SPECIAL HEARING
2/3/05
cc: BD, DI, DWQ
e-cys: BD, CC, HMS, TH, CMW

Alcoa Inc.

ALCOA

February 2, 2005

Ms. Debbie Irvin, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, California 95812-0100

Re: Alcoa Inc. Comments
Reissuance of the National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities (Industrial General Permit)

Dear Ms. Irvin:

Attached to this cover letter are comments Alcoa Inc (Alcoa). wishes to present to the State Water Resources Control Board (SWRCB) for consideration prior to issuing the final permit. Alcoa has a number of industrial facilities that either will be directly impacted by this permit because they are currently covered by the industrial general permit for storm water discharges issued in 1997, or may be covered in the future.

Alcoa appreciates this opportunity to provide comments on the proposed renewal industrial general permit. Alcoa would be willing to meet with SWRCB staff to discuss these issues and the State's storm water program in general. Please call me at 412-553-2996 or e-mail me at john.morton@alcoa.com if SWRCB staff have any questions concerning our comments or wish to set up a meeting.

Very truly yours,

John D. Morton

John D. Morton, P.E.
Senior Consultant
Alcoa Inc.
Water/Wastewater Group
GBS EHS Services North America

Attachment

Alcoa Inc.
GBS North America EHS Services
Alcoa Corporate Center
201 Isabella Street @ 7th Street Bridge
Pittsburgh, Pennsylvania 15212-5858 USA

Direct Dial: 412.553.2996
Fax: 412.553.4822
e-mail: john.morton@alcoa.com

Alcoa Inc. Comments
On the Reissuance of the National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities
General Permit No. CAS000001

Alcoa Inc. (hereinafter referred to as Alcoa), the world's largest producer of aluminum, wishes to make the following comments to the State Water Resources Control Board (hereinafter referred to as SWRCB) on the draft renewal of the California National Pollutant Discharge Elimination System general permit for discharges of storm water associated with industrial activities (hereinafter referred to as the Industrial General Permit). Alcoa has manufacturing operations in 41 countries worldwide, and in over 35 states in the U.S. Alcoa industrial facilities in California that either are directly affected or may be affected by this Industrial General Permit are located in Carson, Fullerton, Simi Valley, Torrance, City of Industry, Visalia, and Irvine. The permitting of storm water from industrial sites is becoming more complex as additional experience is gained under the national program and delegated states programs. In addition, nearly 10 years of experience with the use of general permits for storm water discharges show certain assumptions and methods of permitting have not been as successful or appropriate as when they were originally developed and imposed on dischargers. Alcoa believes these learning experiences at the national level and in other delegated states should be evaluated for inclusion or exclusion under the Industrial General Permit.

Alcoa has commented on the recent renewal of general permits for the discharge of storm water associated with industrial activities in the states of Tennessee, Arkansas, South Carolina, Pennsylvania, and Georgia. Alcoa also filed appeals of the issuance of the final general permits in Tennessee, Arkansas, South Carolina, and Pennsylvania. Settlement agreements, both final and tentative, have been reached in the Tennessee, Arkansas, and South Carolina permit appeals, and settlement negotiations with Pennsylvania are on-going. Our comments to this Industrial General Permit include our experience with the appeals and settlement discussions in these delegated states.

Comment 1: Page 2, SWRCB Finding 8 – Compliance with 40 CFR 122.44(i)(3) and (4), related to minimum monitoring requirements

Alcoa does not believe these federal storm water monitoring requirements must apply to NPDES general permits, as this finding seems to imply. The language in these two sections of 40 CFR 122.44 states these monitoring conditions "shall be established on a case-by-case basis", which seems intended for individual NPDES permits and not necessarily for general permits. Indeed, EPA's general storm water permit, the multi-sector general permit or MSGP, does not require a minimum of once per year monitoring. When EPA issued the MSGP in 1995, a number of industrial sectors - including those potentially covered by effluent limitation guidelines in 40 CFR Subchapter N – were required to only monitor in years 2 and 4 of the general permit. The 2000 MSGP renewal continued this monitoring schedule in the general permit. Alcoa requests this Finding be revised

to reflect that it is not based on federal storm water permit monitoring requirements.

