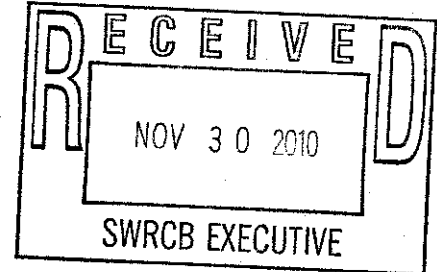




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November 30, 2010

Charles Hoppin, Chair and Board Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
c/o Jeanine Townsend, Clerk of the Board

VIA ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Re: Comment Letter – Effectiveness Assessment Document

Dear Chair Hoppin and Board Members:

The California Coastkeeper Alliance welcomes this opportunity to comment on the draft “Guidance for Assessing the Effectiveness of Municipal Storm Water Programs and Permits” (Effectiveness Assessment Document). CCKA was a member of the Stormwater Advisory Task Force set up by AB 739 (Laird), which called for the development of the Effectiveness Assessment Document. CCKA reviewed and provided input on early drafts of this Document. CCKA also provided oral input at the November 4, 2010 Workshop on the Document.

In brief, CCKA appreciates the staff’s hard work on the Document. It provides some useful information in terms of reviewing permit implementation and results. In order to be effective guidance both to the Regional Water Quality Control Boards (Regional Boards) and to other decisionmakers, though, we believe that additional specifics and detail should be provided on: (a) the process for using the Guidance in setting permit requirements (as called for by Water Code Section 13383.7) and (b) the state’s intent to set and track specific (*i.e.*, numeric) requirements, which are needed to achieve and maintain water quality standards. With respect to the latter point, we recommend that the Guidance incorporate the U.S. EPA’s direction in its November 12, 2010 Memorandum on setting numeric benchmarks in stormwater permits (attached and described below).

First, the process for using the Effectiveness Assessment Document as guidance remains unclear. Water Code Section 13383.7(c) states that:

The state board and the regional boards shall refer to the guidance document developed pursuant to subdivision (a) when establishing requirements in municipal stormwater programs and permits.

As regulated community representatives at the November 4th hearing noted, the Effectiveness Assessment Document would be significantly more useful if it provided more specific guidance than the general descriptors in the text and the example permit language offered in the appendices. We agree that more detail and direction needs to be given to the Regional Boards, including direction on how to prioritize staffing efforts to maximize permit effectiveness assessments in the face of limited resources.

To achieve this goal and provide greater direction to the Regional Boards, we recommend that the Effectiveness Assessment Document clearly emphasize the state's top priority of ensuring that stormwater controls lead to compliance with water quality objectives. In particular, the Document should set a course for developing and incorporating numeric effluent limits into stormwater permits, so that the effectiveness of permit requirements can be most accurately tracked and assessed. This is consistent with AB 739, which reads:

Water Code Sec. 13383.7. (a) No later than July 1, 2009, and after holding public workshops and soliciting public comments, the state board shall develop a comprehensive guidance document for evaluating and measuring the effectiveness of municipal stormwater management programs undertaken, and permits issued, in accordance with Section 402(p) of the Clean Water Act (33 U.S.C. Sec. 1342(p)) and this division.

(b) For the purpose of implementing subdivision (a), the state board shall promote the use of quantifiable measures for evaluating the effectiveness of municipal stormwater management programs and provide for the evaluation of, at a minimum, all of the following:

- (1) Compliance with stormwater permitting requirements, including all of the following:
 - (A) Inspection programs.
 - (B) Construction controls.
 - (C) Elimination of unlawful discharges.
 - (D) Public education programs.
 - (E) New development and redevelopment requirements.
- (2) Reduction of pollutant loads from pollution sources.
- (3) Reduction of pollutants or stream erosion due to stormwater discharge.
- (4) Improvements in the quality of receiving water in accordance with water quality standards.

(Emphasis added.)

