



DEPARTMENT OF DEFENSE
REGIONAL ENVIRONMENTAL COORDINATOR, REGION 9
937 N. Harbor Drive, Box 81
San Diego, California 92132-0058

Public Comment
Industrial General Permit
Deadline: 10/22/12 by 12 noon

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Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board (SWRCB)
1001 I Street 24th Floor
Sacramento, CA 95814



Subject: COMMENT LETTER - INDUSTRIAL GENERAL PERMIT

On behalf of Rear Admiral Smith, the Department of Defense (DOD) Regional Environmental Coordinator for EPA Region IX, and the Military Services in California, I respectfully submit these comments on the Water Board's Draft General Permit for Storm Water Discharges Associated with Industrial Activities (IGP).

We appreciate the Board's careful consideration of our comments submitted on April 28, 2011. We also thank the Board for holding public workshops and working with us to resolve our concerns. Many of our comments have been addressed, and the revised IGP greatly reduces our compliance cost and the administrative burden while remaining protective of water quality. We have a few remaining comments which are enclosed and include our specific recommendations for revising the IGP.

A study completed by the Water Boards in October 2011 "Toxicity in California Waters" points out that most urban watershed toxicity is due to copper and zinc. This IGP requires additional BMP implementation and additional reporting at substantial cost to the discharger to control these and other potential industrial pollutant discharges. The source of most copper and zinc in storm water is automobiles. We believe focused attention on this known source of storm water contamination would be a more cost effective approach to improving water quality in California. California took one such step with passage of SB 324 (Kehoe) to substantially reduce pollutants from brake pads, a bill we supported.

In summary, while we have provided detailed comments on the IGP we believe directly addressing the root causes of toxicity in California waters is a more efficient way to improve storm water quality and protect receiving waters. The points of contact for this letter are Mr. Christopher Haynes at christopher.a.haynes@navy.mil or (619)532-2285 and Mr. Michael Huber at michael.huber@navy.mil or (619)532-2303.

Sincerely,

C. L. STATHOS
By direction

Enclosure: DoD Comments on July 2012 Industrial General Permit

DoD Comments on July 2012 Industrial General Permit

1. Requirements for Permit Coverage

Section: Page 17, Section II.D 1-4

Comment: The permit states that existing Permittees are required to have a modified SWPPP and Monitoring Implementation Plan (MIP) submitted into SMARTS by 1 July 2013. Due to federal budgeting limitations and cycles Department of Defense (DoD) facilities will not be able to comply with this condition. DoD facilities will need at least one calendar year after adoption of the permit to budget for and complete work (often contracted) to revise the SWPPP and develop a MIP consistent with the new permit requirements. Assuming the permit is adopted during the first quarter of 2013 DoD could complete and submit these documents into SMARTS by 1 April 2014. A completed NOI and the existing SWPPP could be submitted by 1 July 2013.

Recommendation: Change the permit to require the submission of a complete NOI and an existing SWPPP by 1 July 2013. Additionally a SWPPP and MIP meeting all the requirements of the new permit must be completed and uploaded into SMARTS no later than 1 April 2014.

2. QISP Training Courses

Section: Page 23, Section IX

Comment: Training and testing requirements are not well defined for the QISP I, II, and III training.

Recommendation: Through workshops or the public comment process, ensure stakeholders including DoD are able to provide input on QISP training courses content. Also we encourage the option of testing only for those that feel qualified without attending the training.

3. QISP for Existing Licensees

Section: Page 23, Section IX.A.1

Comment: The permit states that California Board for Professional Engineers, Land Surveyors and Geologists licensed professional civil engineer, registered geologist, and a certified engineering geologist (Licensee) is a QISP (level I, II, or III) and does not need to complete a State Water Board-sponsored or approved QISP training course. Further, the footnote 3 states that the State Water Board expects that, due to their obligations to the California Board for Professional Engineers, Licensees will either have or obtain sufficient knowledge and expertise prior to performing the role of a QISP (Level I, II, or III). Given these professional obligations, all professional engineers (not just civil) should be QISPs. There are also other certifications such as Environmental Compliance Inspector Certification that should be included as QISPs. Finally, many licensees or experienced storm water professionals may not need the required training and should have an option to “test out” of QISP training requirements.

Recommendation: Change requirement to read “Professional Engineer, Professional Geologist, Geotechnical Engineering and a Certified Engineering Geologist licensed by the California Board for Professional Engineers, Land Surveyors and Geologists should be certified as QISP (level I, II, or III) and do not need to complete a State Water Board sponsored or approved QISP training course”.

4. Anticipated Precipitation Event

Section: Page 37, Section XI.A.2.d

Comment: An anticipated precipitation event is defined as any weather pattern that is forecasted by the National Weather Service Forecast Office to have a 50% or greater probability of producing precipitation in the facility’s weather zone. Visual observations of all storm water drainage and containment areas are required prior to an anticipated precipitation event. Given that a qualifying storm event requires at least 1/10 inch (and DoD recommends changing this to 2/10 inch) of rainfall within the proceeding 24 hours, visual observations should not be required unless the forecasts predicts a 50% or greater probably of producing 2/10 inch of precipitation.

