

# **LAHONTAN REGIONAL WATER QUALITY CONTROL BOARD**

## **STATEMENT OF BASIS (PROPOSED)**

### **UPDATED GENERAL INDUSTRIAL STORM WATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND WASTE DISCHARGE REQUIREMENTS**

#### **FOR**

### **DISCHARGES OF RUNOFF ASSOCIATED WITH MARINAS AND MAINTENANCE DREDGING IN THE LAKE TAHOE HYDROLOGIC UNIT EL DORADO AND PLACER COUNTIES**

#### **BACKGROUND**

In 1987, the amendments to the Clean Water Act established a framework for regulating industrial stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) Program. In 1990, the U.S. Environmental Protection Agency published final regulations which required stormwater associated with industrial activity that discharges either directly to surface waters or indirectly through municipal separate storm sewers to be regulated by an NPDES permit. These final regulations also authorized states to issue general or individual permits to regulate stormwater discharges. As such, in 1991, the State Water Resources Control Board (SWRCB) adopted the Industrial Activities Stormwater General Permit (General Permit). Facilities covered under this General Permit include facilities conducting industrial activities such as marinas that conduct vessel maintenance, boat washing, and/or vessel fueling. In 1997, the SWRCB replaced this General Permit with an updated Industrial Activities General Permit. Marinas in the Lake Tahoe Basin that conducted vessel maintenance, boat washing, and vessel fueling were required to comply with this Industrial Activities Marina General Permit and its monitoring and reporting requirements.

As early as 1988, the Regional Board had established waste discharge requirements (WDRs) which included monitoring and reporting requirements for all marinas in the California side of Lake Tahoe. The intent of the WDRs was to (1) regulate potential pollution discharges associated with the operation and maintenance of the marina, (2) require marina operators to install and maintain sewage pumpout facilities pursuant to the Harbors and Navigation Code, and (3) design, install, and maintain best management practices (BMPs) related to stormwater runoff collection, pretreatment, and/or infiltration capable of treating a discharge from a 20-year, 1-hour design storm from all impervious surfaces.

Complying with two separate but similar permits, the Industrial Marina General Permit and WDRs, and their respective monitoring and reporting requirements, was complicated and costly for most marina operators. Since several of the marinas in the Lake Tahoe Basin were regulated by both the Industrial General Permit and individual WDRs the Regional Board combined the requirements into one permit that would be more manageable for the regulated community and Regional Board Staff.

In May 2000, the Regional Board adopted the NPDES Marina General Permit for Discharges of Stormwater Runoff Associated with Industrial Activities and Maintenance Dredging at Marinas in the Lake Tahoe Basin (Marina General Permit-Board Order 6-00-36). The Marina General Permit expires five years after its adoption date and is thus due for renewal.

This updated Marina General Permit requires all Dischargers to:

1. develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that specifies BMPs that will prevent industrial pollutants from contacting stormwater,
2. eliminate or reduce nonstormwater discharges to storm sewer systems and other waters of the nation,
3. implement BMPs to control discharges of non-point source pollutants associated with fueling, sewage and bilge pump-out activities, and sunken vessels,
4. perform inspections of all BMPs,
5. conduct stormwater sampling and analysis including testing for facility-specific pollutants,
6. prepare and implement a SWPPP that incorporates minimum BMPs and facility-specific BMPs, and
7. identify and implement corrective actions if monitoring indicates water samples contain constituents that exceed established USEPA benchmark values and/or stormwater effluent limits.

The updated Marina General Permit will allow Dischargers to:

1. apply for permit coverage to conduct complex maintenance dredging that may involve one or all of the following: (1) temporary onsite storage of dredged spoils, (2) onsite dewatering of dredged spoils, (3) use of a flocculant for settling solids, (4) beach replenishment, (5) fill below the highwater line of Lake Tahoe and/or (6) discharge of decant water to a surface water.
2. evaluate whether to incorporate beach replenishment into a dredging project if monitoring indicates the material is appropriate for replenishment purposes and the area to be replenished is being eroded and needs a protective sediment layer.
3. apply for permit coverage to conduct simple maintenance dredging over a five-year period provided all of the following criteria are met: (1) no temporary onsite storage of spoils, (2) no onsite dewatering of dredged spoils, (3) no use of a flocculant for settling spoils, (4) no discharge of decant water to a surface water, and (5) no beach replenishment.

