost varies across all construction statewide
  - More costly permit requirements apply to a subset of projects only

# *Anticipated Cost of Compliance Impacts*

## **Increased Cost:**

- TMDL implementation requirements
- Passive treatment requirements
- Dewatering activity requirements
- Qualified stormwater professional inspections

## **Decreased Cost:**

- Notice of Non-Applicability criteria
- Notice of Termination
- Programmatic permitting
- Reducing acreage for individual residential lots
- Removal of Rain Event Action Plans
- Removal of bioassessment monitoring

# Cost of Compliance Estimate Comparison

Proposed Permit Requirement	Staff Estimated Annual Cost of 2009 Existing Permit	Staff Estimated Annual Cost of Proposed Permit	Building Industry Association Estimate of Proposed Permit	Linear Utility Stakeholder Group Estimate of Proposed Permit	Caltrans Estimate of Proposed Permit
<b>Stormwater Pollution Prevention Plan</b>	\$2,000	\$2,500	\$9,600	\$18,000	\$2,850
<b>Best Management Practice Installation</b>	Varies by project size	No significant change anticipated	\$224,592	\$2,851,940	1-3.5% project cost
<b>Best Management Practice Maintenance</b>	10% of best management practice installation cost	No significant change anticipated	(Included above)	Not applicable	(Included above)
<b>TMDL Implementation Requirements</b>	Not applicable	\$3,500-6,000	\$390,636	\$158,340	Not applicable

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<b>Weekly Inspections</b>	\$14-15,000 (208 hours at \$67-72 per hour)	\$14,500-16,000 (208 hours at \$70-75 per hour)	\$46,845	\$159,900	\$25,000 (estimate)
<b>Qualifying Precipitation Event Inspections/ Monitoring</b>	\$6,600-7,100 (98 hours at \$67-72 per hour)	\$5,600-6,000 (80 hours at \$70-75 per hour)	\$15,615	\$95,940	\$10,000
<b>Qualified SWPP Developers Inspections</b>	Not applicable	\$5,000-6,000 (50 hours at \$100-120 per hour)	\$15,615	\$18,300	Not applicable



Thank you!

Questions?