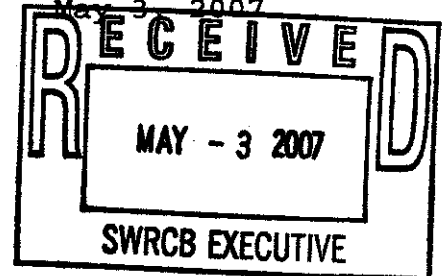




DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
937 NO. HARBOR DR.
SAN DIEGO, CALIFORNIA 92132-0058

Construction General
Permit - Stormwater
Deadline: 5/4/07 5pm

IN REPLY REFER TO:
5090
Ser N45JWB.rc/0183
May 3, 2007



Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Her:

Listed below are comments submitted on behalf of Commander Navy Region Southwest regarding State Wide General Permit for Storm Water Discharges Associated Construction and Land Disturbance Activities:

1. Page 4 of 79, Section I.12. What was the rationale of the State Water Board (Board) for waiving Low Risk projects when the USEPA felt it was not necessary in their Phase II rule?
2. Page 4 of 49, Section I.12. For projects that do not discharge to navigable bodies of water, such as isolated construction projects in the desert, obtaining compliance with this permit should be not applicable.
3. Page 5 of 79, Section I.14. The draft permit states, "The ALs in this General Permit are not directly enforceable and do not constitute NELs." If this is true then why does Section I.17. require an Action Level Exceedance Evaluation Report (ALEER) to be submitted when two consecutive action limits are exceeded? Section IX.B.2.b. states that the ALEER must be electronically submitted within 14 days. Section IX.B.2.c. states that the Regional Board may provide written comments to revise the ALEER, SWPPP, and/or Monitoring Program and that the discharger shall address these comments within 14 days of receipt. These actions appear to conflict with the statement above that the ALs, "...are not directly enforceable...". Recommend revising the AL and ALEER discussion in these sections or dropping them from the program.
4. Page 5 of 79, Section I.19. If a project will be started and completed before the rainy season, there should be an exception from the Active Treatment System (ATS). In Southern California there are many areas that do not receive measurable rainfall from May through October. Small construction projects in these areas can be started and completed during this timeframe. Consideration should be given to exempting such projects from the ATS requirement.

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5. Page 5 of 79, Section I.20. This section states that many parts of California, rain events can occur at any time of the year. While this is true it can also be said that in other parts of California, rain events only occur during the wet season. This discussion is similar to #4 above.

6. Page 7 of 79, Table 1, Please define what "(almost all)" means in the Low Risk column of Table 1.

7. Page 7 of 79, Section I.27. Is the State Board making the statement that National Toxic Rule and the California Toxic Rule applies to storm water discharges from construction activities in this section?

8. Page 8 of 79, Section I.28. Please add some additional narrative description for where an upstream and downstream sample should be taken and what considerations should be taken into account for choosing these sampling locations.

9. Page 8 of 79, Section I.31. This section requires, "...all construction sites to match pre-project recharge will help ensure that communities in California built under coverage of this permit will at least have the same amount of groundwater recharge as they did before the project." Many potential construction projects do not have groundwater as a designated use. Many projects near the coastline have brackish water that is not useable for groundwater. Suggest this requirement be defined to address groundwater recharge where it is a beneficial use and not as a blanket requirement for all construction projects.

10. Page 11 of 79, Section IV.3.a. discusses pH of storm water and non-storm water discharges shall be within the ranges of 5.9-9.0pH units at all times. Where are these discharges to be measured? as they leave the site? Just prior to entering the receiving water?

11. Page 11 of 79, Section IV.3.a. why is a different pH range used for storm water and non-storm water discharges compared with the pH range of an ATS discharge, Section IV.4.c or different from the pH of ALs, Section V.1.?

12. Page 11 of 79, Section IV.4.a. and IV.4.b. What is the rationale for requiring chronic and acute toxicity tests from the ATS? If it is to ensure that the discharge is not causing acute or chronic toxicity in the receiving water then the compliance measurements should be taken at the receiving water and not at the mouth of the ATS discharge pipe.

13. Page 11 of 79, Section V.3. Typically a sheen that can be visibly seen occurs at 15ppm for oil and grease. If a visual observation can detect these levels will visual observation suffice for this requirement instead of expensive sampling and monitoring?

14. Page 12 of 79, Section VII.1. Is there a specific media format that the PRD information should be submitted in? Word? Wordperfect? Adobe? Etc?

15. Page 12 of 79, Section VII.1.a. How long is expected to take before the PRDs are accepted by the State Water Board? Projects are not covered by the permit until the State Board accepts them. It should also be noted that a SWPPP is a living document and may not match the one submitted in the PRD due to the changes that occur. Text should be added to reflect this fact.

16. Page 13 of 79, Section VII.3. It may take some construction projects longer than 90 days to develop and install an ATS system for an existing construction project. Recommend extending this to at least 120 days.

17. Page 14 of 79, Section VII.8. states that non-storm water discharges from "pipe flushing and testing" must meet NELs and ALs. Some Regional Boards have issued NPDES Permits for Hydrostatic Testing and Pipe Flushing that regulate these discharges. Recommend adding language to address non-storm water discharges that are all ready covered under individual or group NPDES permits.

18. Page 15 of 79, Section VII.B.1. Are these percentages of particles to be listed based on volume, weight, etc.?

19. Page 16 of 79, Table 2, Test Method column, If no Ground water uses is listed for the drainage basin the project is located, can a different TPH test such as ASTM D 7066.04 be used?

20. Page 17 of 79, Section VII.B.2, Is the 1.2 times the turbidity of the receiving water a measured or a calculated receiving water turbidity value? Also, what is the rationale for choosing the value of 1.2 for this calculation?