AB 739 places significant emphasis on using "quantifiable measures" to track permit effectiveness, including permit effectiveness in "[i]mprov[ing] . . . the quality of receiving water in accordance with water quality standard." AB 739's emphasis on "quantifiable" goals and assessment measures is consistent with state and federal movement toward numeric effluent limits, which provide greater certainty in assessing impacts both of pollution and controls. For example, the CalEPA Enforcement Initiative found that:

one of the greatest difficulties faced by enforcement staff is complicated, ambiguous and/or poorly written permits or multiple, conflicting and confusing regulatory requirements that are unenforceable. Permit requirements must be unambiguous. They should be written in

such a way that they are clear, easy to understand, and determining compliance is simple. Similarly, the enforcement consequences for violation should be clear.¹

The current lack of clarity and objectivity in stormwater permits impacts their implementation and enforcement, both of which have unnecessarily become extremely resource-intensive. Straightforward requirements – such as numeric limits – will lend themselves to straightforward enforcement and conserve valuable staff resources. For this reason, CalEPA recommended that:

Where appropriate to achieve water quality protection, numeric limits based on sound science should be incorporated into permits that define the allowable discharge or pollutants that the Boards determine are high priority.²

We agree with this CalEPA conclusion that numeric limits are essential to sound permit implementation and enforcement programs.

The State Water Board itself has concluded in its enforcement reports that numeric effluent limits lead to more effective oversight. For example, the 2007 13385(o) Report finds that, unlike the numeric effluent limitations present in the “vast majority” of wastewater NPDES permits (which are self-monitored and self-reported by the discharger):

stormwater NPDES permits currently contain no numeric effluent limitations and instead rely upon a suite of general narrative effluent limitations, made specific by a plan that is only kept at the site. Compliance determination these effluent limitations at stormwater facilities therefore depends heavily on site visits³

The current 13385(o) Enforcement Report reaches the same conclusions.⁴ These reports consistently find that “[e]nsuring compliance with stormwater NPDES permit effluent limitations . . . requires a large field presence,”⁵ a recommendation that is at odds with budget realities and the goal of accurately tracking permit effectiveness within available resources. Similarly, the latest State Water Board Annual Enforcement Report states that municipal permit compliance assessment currently relies on audits with, at best, a five-year frequency. Unfortunately, even this may be optimistic, since “[n]o consistent source of funding source [sic] has been identified at the State or federal levels to conduct audits,” with audits therefore conducted “only . . . where and where resources are available.”⁶ Numeric limits in stormwater permits would reduce the need for

¹ Memorandum from Terry Tamminen, Secretary, Cal/EPA to BDOs, p. 8 (November 30, 2004) (“CalEPA Enforcement Initiative”).

² Memorandum from Alan Lloyd, Secretary, Cal/EPA to Art Baggett, Chair, SWRCB, p. 2 (March 23, 2005) (emphasis added).

³ SWRCB, “13385(o) Enforcement Report,” p. 16 (2008), http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/13385o_2007draft_v9_1.pdf.

⁴ SWRCB, “13385(o) Enforcement Report,” p. 12 (2010), http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/13385o_2009.pdf.

⁵ *Id.*

⁶ SWRCB, “2009 Annual Enforcement Report” (May 2010), pp. 38-41, available at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/docs/annl_rpt2009.pdf (citing only 25 municipal stormwater enforcement actions statewide in 2009).

intensive staff oversight and allow the programs to be run and tracked more smoothly by the regulated entities, and overseen more efficiently by the state.

This conclusion applies even more strongly in waterways impaired by stormwater-borne pollutants. The U.S. EPA just released substantial revisions to its 2002 Memorandum on establishing TMDLs for stormwater sources and developing associated NPDES permit requirements.⁷ As EPA correctly states in this Memorandum, “[n]umeric WQBELs in storm water permits can clarify permit requirements and improve accountability and enforceability.” The Memorandum continues that: “EPA recommends that NPDES permitting authorities use numeric effluent limitations where feasible as these types of effluent limitations create objective and accountable means for controlling stormwater discharges.” (Emphasis added.) EPA adds that “[p]ermitting authorities should consider including numeric benchmarks for BMPs and associated monitoring protocols or specific protocols for estimating BMP effectiveness in stormwater permits.” Such directives in this new Memorandum should be integrated into the Effectiveness Assessment Document.

Revising the Effectiveness Assessment Document to incorporate additional direction on establishing numeric effluent limits and benchmarks is also consistent with regulated entities’ comments at the November 4th Workshop. The regulated community called at several points for more flexibility to adapt to changing circumstances and data results. Placing a priority on establishing numeric effluent limits based on water quality objectives will provide a clearer goal for the regulated entities, while at the same time providing more flexibility on how to best achieve those clear goals.