Comment 2: Page 3, Part I.1, Discharge Prohibitions

It is not clear what the first sentence of this condition applies to. The sentence reads "Except as allowed under Section IV. Non-Storm Water Discharges, discharges of liquids or materials other than storm water (non-storm water discharges), either directly or indirectly to waters of the United States, are prohibited." Does the phrase in parentheses (non-storm water discharges) apply to the discharge of liquids or materials, and is meant to prohibit non-storm water discharges containing pollutants that are not listed in Section IV.1, or does it in some fashion apply to storm water containing these substances? Alcoa requests this condition be revised to add clarity as to its meaning.

Comment 3 Page 4, Part IV.1.c, Non-Storm Water Discharges, drinking fountain water

Alcoa would like to point out that allowing the discharge of drinking fountain water from a drain may violate the local sewer use ordinance, plumbing ordinance, and/or building code ordinance, which could result in confusion since the Industrial General Permit at Finding 6 states that nothing in the permit preempts or supersedes the authority of municipal agencies to "restrict, or control storm water discharges and *authorized non-storm water discharges*" (emphasis added). EPA proposed the same type of non-storm water discharge be authorized under the MSGP when it was renewed in 2000, and Alcoa commented that providing a blanket allowance for these types of discharges might not be advisable. EPA agreed, and did not include drinking fountain water as an allowable non-storm water discharge in the final permit. Below are the pertinent parts of the comment Alcoa submitted to EPA on this issue:

> *Allowable Non-Storm Water Discharges, drinking fountain water, 1.2.2.2.3, page 17050, first column. Alcoa does not believe drinking fountain water should automatically be considered an allowable non-storm water discharge. While there will be instances where this can be acceptable, it has been Alcoa's experience that drinking fountain drains in manufacturing areas can be problematic. Most of our manufacturing facilities discharge their sanitary wastewater to the local POTW. Nearly all sewer use ordinances require sanitary sewage from facilities connected to the municipal sewer system be discharged to the sewers. A number of these ordinances list drinking fountain drains as a source of sanitary wastewater. This is not surprising since many areas of the country have adopted national building code regulations as their local building codes. The 1993 Building Officials and Code Administrators (BOCA) National Plumbing Code mandates that the water distribution and drainage system of any structure in which plumbing fixtures are installed shall be connected to public water and sewer, respectively, where available. (See General Regulations, Section P-304.0, page 13, The BOCA National Plumbing Code/1993.) Chapter 12 of the 1993 BOCA National Plumbing Code lists drinking fountains as a plumbing fixture. (See Section P-1211.0, page 52.) It can lead to confusion if the MSGP specifically states that drinking fountain water can be discharged through the plant's storm water drains but the local ordinance requires that same*

water to be discharged to the sanitary sewers. Section 9.13.2 of the MSGP Standard Permit conditions requires compliance with all other environmental statutes or regulations.

Alcoa recommends the wording "drinking fountain water and" be removed from Section 1.2.2.2.3 of the MSGP, and the reference cite only "potable water including water line flushings". For those instances where it may be appropriate to have drinking fountain water as an approved non-storm water discharge, EPA should consider specific BMP measures. These measures could include such things as the placing of signs indicating where the drinking fountain drain discharges and the prohibition of any liquids other than the drinking fountain water from being poured down the drain. This should be discussed in the preamble to the final permit or in a storm water fact sheet, rather than in the MSGP itself.

Alcoa requests that this potential conflict with local sewer use ordinances, municipal building, and/or plumbing codes be reviewed and the permit language modified accordingly.

Comment 4: Page 4, Part IV.1.c, Non-Storm Water Discharges

EPA's MSGP authorizes more non-storm water discharges than those listed in this Section of the Industrial General Permit. Alcoa requests that this section of the permit be modified to include all of the EPA authorized non-storm water discharges, by adding the following language:

- Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- Routine external building wash down which does not use detergents;
- Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but NOT intentional discharges from the cooling tower (*e.g.*, "piped" cooling tower blowdown or drains).