21. Page 18 of 79, Section VII.C.3, Are Wind Erodibility Groups defined or referenced some where in the permit?

22. Page 18 of 79, footnote 10, What was the rationale for choosing 14 days as the timeline?

23. Page 20 of 79, Section VII.G.2.c., What is the rationale for choosing 1.5 as the value in 1.5 times the ten-year, 24-hour design storm event.
24. Page 24 of 79, Section VII.J.2., Did the Board mean to list street washing and if so, can you expand on BMPs expected to be used for street washing?
25. Page 24 of 79, Section VII.K.2. What is the rationale for choosing 2 acres as the size of disturbed project area?
26. Page 28 of 79, Section XI.1. How much precipitation is considered a weather pattern that will trigger a REAP? A trace, 0.02", etc.? Small rain events will not create runoff and this should be accounted for in the permit.
27. Page 28 of 79, Section XI.3. What is the rationale for requiring individual REAP to be submitted for each rain event vice one universal REAP for the project that is implemented for each rain event?
28. Page 30 of 79, Section XII.1. How will the Regional Board notify a permit registrant that their PRD had been accepted or rejected?
29. Page 30 of 79, Section XIII.2. Regional Boards are currently at minimum staffing, will their staff be increased to take on the additional review of each permit registrant's PRD package and public comments?
30. Page 34 of 79, Glossary, "High Risk" definition lists greater than or equal to 200 on page 71 but the glossary definition states greater than 200. Recommend making the definition consistent.
31. Page 35 of 79, Glossary, "Likely Precipitation Event", Recommend defining precipitation. A trace of rain can be defined as precipitation but it will produce no runoff from the construction site.
32. Page 37 of 79, Glossary, "Storm Event", What is the rationale for choosing 0.5 inches of precipitation and 48 hours as the criteria for storm event? This may be a good basis for defining item #31 above.
33. Page 51 of 79, How to Apply, Is there a specific media format that the PRD information should be submitted in? Word? Wordperfect? Adobe? Etc?
34. Page 51 of 79, Fees, The Federal Government's waiver of sovereign immunity under the Clean Water Act and

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subsequent Court decisions allow the Federal Government to pay State fees on a fee for service basis. The draft construction permit fee structure is based on disturbed acreage. This fee structure does not allow the Federal Government to pay construction storm water permit fees. DoD is paying a flat \$700 per construction project as an interim payment position on this issue. Recommend adding text to the permit to reflect this issue.

35. Page 52 of 79, Attachment D.2.f.i. Are the locations of all 303(d) listed water bodies to be shown even for ones that are listed for pollutants that are not related to construction sites such as Diazinon? Recommend only listing the 303(d) listed sites that are listed for pollutants that could be found at a construction site.

36. Page 54 of 79, Attachment D,6.b., Is the SWRCB requiring all dischargers to list the specific BMP of daily sweeping in their SWPPPs? Some sites may not have any activity for the day, such as on holidays, but would still be required to perform daily sweeping. If the SWRCB is going to mandate the BMP of daily sweeping suggested language be added to account for periods of non-use at the site.

37. Page 55 of 79, Attachment D,7.i.i. What is the sizing criteria of the temporary storage facility? Is it to be based on capturing the contents of the ATS unit? The ATS unit and the storage basin that it must drain within 48 hours? Etc.?

38. Page 57 of 79, Attachment D,10.i. Why does the SWPPP require why an authorized non-storm water discharge is infeasible instead of stating that discharge and its associated BMPs will have negligible effects on the receiving water.

39. Page 57 of 79, Attachment D,10.1. Recommend adding the underlined section to the text. "The SWPPP shall include the name and contact number of the qualified individual assigned the responsibility for ensuring that no materials other than storm water or authorized non storm water discharges are discharged to..."

40. Page 63 of 79, E.5.c.i.(a) and (b). Acute and Chronic toxicity tests are required for the ATS discharge. Table E-1 lists the tests to be run with a 96 hour and a 7-day acute and chronic timeframe. The ATS units are required to process the contained water within 48 hours. The possible exposure rates from the ATS unit discharge (48 hours) do not equate to the exposure rates listed (96 hour and 7-day). As such no comparison can be made between the

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episodic storm water discharge from an ATS unit and the Acute and Chronic results. Recommend changing the acute and chronic test periods to match the ATS discharge period, 48 hours.

41. Page 64 of 79, F.1. The discharge is required to take a sample and observation that represents the worst quality of storm water discharge in each drainage area. This criterion ensures that samples and observations are not representative. Given the worst quality parameter if a site has a 0.5 GPM discharge for 1 minute that has a cloudy silt color and the rest of the drainage area discharges at 50 GPM for 3 days with clear water you must take the 0.5 GPM sample and analyze and report it as representative from your construction site. Recommend changing the text to representative sampling.

42. Page 65 of 79, H.2. The draft permit requires samples to be received by the testing lab within 48 hours of physical sampling. Has the state calculated how many labs would be needed based on current level of construction permits and if there are enough labs in the California area to meet this requirement?

43. Page 67 of 79, K.1. Who is required to retain records of all reports for a period of at least three years? Is it the signature authority person? the person the property was transferred to? Etc.?


44. Page 68 of 79, k.l.e. If item K.1 requires three year record retention then why does this section require five year record retention? Recommend having a consistent retention requirement and list who is required to retain these records.

45. Page 68 of 79, L.1. through L.5. What is the reporting period that the annual report covers?

46. Fact Sheet Page 26 of 40, B.1.f. What is the reporting period of the SWARM?

If there are any questions regarding this submittal, please contact me at (619)532-2261.

Sincerely,


ROBERT A. CHICHESTER
Water Program Manager
By direction