#### **TYPES OF INDUSTRIAL ACTIVITY AND MAINTENANCE DREDGING PROJECTS COVERED BY THIS MARINA GENERAL PERMIT**

The Marina General Permit regulates stormwater discharge pollutants from marina industrial activities (fueling, boat and vehicle maintenance, boat and vehicle washing, etc.) to surface waters within the Lake Tahoe Hydrologic Unit (Department of Water Resources Hydrologic Unit (HU) No. 634.00); stormwater discharges which are determined eligible for coverage under the Marina General Permit by the Regional Board, and discharges associated with maintenance dredging. Maintenance dredging is defined as the dredging of areas that previously have been dredged to maintain authorized lake bottom elevations.

## **TYPES OF DISCHARGES NOT COVERED BY THIS MARINA GENERAL PERMIT**

The Marina General Permit does not cover industrial activities taking place at facilities other than marinas. The Marina General Permit does not cover new dredging projects that go beyond the limits of maintenance dredging and previously authorized lake bottom elevations.

## **NOTIFICATION REQUIREMENTS**

The Marina General Permit will require marina operators to submit a Notice of Intent (NOI), a SWPPP or a BMP Plan, a Monitoring and Reporting Program, and a filing fee to the Regional Board.

For private, public, or other legal entities (e.g., lakefront homeowner associations) conducting maintenance dredging, the Marina General Permit will require the Discharger to submit an NOI, a detailed project description, a Best Management Practices Plan, and a filing fee to the Regional Board. The Discharger will also need to conduct the monitoring required before, during, and after the dredging project.

Dischargers that are already covered under the previous Marina General Permit (Board Order 6-00-36) shall (1) continue to implement their existing SWPPP and Monitoring Program for the 2005 operating season, (2) submit a new NOI to the Regional Board by **November 15, 2005** only if facility information (marina ownership) has changed since the last NOI was filed, (3) submit a revised SWPPP that includes the required minimum BMPs, facility-specific BMPs, and non-point source BMPs to address discharges of fuel and sewage to the Regional Board by **November 15, 2005**, (4) submit a revised Monitoring and Reporting Program to the Regional Board by **November 15, 2005**, and (5) implement the revised SWPPP and Monitoring Program during the 2006 operating season.

The NOI, revised SWPPP, and revised Monitoring Program must be sent to the following address:

Lahontan Regional Water Quality Control Board  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150

The total annual fee is \$830; the fee includes the current base fee (\$700) plus 18.5 % surcharge (\$130). The fee may be adjusted by the State Water Resources Control Board.

When a dredging project is complete or ownership of the marina has been transferred, Dischargers shall file a Notice of Termination with the Regional Board certifying that all State and local requirements have been met. Dischargers who fail to obtain coverage under this Marina General Permit for stormwater discharges to surface waters will be in violation of the CWA and the California Water Code.

## **DESCRIPTION OF MARINA GENERAL PERMIT CONDITIONS**

The following is a brief description of the major provisions of the Marina General Permit and the basis for the Marina General Permit.

### **Prohibitions**

This Marina General Permit authorizes stormwater and authorized non-stormwater discharges from facilities that are required to be covered by a stormwater permit. This Marina General

Permit prohibits discharges of material other than stormwater (non-stormwater discharges) that are not authorized by this Marina General Permit and discharges containing hazardous substances in stormwater in excess of reportable quantities established at 40 CFR 117.3 and 40 CFR 302.4. Authorized non-stormwater discharges are addressed in Section IV (Page 16) of the Marina General Permit. In addition, this Marina General Permit contains provisions that uphold discharge prohibitions contained in the *Water Quality Control Plan for the Lahontan Region* (Basin Plan).

#### Effluent Limitations

NPDES permits for stormwater discharges must meet all applicable provisions of Sections 301 and 402 of the CWA. These provisions require control of pollutant discharges using best available technology economically feasible (BAT) and best practicable control technology currently achievable (BCT) to prevent and reduce pollutants and any more stringent controls necessary to meet water quality standards. This Marina General Permit requires Dischargers to reduce or prevent the discharge of pollutants in stormwater by developing and implementing BMPs that constitute compliance with BAT/BCT.

Stormwater Effluent Limits. Pollutants associated with industrial activities that cause or contribute to a violation of stormwater effluent limits must be corrected immediately. For the Lake Tahoe Region, specific stormwater effluent limitations have been established and are prescribed in the Basin Plan and outlined in Section II., A.,1. of the Marina General Permit. If monitoring data indicate that levels of constituents exceed the stormwater effluent limits, the Discharger is required to identify and implement corrective actions to prevent or reduce pollutants from entering stormwater at the site. The Regional Board may require the Discharger to conduct further investigation to determine and eliminate the circumstances and the sources that contributed to the violation.