Comment 5: Pages 5 to 7, Parts V.6 and V.7 – Permit requirements are identical for not being in compliance

The permit requirements are identical for violating a water quality standard (Part V.6) as they are for exceeding a parameter benchmark value (Part V.7). This would appear to imply the same weight and gravity for each type of non-compliance, even though the parameter benchmark values are the same as EPA's, and EPA is emphatic that their parameter benchmark values should not be used as effluent limits. See Alcoa's Comment 6 below for further information. Alcoa requests that these two conditions not contain the same requirements.

Comment 6: Page 6 and 7, Part V.7 - Exceeding USEPA benchmark values

EPA developed the parameter benchmark values for the 1995 MSGP and subsequently revised some of them for the renewal 2000 MSGP. In both instances, EPA emphatically declared that parameter benchmark values are not effluent limits, nor should they be adopted as such. On page 50825 of the preamble to the *Federal Register* in which EPA published the 1995 MSGP, EPA wrote:

> The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such.
> Source: *FR*, vol. 60, no. 189, September 29, 1995, page 50825

In 2000, EPA reemphasized its intention that the parameter benchmark values are not to be considered effluent limits.

> The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such.
> Source: *FR*, vol. 65, no. 210, October 30, 2000, page 64767

SWRCB is relying on EPA's benchmark values, some of which were derived from specific state water quality standards, and may not be applicable to California. Alcoa does not believe that one number for a given benchmark can be adequate for all discharge locations in California, given the variability in flow volumes from different industrial sites even in the same vicinity. Likewise, a single benchmark value is not adequate for every size storm event generating runoff that occurs in the state. Exceeding a benchmark value does not necessarily indicate a problem with the controls a discharger has in place, as the circumstances surrounding that exceedance must be evaluated; that is, how much above the benchmark value was the monitoring result, how much rainfall occurred during the sampling event, what was the overall stream water level during the sampling event, what is the size and overall quality of the receiving stream, and so forth. Finally, a single grab sample taken in the first 60 minutes of a precipitation event and comparing that to a single benchmark value will not be representative of every precipitation event that occurs. EPA expressed similar views with regard to the MSGP, as the following excerpts from the 2000 MSGP and its supporting documentation show:

- *"An exceedance of a benchmark value does not, in and of itself, constitute a violation of this permit. While exceedance of a benchmark value does not automatically indicate that violation of a water quality standard has occurred, it does signal that modifications to the SWPPP may be necessary."*
- *"...analytic levels considerably above benchmark values can serve as a flag to the operator that the SWPPP needs to be reevaluated and that the pollutant loads may need to be reduced."*
- *"The results of benchmark monitoring are primarily for your use to determine the overall effectiveness of your SWPPP in controlling the discharges of pollutants to receiving waters..."*

- From the preamble to the 2000 MSGP, EPA said the following, with regard to exceeding a benchmark value: *"In many cases operators can, upon receipt of analytic monitoring results above benchmarks, still conclude their present SWPPPs/BMPs are adequately protective of water quality, or that other situations such as discharging to low-quality, ephemeral streams may obviate the need for SWPPP/BMP revisions."*

Alcoa believes that the Industrial General Permit should contain language that allows dischargers to develop alternate site-specific benchmark values for evaluating the effectiveness of the storm water pollution prevention plan. This approach would allow a discharger the choice of either using the benchmark values in the permit or to develop meaningful site-specific criteria for the pollutants of concern, or to develop alternate methods of determining the effectiveness of the SWPPP. Alcoa proposed such language to the State of Tennessee during the 2002 renewal of the Tennessee multi-sector general permit for industrial storm water discharges and to the State of Arkansas during the 2004 renewal of the Arkansas general permit for industrial storm water discharges. Both states have accepted this alternate benchmark development in addition to the federal EPA benchmark values. The permit language submitted to Tennessee is shown below and is in italics for emphasis. Please note that cut-off concentrations are the same thing as parameter benchmark values and the references to specific parts of the permit are based on Tennessee's permit formatting.

