

C. NON-STORM WATER DRY WEATHER ACTION LEVELS

1. Each Copermittee, beginning no later than ~~May 1, 2011~~ the one year following adoption of this Order, shall implement the non-storm water dry weather action level (NAL) monitoring as described in Attachment E of this Order.
2. In response to an exceedance of a NAL, each Copermittee must investigate and identify the source of the exceedance in a timely manner. However, if any Copermittee identifies exceedances of NALs that prevent them from adequately conducting source investigations in a timely manner, then the Copermittees may submit a prioritization plan and timeline that identifies the timeframe and planned actions to investigate and report their findings on all of the exceedances. Following the source investigation and identification, the Copermittees must submit an action report dependant on the source of the pollutant exceedance as follows:
 - a. If the Copermittee identifies the source of the exceedance as natural (non-anthropogenically influenced) in origin, and in conveyance into the MS4; then the Copermittee shall report their findings and documentation of their source investigation to the Regional Board within fourteen days of the source identification.
 - b. If the Copermittee identifies the source of the exceedance as an illicit discharge or connection, then the Copermittees must eliminate the discharge to their MS4 and report the findings, including any enforcement action(s) taken, and documentation of the source investigation to the Regional Board within fourteen days of the source identification. If the Copermittee is unable to eliminate the source of discharge within fourteen days, then the Copermittee must submit, as part of their action report, their plan and timeframe to eliminate the source of the exceedance. Those dischargers seeking to continue such a discharge must become subject to a separate NPDES permit prior to continuing any such discharge.
 - c. If the Copermittee identifies the source of the exceedance as an exempted category of non-storm water discharges, then the Copermittees must determine if this is an isolated circumstance or if the category of discharges must be subsequently addressed through the prevention or prohibition of that category of discharge as an illicit discharge. The Copermittee must submit their findings including a description of the steps taken to address the discharge and the category of discharge, to the Regional Board for review with the next subsequent annual report. Such description shall include relevant updates to or new ordinances, orders, or other legal means of addressing the category of discharges. The Copermittees must also submit a summary of their findings with the Report of Waste Discharge.

- d. If the Copermittee identifies the source of the exceedance as a non-storm water discharge in violation or potential violation of an existing separate NPDES permit (e.g. the groundwater dewatering permit), then the Copermittee must report, within three business days, the findings to the Regional Board including all pertinent information regarding the discharger and discharge characteristics.
- e. If the Copermittee is unable to identify the source of the exceedance after taking and documenting reasonable steps to do so, then the Copermittee must identify the pollutant as a high priority pollutant of concern in the tributary subwatershed, perform additional focused sampling and update their programs within a year to reflect this priority. The Copermittee's annual report shall include these updates to their program including, where applicable, updates to their watershed workplans (Section G.2), retrofitting consideration (Section F.3.d) and program effectiveness work plans (Section J.4).

f. The Copermittees, or any interested party, may evaluate existing NALs and propose revised NALs for future Board consideration.

~~f. If any Copermittee identifies a significant number of exceedances of NALs that prevent them from adequately conducting source investigations in a timely manner, then the Copermittees may submit a prioritization plan and timeline that identifies the timeframe and planned actions to investigate and report their findings on all of the exceedances.~~

- 3. An exceedance of an NAL does not alone constitute a violation of the provisions of this Order, but an exceedance of an NAL may indicate lack of compliance with the requirement that Copermittees effectively prohibit all types of unauthorized non-storm water discharges into the MS4 or other prohibitions set forth in Sections A and B of this Order. Failure to timely implement required actions specified in this Order following an exceedance of an NAL constitutes a violation of this Order. However, neither compliance with NALs nor compliance with required actions following observed exceedances, excuses any non-compliance with the requirement to effectively prohibit all types of unauthorized non-storm water discharges into the MS4s or any non-compliance with the prohibitions in Sections A and B of this Order. NALs provide an assessment of the effectiveness of the prohibition of non-storm water discharges and of the appropriateness of exempted non-storm water discharges. During any annual reporting period in which one or more exceedances of NALs have been documented the Copermittee must submit with their next scheduled annual report, a report describing whether and how the observed exceedances did or did not result in a discharge from the MS4 that caused, or threatened to cause or contribute to a condition of pollution, contamination, or nuisance in the receiving water.

Attachment E: Monitoring and Reporting

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Each Copermittee must collaborate with the other Copermittees to conduct, and report on a year-round watershed based Dry Weather Non-storm Water MS4 Discharge Monitoring Program. The monitoring program implementation, analysis, assessment, and reporting must be conducted on a watershed basis for each of the hydrologic units. The monitoring program must be designed to assess compliance with non-storm water dry weather action levels in section C of this Order, adopted dry weather Total Maximum Daily Loads Waste Load Allocations and assessment of the contribution of dry weather flows to 303(d) listed impairments. The monitoring program must include the following components;

c. Conduct Dry Weather Non-storm Water Effluent Analytical Monitoring

The Copermittees must commence implementation of dry weather effluent analytical monitoring under the requirements of this Order no later than May 1, 2011. ~~one year following adoption of this Order.~~ If monitoring indicates an illicit connection or illegal discharge, conduct the follow-up investigation and elimination activities as described in submitted dry weather field screening and analytical monitoring procedures and found in sections C, F.4.d and F.4.e of Order No. R9-2009-0002.

Until the dry weather non-storm water effluent analytical monitoring program is implemented under the requirements of this Order, each Copermittee must continue to implement dry weather field screening and analytical monitoring as it was most recently implemented pursuant to Order No. 2002-01.