Finally, the Effectiveness Assessment Document needs to include a specific discussion on consistent monitoring and reporting. SB 72 (Kuehl 2001),⁸ which would have advanced such necessary consistency of monitoring and reporting, has yet to be implemented. As U.S. EPA notes in its November 2010 Memorandum:

NPDES permits must specify monitoring requirements necessary to determine compliance with effluent limitations: See CWA section 402(a)(2); 40 C.F.R. I 22.44(i). Where WQBELs are expressed as BMPs, the permit must require adequate monitoring to determine if the BMPs are performing as necessary. When developing monitoring requirements, the NPDES authority should consider the variable nature of storm water as well the availability of reliable and applicable field data describing the treatment efficiencies of the BMPs required and supporting modeling analysis.

Effective, consistent monitoring and reporting is essential to achieving WQOs, a point that bears further highlighting in the Effectiveness Assessment Document.

⁷ James Hanlon, Office of Wastewater Management and Denise Keeher, Office of Wetlands, Oceans and Watersheds, U.S. EPA to Water Management Division Directors, U.S. EPA Regions 1-10, “Revisions to the November 22, 2002 Memorandum ‘Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs’,” (Nov. 12, 2010) (Memorandum), available at: http://www.epa.gov/npdes/pubs/establishingtmdlwla_revision.pdf.

⁸ Available at: http://info.sen.ca.gov/pub/01-02/bill/sen/sb_0051-0100/sb_72_bill_20011004_chaptered.pdf.

Thank you for the opportunity to provide these comments. We look forward to working with you and your staff to incorporate additional needed detail into the Effectiveness Assessment Document, in order to enhance its utility as guidance to the Regional Water Boards and ensure its swift achievement of state water quality goals.

Best regards,

A handwritten signature in black ink, appearing to read "Linda Sheehan", with a long horizontal flourish extending to the right.

Linda Sheehan
Executive Director

attachment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 12 2010

OFFICE OF
WATER

MEMORANDUM

SUBJECT: Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs"

FROM: James A. Hanlon, Director
Office of Wastewater Management

Denise Keehner, Director
Office of Wetlands, Oceans and Watersheds

TO: Water Management Division Directors
Regions 1 - 10

This memorandum updates aspects of EPA's November 22, 2002 memorandum from Robert H. Wayland, III, Director of the Office of Wetlands, Oceans and Watersheds, and James A. Hanlon, Director of the Office of Wastewater Management, on the subject of "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs" (hereafter "2002 memorandum").

Background

Section III of the 2002 memorandum "affirm[ed] the appropriateness of an iterative, adaptive management best management practices (BMP) approach" for improving stormwater management over time as permitting agencies, the regulated community, and other involved stakeholders gain more experience and knowledge. Since 2002, States and EPA have obtained considerable experience in developing TMDLs and WLAs that address stormwater sources. The technical capacity to monitor stormwater and its impacts on water quality has increased. In many areas, monitoring of the impacts of stormwater on water quality has become more sophisticated and widespread. Better information on the effectiveness of stormwater controls to reduce pollutant loadings and address water quality impairments is now available. In many parts of the country, permitting agencies have issued several rounds of permits for Phase I municipal separate storm sewer systems (MS4s), Phase II MS4s, and stormwater discharges associated with industrial activity, including stormwater from construction activities. Notwithstanding these developments, stormwater discharges remain a significant cause of water quality

impairment in many places, highlighting a continuing need for more useful WLAs and better NPDES permit provisions to restore impaired waters to their beneficial uses.

With this additional experience in mind, EPA is updating and revising the following four elements of the 2002 memorandum to better reflect current practices and trends in permits and WLAs for stormwater discharges:

- Providing numeric water quality-based effluent limitations in NPDES permits for stormwater discharges;
- Disaggregating stormwater sources in a WLA;
- Using surrogates for pollutant parameters when establishing targets for TMDL loading capacity; and
- Designating additional stormwater sources to regulate and treating load allocations as wasteload allocations for newly regulated stormwater sources.

EPA is currently reviewing other elements of the 2002 memorandum and will consider making appropriate revisions in the future.