3. In lieu of using the listed cut-off concentrations, a permittee may develop either alternate cut-off concentrations, or other alternate means of determining equivalent compliance to using the cut-off concentrations listing in the various Sectors in Part XI of this permit.

a) The Storm Water Pollution Prevention Plan must contain a full and complete description of the alternative(s) to the established cut-off concentrations listed in this permit, along with the justification for the selected alternative(s), why the alternative(s) is considered equivalent to the listed cut-off concentrations (if the permittee is establishing a different value than the established cut-off concentration value), how the alternative(s) will be evaluated to determine equivalency with the established cut-off concentrations (including where the permittee is establishing different parameters to measure SWPPP effectiveness than those listed under the applicable Sector in Part XI of this permit, or establishing alternatives that are completely different than any of the established cut-off concentrations in the Sector, including alternatives which do not utilize sampling), and documenting on an annual basis the permittee's ability to successfully achieve the alternative(s) to the established cut-off concentrations.

b) The alternative(s) to the established cut-off concentrations must take into account the following factors:

(1) Protection of the promulgated stream classification;

(2) Protection of the stream sediments;

(3) Ensure the storm water discharges do not cause an impairment of the receiving waters, including any localized impairment;

(4) Ensure the storm water discharges do not cause any human health effects from the ingestion of fish and other aquatic life;

(5) Ensure the storm water discharges do not result in the inability of the receiving waters to support and maintain recreational uses as designated in the appropriate stream classification.

c) The permittee shall submit the section of the SWPPP with the alternative(s) and the rationale to the State for review, by submitting it to the Division's local Environmental Assistance Center. The State shall review and approve the alternatives, and notify the permittee of such approval in writing. The State shall have 60 days to review the alternatives. If, after 60 days, the State has not notified the permittee of its review findings, the permittee may begin to use the alternative(s) to the established cut-off concentrations. If the State does not approve the alternatives(s), the permittee shall follow the provisions of Part VI.C.3.e below.

d) The alternative(s) to the established cut-off concentrations shall be evaluated annually. If this annual review demonstrates that the permittee is not achieving the alternative(s) to the established cut-off concentrations, the permittee must inform the Division's local Environmental Assistance Center in writing within 30 days from the time of the determination of not achieving the alternative(s). Furthermore, within 60 days of the date the permittee became aware that its discharges are not achieving the alternative(s), the permittee must:

(1) review its storm water pollution prevention plan, make any modifications or additions to the plan which would assist in reducing specific substances in the storm water discharges to ensure achievement of the alternative(s) to the cutoff concentrations for that facility, and

(2) Submit to the Division's local Environmental Assistance Center a brief summary of the proposed SWPPP modifications (including a timetable for implementation). New owners shall review the existing plan and make appropriate changes using the same timetable as described above. Amendments and modifications to the plan may be reviewed by the Division in the same manner as in Part IV.B.

e) Should the Division determine that a permittee's alternative(s) to the established cut-off concentrations are not effective in achieving the same goals as the cut-off concentrations either upon initial submission of a request for alternative(s) to the established cut-off concentrations or anytime during the term of this permit, the permittee after receiving written confirmation of the Division's determination of inadequacy shall institute sampling and achievement of the established cut-off concentrations as described in Part IV.C.2 above until such time as satisfactory alternative(s) to the established cut-off concentrations are developed and implemented as described in Part IV.C.3 above. The permittee must notify the Division in writing of the development of any new or revised satisfactory alternative(s) if the existing alternative(s) are found to be ineffective under the provisions of this paragraph.]

Alcoa requests that the Industrial General Permit be modified to include an alternate benchmark value development procedure, and that wording be added to this section of the permit that allows a discharger to evaluate whether or not a monitoring event that results in the exceedance of a benchmark value is sufficient to trigger all the requirements in this condition. Alcoa believes the exact procedure(s) for developing any such alternates should not be specified in the permit; rather, the general approach outlined above should be included with the exact procedure(s) to be determined based on site-specific circumstances.

