

Change Sheet # 1 for the National Pollutant
Discharge Elimination System (NPDES)
General Permit for Storm Water Discharges
Associated With Industrial Activities (Industrial
General Permit)

Changes in ~~double redline strike out~~ are **NEW deletions** since the Comment period that closed March 4, 2014.

Changes in double red underline are the **NEW additions** since the Comment period that closed March 4, 2014.

Changes in ~~redline strike out~~ are **previous deletions** made in response to Comments made on the 2013 draft Industrial General Permit and already identified in the February 19, 2014 version of the Industrial General Permit.

Changes in red underline are **previous additions** made in response to Comments made on the 2013 draft Industrial General Permit and already identified in the February 19, 2014 version of the Industrial General Permit.

Changes 1-8 are on the Fact Sheet for the Industrial General Permit

Change 1: On page 2 Section I.B of the Draft Fact Sheet, change the seventh bullet point as follows:

- Certify and submit all permit-related compliance documents via the Storm Water Multiple Application Reporting and Tracking System (SMARTS). Dischargers shall certify and submit these documents which include, but are not limited to, Permit Registration Documents (PRDs) including Notices of Intent (NOIs), No Exposure Certifications (NECs), and Storm Water Pollution Prevention Plans (SWPPPs), as well as Annual Reports, Notices of Termination (NOTs), Level 1 ERA Reports, and Level 2 ERA Technical Reports.

Change 2: On page 26 Section II.F of the Draft Fact Sheet, addition of a third paragraph as follows:

New Dischargers (as defined in Attachment C) applying for NOI coverage under this General Permit that will be discharging to an impaired water body with a 303(d) listed impairment are ineligible for coverage unless the Discharger submits data and/or information, prepared by a QISP, demonstrating that the facility will not cause or contribute to the impairment. Section VII.B of this General Permit describes the three different options New Dischargers have for making this determination. This General Permit requires a QISP to assist the New Discharger with this determination because individuals making this determination will need expertise in industrial storm water pollutant sources, BMPs and a thorough understanding of complying with U.S. EPA's storm water regulations and this General Permit's requirements. Not requiring New Dischargers to have a QISP assist in this demonstration would possibly lead to costly retrofits or closure of a new facility that has not demonstrated that the facility will not cause or contribute to the impairment.

Change 3: On page 28 Table 1 of the Draft Fact Sheet, addition of language as follows:

TABLE 1: Role-Specific Permit Requirements

Qualifications	Task
QISP	<u>Assist New Dischargers determine coverage eligibility for Discharges to an impaired water body.</u> Level 1 ERA Evaluation and report, Level 2 ERA Action Plan, and Technical Report, and the Level 2 ERA extension
California licensed professional engineer	Inactive Mining Operation Certification, SWPPPs for inactive mining, and annual re-certification of Inactive Mining Operation Certification, NONA Technical Reports, and Subchapter N calculations

Change 4: On page 29 Section II.I.1 of the Draft Fact Sheet, additional language added to the second paragraph as follows:

Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of this General Permit. Failure to maintain the SWPPP on-site and have it available for inspection is also a violation of this General Permit.

Dischargers are also required to submit their SWPPPs and any SWPPP revisions via SMARTS; accordingly, BMP revisions made in response to observed compliance problems will be included in the revised SWPPP electronically submitted via SMARTS. Dischargers are also required to submit their SWPPPs and any significant SWPPP revisions via SMARTS; accordingly, BMP revisions made in response to observed compliance problems will be included in the revised SWPPP electronically submitted via SMARTS. Not all SWPPP revisions are significant and it is up to the Dischargers to distinguish between revisions that are significant and those that are not significant. If no changes are made at all to the SWPPP, the Discharger is not required to resubmit the SWPPP on any specific frequency.

- Significant SWPPP Revisions: Dischargers are required to certify and submit via SMARTS their SWPPP within 30 days of the significant revision(s). While it is not easy to draw a line generally between revisions that are significant and those that are not significant, Dischargers are not required to certify and submit via SMARTS any SWPPP revisions that are comprised of only typographical fixes or minor clarifications.
- All Other SWPPP Revisions: Dischargers are required to submit revisions to the SWPPP that are determined to not be significant every three (3) months in the reporting year.