Providing Numeric Water Quality-Based Effluent Limitations in NPDES Permits for Stormwater Discharges

In today's memorandum, EPA is revising the 2002 memorandum with respect to water quality-based effluent limitations (WQBELs) in stormwater permits. Since 2002, many NPDES authorities have documented the contributions of stormwater discharges to water quality impairment and have identified the need to include clearer permit requirements in order to address these impairments. Numeric WQBELs in stormwater permits can clarify permit requirements and improve accountability and enforceability. For the purpose of this memorandum, numeric WQBELs use numeric parameters such as pollutant concentrations, pollutant loads, or numeric parameters acting as surrogates for pollutants, such as stormwater flow volume or percentage or amount of impervious cover.

The CWA provides that stormwater permits for MS4 discharges shall contain controls to reduce the discharge of pollutants to the "maximum extent practicable" and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants. CWA section 402(p)(3)(B)(iii). Under this provision, the NPDES permitting authority has the discretion to include requirements for reducing pollutants in stormwater discharges as necessary for compliance with water quality standards. *Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166 (9th Cir. 1999).

Where the NPDES authority determines that MS4 discharges have the reasonable potential to cause or contribute to a water quality standard excursion, EPA recommends that, where feasible, the NPDES permitting authority exercise its discretion to include numeric effluent limitations as necessary to meet water quality standards. The 2002

memorandum stated "EPA expects that most WQBELs for NPDES-regulated municipal and small construction stormwater discharges will be in the form of BMPs, and that numeric limitations will be used only in rare instances." Those expectations have changed as the stormwater permit program has matured. EPA now recognizes that where the NPDES authority determines that MS4 discharges and/or small construction stormwater discharges have the reasonable potential to cause or contribute to water quality standards excursions, permits for MS4s and/or small construction stormwater discharges should contain numeric effluent limitations where feasible to do so. EPA recommends that NPDES permitting authorities use numeric effluent limitations where feasible as these types of effluent limitations create objective and accountable means for controlling stormwater discharges.

The Clean Water Act (CWA) requires that permits for stormwater discharges associated with industrial activity comply with section 301 of the Act, including the requirement under section 301(b)(1)(C) to contain WQBELs for any discharge that the permitting authority determines has the reasonable potential to cause or contribute to a water quality standard excursion. CWA section 402(p)(3)(A), 40 CFR 122.44(d)(1)(iii). When the permitting authority determines, using the procedures specified at 40 CFR 122.44(d)(1)(ii) that the discharge causes or has the reasonable potential to cause or contribute to an in-stream excursion of the water quality standards, the permit must contain effluent limits for that pollutant. EPA recommends that NPDES permitting authorities use numeric effluent limitations where feasible as these types of effluent limitations create objective and accountable means for controlling stormwater discharges.

Where WQBELs in permits for stormwater discharges from MS4s, small construction sites or industrial sites are expressed in the form of BMPs, the permit should contain objective and measurable elements (e.g., schedule for BMP installation or level of BMP performance). The objective and measurable elements should be included in permits as enforceable provisions. Permitting authorities should consider including numeric benchmarks for BMPs and associated monitoring protocols or specific protocols for estimating BMP effectiveness in stormwater permits. These benchmarks could be used as thresholds that would require the permittee to take additional action specified in the permit, such as evaluating the effectiveness of the BMPs, implementing and/or modifying BMPs, or providing additional measures to protect water quality.

If the State or EPA has established a TMDL for an impaired water that includes WLAs for stormwater discharges, permits for either industrial stormwater discharges or MS4 discharges must contain effluent limits and conditions consistent with the requirements and assumptions of the WLAs in the TMDL. See 40 CFR § 122.44(d)(1)(vii)(B). Where the WLA of a TMDL is expressed in terms of a surrogate pollutant parameter, then the corresponding permit can generally use the surrogate pollutant parameter in the WQBEL as well. Where the TMDL includes WLAs for stormwater sources that provide numeric pollutant load or numeric surrogate pollutant parameter objectives, the WLA should, where feasible, be translated into numeric WQBELs in the applicable stormwater permits.