Comment 7: Page 9, Part VII.3.c.ii – Incorporate or reference the elements of other plans in the SWPPP

Alcoa would like to point out to the SWRCB that USEPA has been encouraging the development of comprehensive release reporting and countermeasure plans that incorporate release reporting under the various environmental laws and regulations into one document, generically referred to as an integrated contingency plan (ICP). EPA published notice of its guidance on developing an ICP in the June 5, 1996 *Federal Register.* Alcoa has developed such a comprehensive plan based on EPA's ICP concept, called the Release Prevention Contingency and Countermeasure (RPCC) Plan, which incorporates all such release reporting that affects a site, including the SWPPP for general storm water permits. Alcoa recommends that the following language be added to the end of Part VII.3.c., to recognize facilities that have an ICP:

Part VII.3.c.iii:

> *Facilities that have prepared a comprehensive release reporting plan that conforms with EPA's guidance on integrated contingency plans (ICP) that incorporates the provisions of Part VII SWPPP Requirements in their entirety (as required) shall comply with that plan.*

Comment 8 Pages 12 and 13, Part VII.8 – Minimum BMPs

While generally agreeing with principle of the minimum BMPs contained in this section, Alcoa does not believe that the Industrial General Permit should specify how often inspections are to be done (see Part VII.8.i(1) and ii(2)). Once per week could be too frequent, or in certain instances, too infrequent, depending on the manufacturing operations, receiving stream, and the site's existing environmental management system requirements (ISO 14000 or other EMS). Alcoa recommends that the language at the beginning of each of these two sections be modified to read *"Based on site-specific circumstances as documented in the SWPPP, inspect on a regular basis..."*

Comment 9: Page 17, Part VII.10.e – Seven day notification of any permit non-compliance

This requirement is too restrictive, as it may take more than a week to determine if permit non-compliance has actually occurred. In addition, the subsections under this permit condition appear to all relate to the implementation of the SWPPP, and not the entire permit. Regardless, the language at the beginning of this section should be modified to read (with the added language in italics): "Dischargers shall report any non-compliance with the *SWPPP or* Permit within *fourteen* days of discovering the non-compliance as follows:"

Comment 10: Pages 17 through 23, Part VIII – Monitoring and reporting requirements

Alcoa has a number of comments regarding this section of the permit

A. Part VIII.3.e requires recording any storm event that occurred during operating hours that did not produce a discharge. Alcoa does not understand what possible use this type of information can be for the discharger or the SWRCB. Indeed, since there is no impact to the receiving stream because there is no discharge of storm water, the NPDES permitting program really has no jurisdiction over these events. Alcoa requests that Part VIII.3.e be eliminated from the Industrial General Permit.

B Part VIII.3.f requires dischargers to perform a visual inspection of anticipated storm events. Again, the question is why, if Part VII.8.i.(1)and ii.(2) are mandating weekly inspections that appear to cover the same areas of the facility. Would this condition even apply with the previously mentioned inspections, since the last sentence states that the pre-storm visual inspection does not have to be performed if one was done fourteen days prior, again using the currently proposed weekly inspection schedule in Part VII. Alcoa believes the term "anticipated storm event" is too nebulous to use in a permit condition. Alcoa requests that Part VIII.3.f be eliminated from the Industrial General Permit.

C. Part VIII.4.c specifies in subpart iv., "Parameters indicating the presence of pollutants that may be causing or contributing to an existing exceedance of a WQS in the facility's receiving stream". How would a facility know when such a situation existed? Alcoa requests that language be added that the SWRCB must notify the discharger in writing whenever this situation existed before any such monitoring became effective.

D. Part VIII.4.f discusses procedures a discharger is to follow if a benchmark value is exceeded. Alcoa requests that this section of the permit be modified to take into account the comments presented in Comment 4 above.