Change 5: On page 41 Section II.I.3 of the Draft Fact Sheet, new first paragraph added as follows (this also includes the addition of footnote 12 and 13):

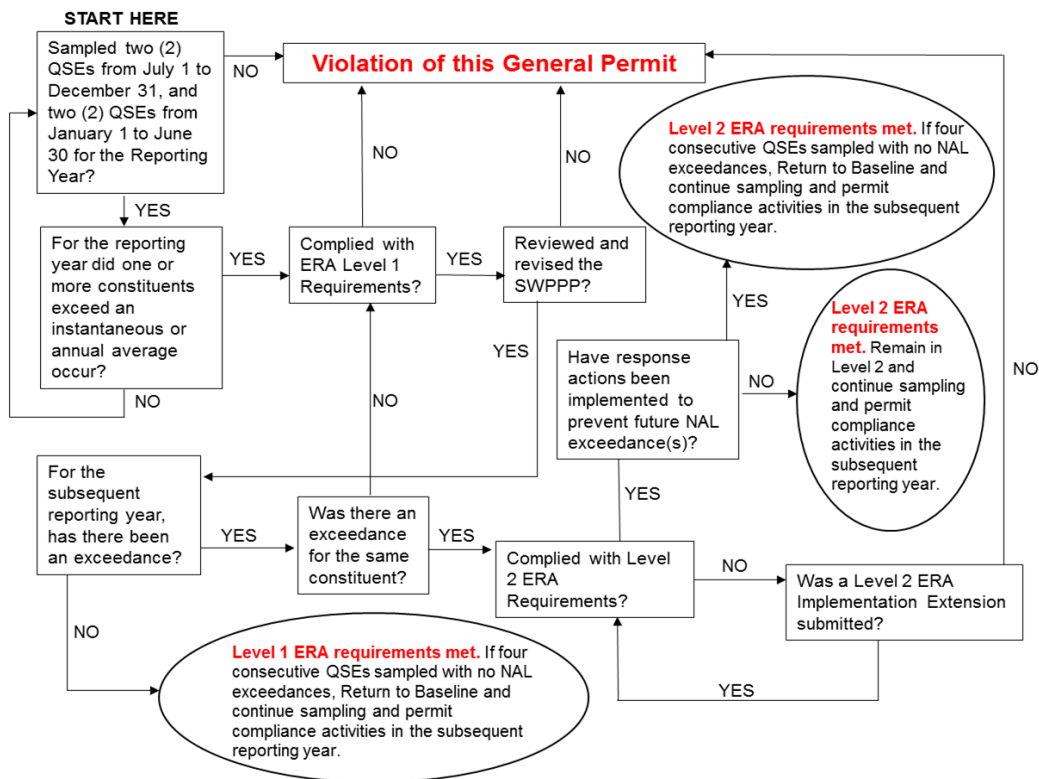
Dischargers should be aware of the potential unintended public health concerns associated with treatment control BMPs. Extensive monitoring studies conducted by the California Department of Public Health (CDPH) have documented that mosquitoes opportunistically breed in structural BMPs, particularly those that hold standing water for over 96 hours. BMPs that produce mosquitoes create potential public health concerns and increase the burden on local vector control agencies that are mandated to inspect for and abate mosquitoes and other vectors within their jurisdictional boundaries. These unintended consequences can be lessened when BMPs incorporate design, construction, and maintenance principles developed specifically to minimize standing water available to mosquitoes¹² while having negligible effects on the capacity of the structures to provide water quality improvements. The California Health and Safety Code prohibits landowners from knowingly providing habitat for or allowing the production of mosquitoes and other vectors, and gives local vector control agencies broad inspection and abatement powers¹³.

New Footnote 12: ¹² California Department of Public Health. (2012). Best Management Practices for Mosquito Control in California. < <http://www.westnile.ca.gov/resources.php>>. [as of February 4, 2014]

New Footnote 13: ¹³ California Health & Safety Code, Division 3, Section 2060 and following.