USEPA Benchmarks. USEPA has found that it is appropriate to require implementation of BMPs to meet BAT/BCT in lieu of numeric effluent limitations (40 CFR 122.44(k)). However, USEPA also established “benchmarks” which are the pollutant concentrations above which USEPA determined could be an indicator that the Discharger has not effectively developed and implemented a SWPPP to reduce or eliminate pollutants in stormwater discharge to meet BAT/BCT. The benchmarks are generic and not intended to be numeric limits or protective of any particular receiving water. These limits can generally be viewed as representative of what is minimally achievable through a SWPPP that is properly developed and implemented.

Under the Marina General Permit, if monitoring data indicate that stormwater pollutant concentrations exceed one or more of the USEPA benchmarks, the Discharger is required to identify and implement corrective actions to prevent or reduce pollutants from entering stormwater at the site. The Regional Board may require the Discharger to conduct further investigation to determine and eliminate the circumstances and the sources that contributed to the violation.

#### Minimum BMPs

Dischargers are required to implement an effective suite of BMPs that meet the BAT/BCT standard for their facility. Section II.R. of this Marina General Permit establishes the requirement that Dischargers must include specific minimum BMPs in their SWPPP and implement these at their facilities. The minimum BMPs required under the Marina General Permit are generally applicable and necessary at all industrial facilities. The minimum BMPs are consistent with the types of BMPs normally found in properly developed SWPPPs and, in most cases, should represent a significant portion of a Discharger’s BAT and BCT compliance.

In order to achieve BAT and BCT, in addition to the minimum BMPs, the Discharger is responsible to implement additional facility-specific BMPs if needed that are based on the type of industry and facility-specific conditions.

These minimum BMPs, together with the more comprehensive facility-specific BMPs, constitute compliance with BAT/BCT. All Dischargers must evaluate their facility's to determine the best practices to use to implement these minimum BMPs and the additional, facility-specific BMPs. By requiring minimum BMPs, the number of compliance violations identified during Regional Board inspections should be reduced.

Failure to implement any of these minimum BMPs, unless it can be clearly demonstrated that they are not applicable to the facility is a violation of the Marina General Permit. The failure to implement facility-specific BMPs that are necessary to achieve compliance with BAT/BCT and to meet applicable water quality standards is a violation of this Marina General Permit

#### Stormwater Pollution Prevention Plan (SWPPP)

This Marina General Permit requires the Discharger to prepare, implement, and update as needed a SWPPP that employs minimum and facility-specific BMPs and non-point source BMPs to control discharges of fuel and sewage. The SWPPP emphasizes the use of appropriately selected, correctly installed and maintained pollution reduction BMPs. All Dischargers shall prepare and submit the SWPPP for Regional Board review and approval at a public meeting. The failure to maintain the SWPPP on site and have it available during inspections is a violation of this Marina General Permit.

Implementation of the SWPPP shall reduce and eliminate the presence of industrial pollutants associated with marinas from entering stormwater. The SWPPP shall include and Dischargers shall implement the following minimum BMPs at the facility unless clearly inapplicable to the facility: 1) Good Housekeeping, 2) Preventive Maintenance, 3) Spill Response, 4) Material Handling/Waste Management, 5) Employee Training Program, 6) Record Keeping and Quality Assurance, 7) Erosion/Sediment Control, and 8) Visual Inspections of the facility. (Refer to Attachment D for more details on how to incorporate minimum BMPs into the facility's SWPPP.)

The SWPPP must identify and detail stormwater pollution prevention measures that will be implemented on site. The proposed pollution control measures must be adequate to reduce pollutants (associated with industrial activities that occur at the facility) in stormwater discharges, to levels that are in compliance with effluent limits contained in the Marina General Permit.

A major element of the SWPPP is identification and elimination of unauthorized non-stormwater discharges. Unauthorized non-stormwater discharges can contribute a significant pollutant load to receiving waters. Measures to control spills, leakage, and dumping can often be addressed through BMPs. Unauthorized non-stormwater discharges can be generated from various pollutant sources. Depending upon their quantity and location where generated, unauthorized non-stormwater discharges can discharge to the storm drain system either during dry weather, or during a storm event (co-mingled with stormwater discharge). They can consist of (1) waters generated by the rinsing or washing of vehicles, equipment, buildings, or pavement; and (2) fluid, particulate or solid materials that have spilled, leaked, or disposed of improperly.