E. Part VIII.6 requires a one-time pollutant scan of a suite of parameters, for the express purpose (as stated in the Fact Sheet) of developing effluent limits for the next permit. Alcoa does not believe this is adequate justification for

mandating this type of sampling. The existing permit has been in effect since 1997, but the Fact Sheet makes no mention of any evaluation of this data. Does it support such a permit condition of every discharger, or are there only selected industrial categories in specific areas that might need this type of sampling?

E. Part VIII.7.d mandates sampling from all drainage areas. EPA's MSGP allows for representative sampling from one outfall if two or more outfalls contain similar type of storm water. Alcoa requests similar language be inserted here. While the permit allows combining the sample results from up to 4 outfalls into one combined sample, typically a higher cost is incurred by collecting samples from multiple outfalls due to the resources required, not analyzing the samples.

F. In general, Alcoa does not believe SWRCB has provided sufficient information for the public to determine if all of the monitoring required in Part VIII is justified. The Fact Sheet alludes to the 1999 9th Circuit Court decision in *Defenders of Wildlife v. Browner*; however the issue isn't whether industrial discharges consisting of storm water must comply with water quality standards. The issues include but are not limited to, do water quality standards for storm water discharges exist that are applicable to the wide range of storm water events that can occur at any given industrial site, and can meaningful effluent limits for storm water discharges be established. Alcoa does not believe there is sufficient technical information to adequately address these issues, and the Fact Sheet does not provide sufficient information to allow the public to determine if the SWRCB has resolved these types of issues to the point where collecting significant amounts of sample data is warranted at this time. EPA has issued guidance describing the technical difficulties in developing numeric storm water effluent limits in their September 1, 1996 memorandum titled "Interim Permitting Approach for Water Quality-Based Effluent Limits in Storm Water Permits". Alcoa believes the procedures and guidance EPA outlined in this memorandum should apply here as well. Alcoa requests that the SWRCB evaluate the existing data to determine if all of the monitoring proposed is adequate, make any appropriate changes to the monitoring requirements, and provide for public review and comment of this evaluation and any monitoring modifications made as a result of this evaluation prior to issuing the permit final. In addition, Alcoa requests the Fact Sheet be modified to include the current technical difficulty and uncertainty as to how to develop wet weather effluent limits that are applicable for all ranges of storm events for industrial facilities at this time.

Comment 11 Page 24, Table VIII.1 – Additional Analytical Parameters

These additional analytical parameters appear to be based on EPA's 2000 MSGP. Alcoa requests the ability to develop alternate analytical parameters to the ones

listed in this table, using procedures similar to those outlined in Comment 4 above.

Comment 12: Page 25, Table VIII.2 – Parameter Benchmark Values, Test Methods, Detection Limits and Reporting Units

Alcoa request the ability to develop alternate parameter benchmark values to the ones listed in this table, using procedures similar to those outlined in Comment 4 above.

Comment 13: Pages 29 through 31 – Conditional Exclusion Requirements

While Alcoa agrees in principle with the "no exposure" conditional exclusion, a number of implementation, interpretation, and compliance issues persist that neither the federal "no exposure" process nor the SWRCB conditional exclusion requirements address. For example, the SWRCB is allowing all industrial facilities to take advantage of the "no exposure" exclusion, just as the federal program does. Neither program, however, has changed the definition of storm water associated with industrial activity. Both programs state that storm water associated with industrial activity includes (among other things) final products, for facilities covered under paragraphs (1) through (9) of the definition (see Attachment 1 of the permit), and therefore, a facility must obtain a permit. However, under both programs, if a facility elects the conditional exclusion (no exposure certification under the federal program), final products exposed to storm water are no longer considered "exposed". This provides a very large exemption to one discharger that another does not enjoy, even though they may produce the exact same finished product. Alcoa requests the SWRCB clarify how the conditional exclusion will work for the following situations.

