

SUPPLEMENTAL
EXECUTIVE OFFICER SUMMARY REPORT
May 8, 2013

- ITEM: 7
- SUBJECT: General NPDES Permit Issuance: General Waste Discharge Requirements for Discharges from Boatyards and Boat Maintenance and Repair Facilities Adjacent to Surface Waters within the San Diego Region (Tentative Order No. R9-2013-0026, NPDES No. CAG719001) (*Kristin Schwall and Michelle Mata*)
- RECOMMENDATION: Adoption of the revised Tentative Order No. R9-2013-0026 is recommended.
- DISCUSSION: **Additional Navy Comment Letter**
In addition to the comment letter dated March 11, 2013 that the United States Department of the Navy (Navy) submitted (Supporting Document 9), the Navy submitted another letter dated March 11, 2013 addressed to the San Diego Water Board Chair. The additional March 11 letter is included in the administrative record for the Tentative Order as requested by the Navy (Supporting Document 12).

The March 11 letter does not specifically comment on the Tentative Order directly, but is directed towards larger policy issues surrounding NPDES storm water permitting in the San Diego Region. The Response to Comments Report (Supporting Document 10) responds to this letter at Response to Comment G, page 16.

The Navy is not a Discharger subject to the requirements of the Tentative Order. The Navy has three separate facilities in the San Diego Region regulated under separate NPDES permits. The San Diego Water Board will be considering reissuance of the NPDES Permit for one of these facilities, Naval Base San Diego, at an upcoming Board meeting.

The Navy requests in the March 11 letter that toxicity requirements in storm water permits be applied in a consistent manner. The proposed Regional Municipal Separate Storm Sewer (MS4) Permit, Item 8 on today's

agenda, regulates municipal storm water discharges, while the Tentative Order for the Boatyards is regulating industrial storm water discharges. The most recent version of the State Water Board's Draft "*Policy for Toxicity Assessment and Control*," (Draft Toxicity Policy) recommends that all MS4 dischargers and individual industrial storm water dischargers implement a chronic toxicity monitoring program. Federal regulations at 40 CFR 122.44(i) require NPDES permits to have end of pipe monitoring for constituents with effluent limitations to assure compliance. End of pipe chronic toxicity monitoring in addition to receiving water monitoring is appropriate for the Boatyards.

The major difference between the Tentative Order and the Regional MS4 permit in the application of chronic toxicity requirements is that the Tentative Order establishes an effluent limitation for chronic toxicity while the Regional MS4 permit does not. The Boatyards regulated under the Tentative Order are industrial sites located immediately adjacent to San Diego Bay and the Pacific Ocean and they have a history of toxicity in storm water discharges. The Tentative Order for the Boatyards requires chronic toxicity testing at the end-of-pipe because USEPA regulations require that NPDES permits include effluent limitations to control effluent toxicity where it is determined through a reasonable potential analysis that a discharge causes, has the reasonable potential to cause, or contributes to an excursion above a narrative toxicity criterion. The NPDES Permits for Boatyards have included an acute toxicity effluent limitation since 2000. To ensure protection of the receiving water from the sublethal effects of industrial storm water discharges on survival, growth, and reproduction of aquatic life, the Tentative Order is replacing the acute toxicity effluent limitation with a chronic toxicity effluent limitation. (See Response to Comment No. F.4. in Supporting Document 10).

The Tentative Order is consistent with the "Framework for Monitoring and Assessment in the San Diego Region" (Framework) which is not intended to eliminate all end of pipe monitoring. The Tentative Order requires monitoring for chronic toxicity both in the receiving waters and at the end of pipe. The Tentative Order encourages the Boatyards to participate in receiving water body monitoring coalitions at Attachment E, Monitoring and Reporting Program Section V.A.1, page E-10 of the Revised Tentative Order

(Supporting Document 11).

The Navy believes the long term solution to toxicity compliance issues involves source control and the San Diego Water Board agrees. Permanent structural source control such as retrofitting source areas with low impact development best management practices can greatly reduce the discharge of toxic pollutants in industrial storm water discharges.

In conclusion, the Tentative Order appropriately applies the chronic toxicity effluent limitation to industrial storm water discharges consistent with historic San Diego Water Board permits, federal regulations, the "Framework for Monitoring and Assessment in the San Diego Region" and the State Water Board's Draft "Plan for Toxicity Assessment and Control."

Notes of Board Member Boatyard Tour

San Diego Water Board staff notes of the Boatyard tour on April 18, 2013, are included as Supporting Document 13. Photos from the field tour are available on the San Diego Water Board web site at

http://www.waterboards.ca.gov/sandiego/water_issues/programs/npdes/boatyards/boatyards.shtml

SUPPORTING
DOCUMENTS:

12. United States Department of the Navy, Commander Navy Region Southwest Letter, dated March 11, 2013, "Consistent Regulation of Storm Water Discharges."
13. Notes of Boatyard Tour on April 18, 2013