Change 6: On page 43 Figure 3 of the Draft Fact Sheet has been updated and replaced with the following:

FIGURE 1: Compliance Determination Flowchart



Change 7: On page 61 Section II.K.5.b of the Draft Fact Sheet, change made as follows:

- b. The Level 2 ERA Technical Report contains three different options that require a Discharger to submit demonstrations showing the cause of the NAL exceedance(s). This General Permit requires a Discharger to appoint a QISP to prepare the Level 2 ERA Technical Reports. The State Water Board acknowledges that there may be cases where a combination of the demonstrations may be appropriate; therefore a Discharger may combine any of the following three demonstration options in their Level 2 ERA Technical Report when appropriate. A Discharger is only required to annually update its Level 2 ERA Technical Report when necessary as defined in Section XII.D.3.c of this General Permit and is not required to annually re-certify and re-submit the entire Level 2 ERA Technical Report. If there are no changes prompting an update of the Level 2 ERA Technical Report, as specified in Section XII.D.3.c of this General Permit, the Discharger will provide this certification in the Annual Report that there have been no changes warranting re-submittal of the Level 2 ERA Technical Report.

Change 8: On page 65 Section II.M of the Draft Fact Sheet, change made to the fourth paragraph as follows:

The State Water Board believes that it is necessary for Compliance Group Leaders to have a higher level of industrial storm water compliance and training experience than the expectations of a ~~QSIP~~QISP. Many stakeholder comments on this General Permit suggested various certifications to provide this higher level of experience; however, the State Water Board believes a process similar to the Trainer of Record process for the Construction General Permit training program will develop Compliance Group Leaders with the appropriate level of experience to fulfill the necessary qualifications.

Change 9: On page 70 Section II.S.2.a of the Draft Fact Sheet, language added as follows:

- a. Engineered and constructed to contain all storm water associated with industrial activities from discharging to waters of the United States, including no discharge to groundwater that has a direct hydrologic connection to waters of the United States. The General Permit covers only dischargers who are required to obtain an NPDES permit under the CWA. Determining whether a discharge to groundwater has a direct hydrological connection to the waters of the United States will require a fact-specific inquiry including, but not limited to, the time and distance connecting the discharge to the surface waters, geology, and slope. (See e.g., Greater Yellowstone Coalition v. Larson (D.Idaho 2009) 641 F.Supp.2d 1120.).

Changes 10-23 are on the Order for the Industrial General Permit

Change 10: On page 3 Section I.A Finding 17 of the Draft Order, language added as follows:

17. This General Permit requires that the Discharger certify and submit all Permit Registration Documents (PRDs) for Notice of Intent (NOI) and No Exposure Certification (NEC) coverage via the State Water Board's Storm Water Multi-ple Application and Report Tracking System (SMARTS) website. Am(See Attachment D

for an example of the information required to be submitted in the PRDs via SMARTS can be found in Attachment D.) All other documents required by this General Permit to be electronically certified and submitted via SMARTS can be submitted by the Discharger or by a designated Duly Authorized Representative on behalf of the Discharger. Electronic reporting is required to reduce the state's reliance on paper, to improve efficiency, and to make such General Permit documents more easily accessible to the public and the Water Boards.

Change 11: On page 9 Section I.H Finding 50 of the Draft Order, language added as follows:

50. A QISP ~~is responsible for~~must assist the Discharger in completing the Level 1 status and Level 2 status ERA requirements as specified in Section XII of this General Permit. A QISP is also responsible for assisting New Dischargers that will be discharging to an impaired water body with a 303(d) listed impairment, demonstrate eligibility for coverage though preparing the data and/or information required in Section VII.B.

Change 12: On page 23 Section VII.B of the Draft Order, language added as follows:

B. New Dischargers applying for NOI coverage under this General Permit that will be discharging to ~~an impaired~~a water body with a 303(d) listed impairment are ineligible for coverage unless the Discharger submits data and/or information, prepared by a QISP, demonstrating that:

Change 13: On page 37 Section X.H.6 of the Draft Order, language added as follows:

6. Design Storm Standards for Treatment Control BMPs

All new treatment control BMPs employed by the Discharger to comply with Section X.H.2 Advanced BMPs and new sediment basins installed after the effective date of this order shall be designed to comply with design storm standards in this Section, except as provided in an Industrial Activity BMP Demonstration (Section XII.D.2.a). A Factor of Safety shall be incorporated into the design of all treatment control BMPs to ensure that storm water is sufficiently treated throughout the life of the treatment control BMPs. The design storm standards for treatment control BMPs are as follows:

Change 14: On page 39 Section XI.A.2.b of the Draft Order, language modified as follows:

~~b. Any Discharger shall ensure that visual observations and sampling of storm water discharges from employing volume-based or flow-based treatment BMPs and shall sample any bypass that occurs while the visual observations and sampling of storm water discharges are conducted at the same time.~~

Change 15: On page 46 Section XI.C.4.a of the Draft Order, language added as follows:

a. The Discharger may reduce the number of locations to be sampled in each drainage area (e.g., roofs with multiple downspouts, loading/unloading areas with multiple storm drains) if the industrial activities, BMPs, and physical

characteristics (grade, surface materials, etc.) of the drainage area for each location to be sampled are substantially similar to one another. To qualify for the Representative Sampling Reduction, RSR, the Discharger shall provide a Representative Sampling Reduction, RSR justification in the Monitoring Implementation PlanMIP section of the SWPPP.

Change 16: On page 47 Section XI.C.4.b.iii of the Draft Order, language added as follows:

- i. A description of the BMPs implemented in the drainage area;

Change 17: On page 47 Section XI.C.5.a of the Draft Order, language added as follows:

- a. The Discharger may authorize the laban analytical laboratory to combine samples of equal volume from as many as four (4) discharge locations if the industrial activities, BMPs, and physical characteristics (grade, surface materials, etc.) within each of the drainage areas are substantially similar to one another.

Change 18: On page 48 Section XI.C.5.b of the Draft Order, language added as follows:

- ii. A description of the BMPs implemented in the drainage area;

Change 19: On page 51 Section XII.C of the Draft Order, language added as follows:

C. Level 1 Status

A Discharger's Baseline status for any given parameter shall change to Level 1 status if sampling results indicate an NAL exceedance for that same parameter ~~in any subsequent reporting year~~. Level 1 status will commence on July 1 following the reporting year during which the exceedance(s) occurred.¹

Change 20: On page 52 Section XII.D of the Draft Order, language added as follows:

D. Level 2 Status

A Discharger's Level 1 status for any given parameter shall change to Level 2 status if sampling results indicate an NAL exceedance ~~in any subsequent reporting~~ year for ~~that~~ at ~~the same parameter~~ while the Discharger is in Level 1. Level 2 status will commence on July 1 following the reporting year during which the NAL exceedance(s) occurred.²

¹ For all sampling results reported before June 30th of the preceding reporting year. If sample results indicating an NAL exceedance are submitted after June 30th, the Discharger will change status once those results have been reported.

² For all sampling results reported before June 30th of the preceding reporting year. If sample results indicating an NAL exceedance are submitted after June 30th, the Discharger will change status once upon the date those results have been reported into SMARTS.

Change 21: On page 56 Section XII.D.3.c of the Draft Order, language added as follows:

- c. Dischargers with Level 2 status who have submitted the Level 2 ERA Technical Report are only required to annually update the Level 2 ERA Technical Report based upon additional NAL exceedances of the same parameter and same drainage area (if the original Level 2 ERA Technical Report contained an Industrial Activity BMP Demonstration and the implemented BMPs were expected to eliminate future NAL exceedances in accordance with Section XII.D.2.a.ii). facility operational changes, pollutant source(s) changes, and/or information that becomes available via compliance activities (monthly inspections visual observations, sampling results, annual evaluation, etc.). The Level 2 ERA Technical Report shall be prepared by a QISP and be certified and submitted via SMARTS by the Discharger with each Annual Report. If there are no changes prompting an update of the Level 2 ERA Technical Report, as specified above, the Discharger will provide this certification in the Annual Report that there have been no changes warranting re-submittal of the Level 2 ERA Technical Report.