A. How will the SWRCB handle non-storm water flows such as air conditioning condensate, fire protection test waters, and other such flows which are currently authorized under the Industrial General Permit provided the permit conditions are met, at facilities that opt for the conditional exclusion? Most of these types of flows have historically been directed to the storm water drainage system at industrial sites. Facilities electing the conditional exclusion will then either need to ensure these discharges contain no pollutants, do not discharge to the storm water drainage system, or obtain an individual permit for them. The conditional exclusion provisions do not address this situation and can lead those industries electing it to have a false sense of compliance, if these types of flows are not adequately addressed. Another option would be for the SWRCB to develop a general permit for these types of flows, similar to the existing general permit the SWRCB developed for utility underground vaults. EPA historically has interpreted the need to permit these types of flows, if they are not included in the general storm water permit. The 1987 amendments to the Clean Water Act (CWA) required EPA to

conduct a study on *de minimus* discharges. In their report to Congress in 1991, EPA stated there were basically two ways to address *de minimus* discharges: (1) amend the CWA to exempt certain *de minimus* discharges or (2) develop general permits to cover generic categories of *de minimus* discharges. Since the CWA hasn't been revised to exempt any discharges other than the original exemptions in the 1972 amendments, EPA has developed several general permits (including general permits for industrial and construction storm water discharges).

Below is another example of EPA's interpretation and guidance on non-storm water discharges that shows these flows need to be permitted. Note that this includes the comment number from EPA's publication.

> 39. Do storm water construction general permits authorize non-storm water discharges?
>
> A. Under EPA's storm water construction general permits, issued on September 9, 1992, and September 25, 1992, the following non-storm water discharges are conditionally authorized (57 *FR* 41219) and (57 *FR* 44419): discharges from fire fighting activities; fire hydrant flushings; waters used to wash vehicles or control dust; potable water sources including waterline flushings; irrigation drainage; routine external building washdown which does not use detergents; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents. These discharges, except for flows from fire fighting activities, must be identified in the pollution prevention plan and the plan must address the appropriate measures for controlling the identified non-storm water discharges. *Other non-storm water discharges not listed above or not identified in the storm water pollution prevention plan, must be covered by a different NPDES permit.* (Emphasis added)
>
> Source: EPA NPDES Storm Water Program Question and Answer Document, Volume II, July 1993

Alcoa requests the SWRCB develop a general permit for these types of flows, or develops some other permitting opportunity that will allow dischargers electing the conditional exclusion the ability to ensure the non-storm water discharges are properly regulated.

B. If a facility opts for the conditional exclusion and subsequently has material or activities exposed to storm water, what does that do to the exclusion? Under the federal program, such an event results in the exclusion no longer applying (see 40 CFR 122.26(g)(3)(iii). The No Exposure Certification form does not give an indication what happens in

this instance. Can the facility that loses the exclusion because of exposure re-apply for the "no exposure" exclusion in the future? If so, under what conditions, and what timeframe? Alcoa requests that the SWRCB provide sufficient explanation on how the no exposure certification process is to be administered, so that facilities opting for it (or attempting to evaluate if it should opt for it) have a clear understanding how it is to work and what the ramifications could be for failing to maintain a condition of no exposure at all times.

To address some of these issues, Alcoa requests the SWRCB consider incorporating the following conditions into Part X of the Industrial General Permit

a. *For as long as the no exposure exclusion applies to the facility, any non-storm water discharge authorized under this general permit, as set forth in Part IV.1 above, must either be permitted under an individual NPDES permit or any general permit developed by the SWRCB for such discharges, or these non-storm water discharges must not be allowed to be discharged off-site to a receiving stream.*

b. *The facility is to develop and maintain a no exposure management system that ensures no exposure will occur for the life of the no exposure exclusion period, or 5 years, whichever is shorter. Any such system is to include adequate safeguards, best management practices, periodic storm water management program reviews, site inspections, and maintenance schedules to ensure no exposure at all times.*

c. *Exposure is defined as storm water coming into contact with the activities identified in Attachment 3 – Definitions - of this permit (storm water associated with industrial activity) that discharges off-site to a receiving stream. Should a potential condition of exposure be identified during non-storm periods and the facility is satisfied that the potential exposure occurred after the last known precipitation event and the facility can address the situation such that no exposure is again assured prior to the next storm event, then this would not be a condition of exposure. (An example would be finding a rip in a tarp covering material stored outside that is discovered and repaired prior to the next storm event that generates runoff, and the facility knows that the tarp was not ripped before the last known storm event).*

    1 *If exposure occurs, the facility must apply for permit coverage for its storm water discharges, either under this general*

permit, an individual NPDES permit, or an alternate general permit, no later than 30 days after the exposure occurs.