The permitting authority's decision as to how to express the WQBEL(s), either as numeric effluent limitations or BMPs, including BMPs accompanied by numeric benchmarks, should be based on an analysis of the specific facts and circumstances surrounding the permit, and/or the underlying WLA, including the nature of the stormwater discharge, available data, modeling results or other relevant information. As discussed in the 2002 memorandum, the permit's administrative record needs to provide an adequate demonstration that, where a BMP-based approach to permit limitations is selected, the BMPs required by the permit will be sufficient to implement applicable WLAs. Improved knowledge of BMP effectiveness gained since 2002 should be reflected in the demonstration and supporting rationale that implementation of the BMPs will attain water quality standards and WLAs.

EPA's regulations at 40 CFR § 122.47 govern the use of compliance schedules in NPDES permits. Central among the requirements is that the effluent limitation(s) must be met "as soon as possible." 40 CFR 122.47(a)(1). EPA expects the permitting authority to include in the permit record a sound rationale for determining that any compliance schedule meets this requirement. Where a TMDL has been established and there is an accompanying implementation plan that provides a schedule for an MS4 to implement the TMDL, the permitting authority should consider the schedule as it decides whether and how to establish enforceable interim requirements and interim dates in the permit.

Lastly, NPDES permits must specify monitoring requirements necessary to determine compliance with effluent limitations. See CWA section 402(a)(2); 40 C.F.R. 122.44(i). Where WQBELs are expressed as BMPs, the permit must require adequate monitoring to determine if the BMPs are performing as necessary. When developing monitoring requirements, the NPDES authority should consider the variable nature of stormwater as well the availability of reliable and applicable field data describing the treatment efficiencies of the BMPs required and supporting modeling analysis.

Disaggregating Stormwater Sources in a WLA

As stated in the 2002 memorandum, EPA expects TMDL authorities will make separate aggregate allocations to NPDES-regulated storm water discharges (in the form of WLAs) and unregulated storm water (in the form of LAs). EPA also recognized that the available data and information usually are not detailed enough to determine waste load allocations for NPDES-regulated storm water discharges on an outfall-specific basis.

EPA still recognizes that decisions about allocations of pollutant loads within a TMDL are driven by quantity and quality of existing and readily available water quality data. However, today, TMDL writers may have better data or better access to data and, over time, may have gained more experience since 2002 in developing TMDLs and WLAs in a less aggregated manner. Moreover, since 2002, EPA has noted the difficulty of establishing clear, effective, and enforceable NPDES permit limitations for sources covered by WLAs that are expressed as single categorical or aggregated wasteload allocations.

Accordingly, for all these reasons, EPA recommends that WLAs for NPDES-regulated stormwater discharges should be disaggregated into specific categories (e.g., separate WLAs for MS4 and industrial stormwater discharges) to the extent feasible based on available data and/or modeling projections. In addition, these disaggregated WLAs should be defined as narrowly as available information allows (e.g., for MS4s, separate WLAs for each one; and, for industrial sources, separate WLAs for different sources or types of industrial sources or discharges.)

Where appropriate, EPA encourages permit writers to assign specific shares of the wasteload allocation to specific permittees during the permitting process.

Using Surrogate for Pollutant Parameters When Establishing Targets for TMDL Loading Capacity

Many waterbodies affected by stormwater discharges are listed as impaired under Section 303(d) due to biological degradation or habitat alteration, rather than for specific pollutants (e.g., metals, pathogens, sediment). Impairment can be due to pollutants where hydrologic changes such as quantity of flow and variation in flow regimes are important factors in their transport. Since the stormwater-source impairment is usually the result of the cumulative impact of multiple pollutants and physical effects, it may be difficult to identify a specific pollutant (or pollutants) causing the impairment. Using a surrogate parameter in developing wasteload allocations for waters impaired by stormwater sources may, at times, be the appropriate approach for restoring the waterbodies.

In the 2009 report *Urban Stormwater Management in the United States*, the National Research Council suggests: "A more straightforward way to regulate stormwater contributions to waterbody impairment would be to use flow or a surrogate, like impervious cover, as a measure of stormwater loading . . . Efforts to reduce stormwater flow will automatically achieve reductions in pollutant loading. Moreover, flow is itself responsible for additional erosion and sedimentation that adversely impacts surface water quality."