Recommendation: Change sentence to read “An anticipated precipitation event is any weather pattern that is forecasted by the National Weather Service Office to have a 50% or greater probably of producing at least 2/10 inch rainfall in the facility’s weather zone.”

5. Qualifying Storm Event

Section: Page 38, Section XI.B.2

Comment: A qualifying storm event (QSE) is a discharge of stormwater. Reducing the QSE from ¼ inches of rainfall in a 24 hour period to 1/10 inches in a 24 hour period, will result in more QSEs per quarter, but many more false mobilizations which would be very costly, especially for remote locations such as San Clemente Island or San Nicolas Island or large installations. Navy has actual costs of \$11,500.00 dollars for each false mobilization to San Clemente Island. Many Navy installations have drainage areas that don’t discharge unless they get a minimum of ¼ inch of rainfall.

Recommendation: Change definition of a QSE to “From a storm event that has produced a minimum of 2/10 inch rainfall within the preceding 24 hour period as measured by an onsite rainfall measurement device; and...”

6. On-Site Rainfall Measurement Devices

Section: Page 38, Section XI.B.2

Comment: The permit requires Qualifying Storm Events (QSEs) to be measured by an on-site rainfall measurement device. In addition to the cost of purchasing rainfall measurement devices for all of the DoD installations, there is also the cost of staff to monitor and maintain the devices. Local weather station rainfall data provided by the National Weather Service or other standard organizations are already available, are easy and free to access, and frequently have long track records of consistent measurement. The Construction General Permit requires use of the nearest National Weather Service as the official rain gage, with an on-site gage as optional, and the Industrial Permit should follow suit for consistency.

Recommendation: Use language consistent with the Construction General Permit for Stormwater.

7. No-Discharge from Qualifying Storm Events (QSEs)

Section: Page 38, Section XI.B.4

Comment: The permit states that in the event that the first QSE in a quarter does not produce a discharge that can be sampled at one or more sampling locations, dischargers are required to collect samples from those locations from the next QSE that produces a discharge in that quarter. This could be very costly for arid bases that frequently do not produce a discharge. Large and remote installations could require three or four mobilizations quarterly to meet the permit requirement. Further, while Sampling Frequency Reduction is allowed for discharges that have a history of compliance with Numeric Action Levels, there is no allowance in the permit for stopping sampling requirements for sites that have a history of never producing a discharge. If a specific sampling location does not produce a discharge with a qualifying storm event for 2 sampling events in a quarter, the discharger should not be required to continue with false mobilizations. Also, dischargers should be able to demonstrate to the Regional Board that specific site conditions do not produce a discharge for 0.2 inch QSEs, and should only be required to sample if a storm exceeds a certain threshold likely to produce runoff.

Recommendation: Change paragraph to read “In the event that the first QSE in a quarter does not produce a discharge that can be sampled at one or more sampling locations, dischargers shall record which sampling locations were observed that did not discharge, and attempt to collect samples from those locations from the next QSE in that quarter. A QISP may demonstrate to the Regional Board that specific site conditions do not produce discharge for certain QSEs and may be allowed to modify the QSE for that site. If the Discharger fails to collect a quarterly sample at one or more sampling locations that did produce a discharge within a quarter...”

8. Reporting Year for Re-Sampling of Qualifying Storm Events

Section: Page 38, Section XI.B.4

Comment: The permit requires re-sampling the following quarter if a discharger fails to collect a quarterly sample at a sampling location that produced a discharge within a quarter. The re-sampling should be limited to the given reporting year (July 1-June 30).

Recommendation: Change sentence to read “If the Discharger fails to collect a quarterly sample at one or more sampling locations that did produce a discharge within a quarter, the Discharger is required to fulfill the sampling requirement from an additional QSE that produces a discharge in a subsequent quarter during the reporting year.”

9. Sampling Location Reduction (SLR) and Qualified Combined Samples

Section: Page 43, Section XI.C.3.a and Section XI.C.4

Comment: The permit allows for sampling location reduction for multiple discharge locations within a drainage area, but doesn't clearly allow reduction of substantially similar drainage areas. Dischargers are however authorized to composite up to 4 drainage areas if

they are substantially similar to one another. The existing permit allows facility operations to reduce the number of samples collected from substantially identical drainage areas or composite the samples from substantially identical drainage areas. Not allowing the reduction of samples from substantially similar or identical drainage areas will be a significant burden on DoD installations. Given a QISP is required to prepare a Monitoring Implementation Plan (MIP) in Section X.I as part of the SWPPP development, it seems appropriate that sampling location reduction and combined sampling plans be included in the MIP. The QISP should be able to take a holistic approach to the entire facility and determine how many drainage areas can be composited or combined based on the industrial activities and physical characteristics of the drainage areas. Compositing a maximum of 4 drainage areas seems arbitrary. If the Board does not feel that a QISP has enough qualifications to prepare a MIP with the above information, request the permit be modified to include a new level of training/qualifications that would be appropriate for this type of analysis.