Some non-stormwater discharges are not directly related to industrial activities and do not normally contain pollutants when properly managed. Section IV, Page 16 of the Marina General

Permit lists non-stormwater discharges that are authorized by this Marina General Permit when certain described conditions are satisfied by the Dischargers.

This Marina General Permit requires Dischargers to conduct monthly visual inspections of the facility to determine whether the SWPPP is effective at achieving compliance with the Marina General Permit. If monitoring data indicate Stormwater Effluent Limits and/or USEPA benchmark criteria for indicator parameters are being exceeded, the Discharger shall also identify and implement corrective actions to prevent or reduce pollutants from entering stormwater at the site. The Regional Board may require the Discharger to conduct further investigation to determine and eliminate the circumstances and the sources that contributed to the violation.

Revisions of the SWPPP are required to address any physical or operational changes at the facility.

If the facility's SWPPP is revised, the Marina General Permit will be reopened and the new terms of the SWPPP will be incorporated into the permit at a Regional Board public meeting.

#### Monitoring Program for the Long-Term Operation and Maintenance of the Marina

Dischargers are required to conduct specific water quality sampling and analysis, visual inspections, annual compliance site evaluations, and to submit an Annual Report by **November 15** of each year. The Annual Report covers the reporting period of November 1-October 31.

The Marina General Permit complies with 40 CFR 122.44(i)(3) and (4), which establish minimum monitoring requirements that must be included in stormwater permits. The minimum Federal monitoring requirements require the Discharger to:

1. conduct an annual comprehensive facility compliance evaluation to identify areas of the facility contributing pollutants to stormwater discharges,
2. evaluate whether BMPs to reduce industrial pollutant loads identified in the Discharger's SWPPP are adequate and properly implemented in accordance with the terms of the Marina General Permit, and
3. determine whether additional control measures are needed.

The Marina General Permit contains additional monitoring requirements that exceed the federal minimum monitoring requirements. These requirements are necessary to ensure that Dischargers evaluate BMP effectiveness and permit compliance, determine whether pollutants are being discharged, and assist in determining the need for corrective actions. The Marina General Permit requires Dischargers to perform a variety of visual observations designed to identify sources of pollutants. Visual observation requirements include:

1. monthly visual observations of authorized and unauthorized non-stormwater discharge,
2. visual observations of stormwater discharges during four storm events per operating season, and
3. pre-storm facility visual observations.

This Marina General Permit includes sampling and analysis for:

1. the minimum indicator parameters: pH, Total Suspended Solids (TSS), Specific Conductance, Oil and Grease, Turbidity, Total Nitrogen as N, and Total Phosphorus as P, and
2. facility-specific analytical parameters that, for marinas, include Aluminum (Al), Iron (Fe), Lead (Pb), and Zinc (Zn).

This Marina General Permit contains benchmark criteria established by the USEPA for the indicator parameters and facility-specific pollutants (Table 1, Page 11 of the Monitoring and Reporting Program). This Marina General Permit also incorporates Stormwater Effluent Limits (Table 1, Page 11 of the Monitoring and Reporting Program) established for Lake Tahoe as prescribed in the Basin Plan. If monitoring data indicates Stormwater Effluent Limits and/or USEPA benchmark criteria for indicator parameters are being exceeded, the Discharger shall identify and implement corrective actions to prevent or reduce pollutants from entering stormwater at the site. The Regional Board may also require the Discharger to conduct further investigations to identify and eliminate the circumstance and the sources that have contributed to the violation.

#### Monitoring Program for the Maintenance Dredging Projects

Dischargers are required to conduct:

1. pre-project water and substrate sampling.
2. pre-project substrate sampling of the dredged material and beach replenishment area only if the project involves using all or a portion of the dredged spoils for beach replenishment.
3. sampling during the dredging operation that includes turbidity measurements, visual inspections, and daily written logs.
4. sampling prior to the removal of any in-lake containment structure, if installed.

#### Records Retention

The Discharger is required to retain records of all monitoring information, copies of all reports required by this Marina General Permit, and records of all data used to complete the NOI for all construction activities to be covered by the Marina General Permit for a period of at least five years from the date generated. This period may be extended by Regional Board request.