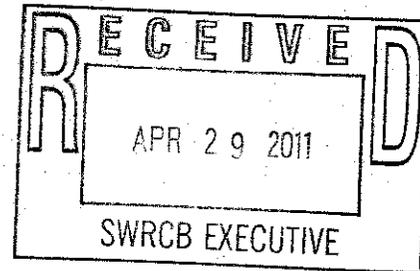


April 29, 2011

Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95814



Subject: Comment Letter - Draft Industrial General Permit

The Pacific Merchant Shipping Association (PMSA), representing ocean-carriers and terminal operators at ports throughout the state of California, appreciates this opportunity to comment on the "Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities." PMSA and our members have proactively worked with the local port authorities, of whom our member companies are lessees, to develop a systematic approach to the reduction of storm water discharges under the existing Industrial General Permit (IGP). We look forward to working with the State Water Resources Control Board (SWRCB) in the development of a workable IGP for all parties and submit these comments with that goal in mind.

Objection to EPA Benchmark Values Used as Numeric Limits

First and foremost, PMSA objects to the inappropriate use of the EPA benchmarks; initially as Numeric Action Levels (NALs) and subsequently as Numeric Effluent Limits (NELs). As stated by the EPA in the 2008 Multi-Sector General Permit:

"The benchmark concentrations are not effluent limits; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in knowing when additional corrective action(s) may be necessary to comply with the effluent limitations in Part 2."

We continue to believe that the best application of the benchmarks is in the manner intended by the EPA, namely as benchmarks. They should be used to indicate when additional actions in the form of best management practices (BMPs) should be considered, and, if appropriate, implemented. To elevate the use of benchmarks to enforceable numeric limits has the potential to create extreme hardships and increase costs to our members and others through an expansion in the requirements to perform inspections and compliance monitoring, and to implement structural and operational controls, without providing any greater control of storm water discharge than exists under the current IGP. PMSA strongly recommends that the SWRCB drop the use of numeric limits. However, if benchmark values are to be used, they should be applied in the manner originally intended, as guidance to implement feasible BMPs.

### Failure to Consider Receiving Waters

PMSA also believes that the numeric limits included in the draft IGP are flawed in that they do not take into consideration the beneficial uses of the receiving water. Receiving waters vary greatly and it is difficult to perceive how a standardized numeric limit can be appropriate for all situations. Some seriously impaired receiving waters may benefit greatly from numeric limits, while others may see no appreciable benefit. Without consideration of the condition of the receiving waters and the relative contribution of the permitted industrial facilities to any pollutant load, it seems highly unlikely that this approach will provide the intended statewide benefits. A better approach would be to monitor the condition of the receiving waters and focus the application of BMPs to those areas where they are most needed.

### Lack of BMPs for Listed Constituents

Another flaw in the numeric limits is the lack of defined BMPs for all constituents subject to NALs and NELs. As an example, according to our members, the USEPA benchmark value for zinc is frequently exceeded. Yet they are aware of no BMPs for zinc. In the absence of feasible BMPs, it seems likely that many of these facilities may eventually arrive at Level 3 corrective action status. Unless they can completely contain and treat all storm water on site, they may face the recurring prospect of mandatory minimum penalties. No amount of inspections or compliance monitoring, likely at significant expense to the facility, will change that result. At the very minimum the SWRCB should work to provide viable BMPs for all constituents subject to NALs and NELs. In situations where viable BMPs cannot be developed, the SWRCB should provide waivers from mandatory minimum penalties and relax inspection and compliance monitoring requirements.

### Sources Outside of Permittee's Control

PMSA members are also concerned that runoff from adjacent sites or atmospheric deposition may cause or contribute to exceedances of NAL and NEL values for certain constituents that are completely beyond the control of a facility. Rainwater may violate the NALs and NELs for pH, but there is no provision to measure the pH of rainwater before it becomes a storm water discharge. Likewise, aerial deposition or surface runoff from adjacent sites onto a permitted IGP facility may violate the numeric levels, without adequate provision to account for those sources. At the very least a system should be developed that would clearly absolve a permit holder from responsibility for exceedances of numeric limits that are beyond their ability to control.

### Existing BMPs Should not be Penalized

Some of our members have also noted that they have spent considerable resources to install filtration BMPs that preclude their ability to collect samples under the new compliance monitoring requirements of the draft IGP. If this draft permit were to be approved as currently written they would be placed in the difficult position of having to deactivate or remove a BMP in order to collect compliance monitoring samples, thereby leading to the discharge of untreated storm water into the receiving waters. Clearly, consideration must be given to allowing for these types of BMPs to remain in place where the existing design does not allow for sampling. Future BMPs can hopefully be designed to accomplish the dual role of treatment and sampling but no facility should be penalized for having proactively installed BMPs without the foresight of this draft IGP.

### Group Permits Should be Continued

Some of our members, particularly those in the Port of Long Beach, have benefited from being part of a group permit administered by the local port authority. We believe it makes sense to allow these types of permits to be continued and even expanded. This is particularly true in situations where there are shared discharge points for multiple facilities that may allow for comprehensive and cohesive programs under a group permit to achieve the best possible results. PMSA strongly urges the SWRCB to maintain those situations where group permits are already in place.

### Requirements for Certified Qualified SWPPP Preparer is Counterproductive

The requirement that a Storm Water Pollution Prevention Plan must be completed by a Qualified SWPPP Preparer (QSP) is questionable. It is not clear how certification as Professional Engineer, Professional Geologist, California Registered Landscape Architect, or Professional Hydrologist, will add value especially since it is unlikely that these professionals will have direct knowledge of the facilities for which they are responsible. This requirement could result in excessive fees and cause delays in the preparation of SWPPPs. In addition, since each modification to an existing SWPPP will have to be approved and submitted through the QSP again likely resulting in increased cost and delays. A better approach would be for the SWRCB to develop guidance for the preparation of SWPPP that could be completed by competent individuals that are more familiar with the specifics of a permitted facility.

### An Economic Analysis is Critical

PMSA strongly urges that the SWRCB complete a comprehensive economic analysis on all the new aspects of the draft IGP to be included with the next version. Without understanding all of the costs of implementing the new IGP requirements it is not possible to fully evaluate the potential benefits of the changes proposed.

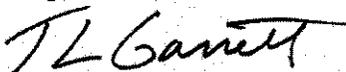
### Maintain Clear Definitions of Covered Facilities

While some bulk terminals operated by PMSA member companies are subject to the IGP, the majority of our members covered under this program fall under the general transportation category. As such we want to ensure in all future versions of the IGP covered operations associated with the industrial activity at these facilities will continue to be limited to vehicle maintenance and fueling.

### Conclusion

PMSA and our members are committed to the goal of reducing storm water runoff whenever possible. The draft IGP seems to take the focus away from the installation of feasible BMPs and instead greatly increases requirements for inspections, compliance monitoring, and reporting. The draft IGP also fails to provide an economic analysis of these new requirements. PMSA and our members hope that the SWRCB will re-evaluate the draft IGP and focus more on feasible measures to provide maximum benefits to the receiving waters of California while minimizing additional costs in these difficult economic times. With that goal in mind PMSA and our members look forward to working with you through this process.

Respectfully submitted,



Vice President

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