Recommendation: Allow a qualified person to develop a MIP that ensures appropriate representative samples are taken to effectively characterize the facility.

10. Sampling Frequency Reduction

Section: Page 44, Section XI.C.6

Comment: The permit allows for a reduction in sampling frequency if the discharger has taken eight (8) consecutive quarters where QSEs occurred that produce a discharge. Many DoD installations in Southern California could have only two quarters a year with QSEs that produce a discharge, therefore it would take 4 years (nearly the entire length of the permit) before this criterion could be met. Further, many DOD installations have installed Low Impact Development (LID) features and have discharge locations that don't produce a discharge consistently. This permit seems to penalize those facilities that have installed LID. Also, it is unclear whether the Sampling Frequency Reduction must be applied to the entire facility, or whether the reduction can be applied on an outfall-by-outfall basis. Dischargers should be allowed to get a sampling frequency reduction from individual outfalls.

Recommendation: Change Section XI.C.6.a. to "Dischargers are eligible to reduce the number of QSEs sampled each reporting year in accordance with the following requirements:

- i. The Discharger has eight (8) consecutive quarters where QSEs occurred that produced a discharge and sampling results did not exceed any NALs, QSEs did not occur, or QSEs did not produce a discharge
- ii. The Discharger is in full compliance with the requirements of this General Permit and has updated, certified and submitted via SMARTS all documents, data, and reports required by this General Permit during the same eight (8) consecutive quarters. Dischargers subject to enforcement actions by the Regional Water Boards may be excluded from eligibility.
- iii. Dischargers are eligible to reduce the number of QSWs sampled on an outfall-by-outfall basis."

11. ERA Level 2 Demonstrations

Section: Page 45, Section XII.E

Comment: The permit allows that at any time during Level 2 status, the Discharger's QISP III may develop a BAT/BCT Compliance Demonstration Technical Report or Natural Background Demonstration Technical Report. Dischargers should not have to wait until reaching Level 2 status prior to being able to prepare a Demonstration Technical report. Dischargers may already have considerable data/studies that show that they are in compliance with BAT/BCT or that NAL exceedances are solely attributable to pollutants in storm water run-on to the facility from adjacent properties or non-industrial portions of the Discharger's property or from aerial deposition.

Recommendation: Allow Dischargers in Level 1 status to prepare Demonstration Technical Reports that also address operation controls.

12. Exceedance Response Action (ERA) Level I

Section: Page 46, Section XII.C.2

Comment: The permit states that in the event that sampling results indicate an NAL exceedance, the Discharger's Baseline status immediately and automatically changes to Level 1 status for all parameters exceeded. The operation control evaluation required based on this status change is not limited to the parameter(s) exceeding the NAL. The requirement to conduct an evaluation on source controls to reduce pollutants that are currently in compliance with NALs is excessive and an undue burden on the permittee. In addition many BMPs will effectively address other pollutants without them being specifically addressed in the required evaluation.

Recommendation: Change paragraph to read "Within 60 days of obtaining Level 1 status, Dischargers shall complete an evaluation of the facility's SWPPP and the industrial pollutant sources at the facility that could be contributing to the NAL exceedance. The evaluation shall identify whether additional operational source control BMPs and/or SWPPP implementation measures are necessary to prevent or reduce the pollutant in industrial storm water discharges in compliance with BAT/BCT. This evaluation is limited to the parameter(s) exceeding the NAL(s)."

13. SWPPP Checklist

Section: Page 57, Section X.V.I.A & Appendix 2

Comment: Appendix 2 contains a SWPPP Checklist, but a requirement for developing or submitting the checklist cannot be found in the permit. The permit states that a QISP shall prepare the Annual Reports using the standardized format and checklists in SMARTS, but it is not clear whether the SWPPP Checklist (Appendix 2) is one of those checklists.

Recommendation: Delete Appendix 2, or include in the permit the requirement to complete and submit the checklist.

14. Other Comments:

Page 48 – XII.E.1: Footnote 10 is missing (and is possibly out of order).

Page 49 – Fact Sheet Section K.4 the term “outlets” should be replaced with “options” to avoid confusion.

General - Analysis of the Compliance Costs for the IGP is greatly improved. It still likely under estimates the cost of compliance for larger or remote facilities. An example of real cost vs. estimated cost can be understood by looking at the ASBS Special Protections cost estimates. The estimated cost for the core and receiving water monitoring in southern California was between \$1.2 -1.5 million. Actual Navy cost for just 2 of 10 of the Southern California ASBS areas are \$1.1 million. This under estimation by a factor of about 4 likely holds true for the IGP cost estimates.

A study completed by the Water Boards in October 2011 “Toxicity in California Waters” points out that most urban watershed toxicity is due to copper and zinc and that no water column toxicity was found in harbors and bays. This IGP requires additional BMP implementation and additional reporting but does not directly address the real source of these most common toxicants, automobiles. Large costs are being unnecessarily imposed on industrial storm water dischargers while the real source of toxicity goes unregulated.