Change 22: On page 71 Section XX.C.2.a of the Draft Order, footnote 25 added as follows:

- a. The facility shall is either be (1) engineered and constructed to have contained the maximum historic precipitation event (or series of events) using the precipitation data collected from the National Oceanic and Atmospheric Agency's website (or other nearby precipitation data available from other government agencies); or so that there will be no discharge of industrial storm water to waters of the United States, including no discharge to groundwater that has a direct hydrologic connection to waters of the United States²⁵; or,

New Footnote 25: ²⁵No discharge to groundwater that has a direct hydrological connection to waters of the United States shall mean that the discharger is not required to obtain an NPDES permit because there is no discharge to the waters of the United States, as defined by regulations and case law interpreting the scope of the Clean Water Act. (See, e.g., Greater Yellowstone Coalition v. Larson (D.Idaho 2009) 641 F.Supp.2d 1120.)

Change 23: On page 74-75 Section XXI.K.4 of the Draft Order changes are as follows:

C. Electronic Signature and Certification Requirements

1. LRP eligibility is as follows:

- a. For a corporation: by an authorized a responsible corporate officer. -For the purposes of this section, an authorized-responsible corporate officer means:

i. (a) a president, secretary, treasurer, or vice-president, ~~or other officer~~ of the corporation ~~with authority to execute documents on behalf in charge of the corporation pursuant to corporate bylaws a principal business function;~~ or board resolution; or

ii. (b) †The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility, † including having the

explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate ~~bylaws and by corporate resolution;~~ procedures.

- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively, ~~that is authorized to execute legally binding documents on behalf of the partnership or sole proprietorship (as the case may be) in accordance with the entity's governing documents; or,~~
- c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official ~~that possesses signatory authority of the governmental agency at issue. This includes principal executive officer of a federal agency includes~~ the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA).

Changes 24-27 are on the Attachments and Appendices for the Industrial General Permit

Change 24: On page 1 Attachment D is as follows:

This Attachment provides an example of the information Dischargers are required to submit in the PRDs via the Storm Water Multi-ple Application Reporting Tracking System (SMARTS). The actual PRD requirements are in Section II of this General Permit.

Change 25: On page 2 Attachment E (List Of Total Maximum Daily Loads (TMDLs) Applicable To Industrial Storm Water Dischargers) is as follows:

San Diego Regional Water Quality Control Board	
Chollas Creek	Diazinon
Chollas Creek	Copper, Lead, and Zinc
Los Peñasquitos Lagoon	Sediment
Rainbow Creek	Total Nitrogen and Total Phosphorus
<u>Shelter Island Yacht Basin</u>	<u>Dissolved Copper</u>
<u>Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in SD Bay</u>	<u>Indicator Bacteria</u>
<u>Twenty Beaches and Creeks</u>	<u>Indicator Bacteria</u>

**04/01/14 BD MEETING – ITEM #8
CHANGE SHEET #1 (CIRCULATED 3/27/14)**

Change 26: On page 2 Attachment H Item 7(Sample Collection and Handling Instructions) changes are as follows:

The Discharger can only use automatic sampling device to sample parameters that the device is designed to. For pH, Dischargers can only use automatic sampling devices with the ability to read pH within 15 minutes of sample collection.

Change 27: On page 1 Appendix 3 (Waterbodies With Clean Water Act Section 303(D) Listed Impairments) changes are as follows:

The 303(d) impairments below are sourced from the 2010 Integrated Report. The rows in red are impairments for which industrial storm water Dischargers subject to this General Permit are not required to analyze for additional parameters unless directed by the Regional Water Board, because these parameters are typically not associated with industrial storm water. Test methods with substantially similar or more stringent method detection limits may be used if approved by the staff of the State Water Board prior to sampling and analysis and upon approval , will be added into SMARTS. The rows that are not in red are impairments for which Dischargers in the 303(d) impaired watershed are required to analyze for additional parameters, if applicable, because these parameters are more likely to be associated with industrial storm water. See General Permit Section XI.B.6.e. In the event that any of the impairments in this appendix are subsequently delisted, the Dischargers with discharges ~~into~~ that watershed are no longer required to analyze for the additional parameters for those impairments, and the provisions for new Dischargers with discharges ~~into~~ 303(d) impaired water bodies contained in Section VII.B of this General Permit no longer apply for those impairments.