Therefore, when developing TMDLs for receiving waters where stormwater sources are the primary source of impairment, it may be suitable to establish a numeric target for a surrogate pollutant parameter, such as stormwater flow volume or impervious cover, that would be expected to provide attainment of water quality standards. This is consistent with the TMDL regulations that specify that TMDLs can be expressed in terms of mass per time, toxicity or other appropriate measure (40 C.F.R. §130.2(i)).

Where a surrogate parameter is used, the TMDL document must demonstrate the linkage between the surrogate parameter and the documented impairment (e.g., biological degradation). In addition, the TMDL should provide supporting documentation to indicate that the surrogate pollutant parameter appropriately represents stormwater pollutant loadings. Monitoring is an essential undertaking to ensure that compliance with the effluent limitations occurs.

Recent examples of TMDLs using flow or impervious cover as surrogates for pollutants in setting TMDL loading targets include: the Eagleville Brook (CT) TMDL and the Barberry Creek (ME) TMDL which used impervious cover as a surrogate; and, the Potash Brook (VT) TMDL which used stormwater flow volume as a surrogate.

Designating Additional Stormwater Sources to Regulate and Treating Load Allocations as Wasteload Allocations for Newly Regulated Stormwater Sources

The 2002 memorandum states that "stormwater discharges from sources that are not currently subject to NPDES regulation may be addressed by the load allocation component of a TMDL." Section 402(p)(2) of the Clean Water Act (CWA) requires industrial stormwater sources, certain municipal separate storm sewer systems, and other designated sources to be subject to NPDES permits. Section 402(p)(6) provides EPA with authority to identify additional stormwater discharges as needing a permit.

In addition to the stormwater discharges specifically identified as needing an NPDES permit, the CWA and the NPDES regulations allow for EPA and NPDES authorized States to designate, additional stormwater discharges for regulation. See 40 CFR 122.26 (a)(9)(i)(C), (a)(9)(i)(D), (b)(4)(iii), (b)(7)(iii), (b)(15)(ii) and 122.32(a)(2). Since 2002, EPA has become concerned that NPDES authorities have generally not adequately considered exercising these authorities to designate for NPDES permitting stormwater discharges that are currently not required to obtain permit coverage but that are significant enough to be identified in the load allocation component of a TMDL. Accordingly, EPA encourages permitting authorities to consider designation of stormwater sources in situations where coverage under NPDES permits would afford a more effective mechanism to reduce pollutants in stormwater discharges than available nonpoint source control methods.

In situations where a stormwater source addressed in a TMDL's load allocation is not currently regulated by an NPDES permit but may be required to obtain an NPDES permit in the future, the TMDL writer should consider including language in the TMDL explaining that the allocation for the stormwater source is expressed in the TMDL as a "load allocation" contingent on the source remaining unpermitted, but that the "load allocation" would later be deemed a "wasteload allocation" if the stormwater discharge from the source were required to obtain NPDES permit coverage. Such language, while not legally required, would help ensure that the allocation is properly characterized by the permit writer should the source's regulatory status change. This will help ensure that effluent limitations in a NPDES permit applicable to the newly permitted source are consistent with the requirements and assumptions of the TMDL's allocation to that source.

Such recharacterization of a load allocation as a wasteload allocation would not automatically require resubmission of the TMDL to EPA for approval. However, if the TMDL's allocation for the newly permitted source had been part of a single aggregated or gross load allocation for all unregulated stormwater sources, it may be appropriate for the NPDES permit authority to determine a wasteload allocation and corresponding

effluent limitation specific to the newly permitted stormwater source. Any additional analysis used to refine the allocation should be included in the administrative record for the permit. In such cases, the record should describe the basis for

- (1) recharacterizing the load allocation as a wasteload allocation for this source and
- (2) determining that the permit's effluent limitations are consistent with the assumptions and requirements of this recharacterized wasteload allocation. For purposes of this discussion, it is assumed that the permit writer's additional analysis or recharacterization of the load allocation as a wasteload allocation does not change the TMDL's overall loading cap. Any change in a TMDL loading cap would have to be resubmitted for EPA approval.

If you have any questions please feel free to contact us or Linda Boornazian, Director of the Water Permits Division or Benita Best-Wong, Director of the Assessment and Watershed Protection Division.

cc: Association of State and Interstate Water Pollution Control Administrators
Water Quality Branch Chiefs, Regions 1 - 10
Permits Branch Chiefs, Regions 1 - 10