2). If the facility cannot definitively determine if exposure occurred in a particular instance, but has reason to believe exposure probably did occur, then the facility must apply for either this general permit, an individual NPDES permit, or an alternate general permit for its storm water discharges, within 30 days of making that determination.

3). A facility that elects no exposure and subsequently has exposure cannot reapply for the no exposure exclusion again for the remainder of the life of this permit unless it can demonstrate that the condition causing exposure has been remedied so that exposure will not occur again. Documentation to this effect must be attached to the No Exposure Certification and be made available to the SWRCB upon request.

d. The SWRCB reserves the right to revoke a facility's no exposure exclusion status if, after a site inspection or through other investigations, it determines the facility cannot justify the no exposure exclusion or cannot demonstrate to the satisfaction of the SWRCB that exposure has not occurred. If the SWRCB revokes the no exposure exclusion, the facility must apply as soon as possible for this general permit, an individual NPDES permit, or an alternate general permit. The SWRCB decision to revoke a facility's no exposure exclusion status shall be subject to administrative review pursuant to California regulations and law.

Alcoa also recommends the No Exposure Certification form and instructions be modified to include language similar to that above. Specifically, Alcoa requests the following changes to the form:

a. Add the above italicized language to the Instructions portion of the No Exposure Certification form, as a separate section, or incorporating it where appropriate into the current instructions.

b. Add the following questions to Section IV. EXPOSURE CHECKLIST.

12. All allowable non-storm water discharges covered under General Permit CAS000001 identified in Part IV.1 have either been eliminated (prevented from discharging off-site via surface water) or permitted with an individual permit or under an alternate general permit.

13. *The facility has developed a comprehensive management plan to ensure that adequate inspections and oversight is provided to prevent exposure of industrial activities to storm water during the life of this certification.*

c. Revise the introductory paragraph to C. EXPOSURE CHECKLIST to read, with the changes indicated in italics:

> Are any of the following materials or activities exposed to precipitation now or in the foreseeable future? (Please check either "YES" or "NO" in the appropriate box. **If you answer "YES" to any of the following questions (1) through (11), then your facility is not eligible for the No Exposure Certification.** ***If you answer "NO" to either question (12) or (13), then your facility is not eligible for the No Exposure Certification.***

d. Add the following two sentences to the end of the second paragraph of Section V. Certification:

> *I understand that all non-storm water discharges must be either eliminated (prevented from discharging off-site into surface waters) or permitted under an NPDES permit or alternate general permit. I understand my facility must develop and maintain a management plan to ensure no exposure of industrial activity to storm water, and have adequate evaluation procedures in place that ensures no exposure for the life of this certification. I further understand that when the no exposure status no longer exists at my facility I must obtain coverage under an NDPES permit prior to any point source discharge of storm water from the facility.*

Comment 14: Reserving Alcoa's right to add to or modify these comments after their submittal

Alcoa reserves its right to submit additional comments, or modify these comments, after they are submitted. Alcoa understands that the comment period may be extended beyond the current deadline of February 3, 2005, but that announcement may be made at the February 3rd public hearing. Alcoa must mail these comments by February 2 to ensure they are received at the SRWCB by the current deadline.

Alcoa appreciates this opportunity to provide comments on the proposed renewal industrial general permit. Alcoa would be willing to meet with SWRCB staff to discuss these issues and the State's storm water program. Please call John D. Morton at 412-553-2996 or by e-mail at john.morton@alcoa.com if you have any questions or wish to set up a meeting.