



Specific Comments by Permit Section

Specific comments on the 2004 Draft Permit are shown in the table below. In some instances (as noted), comments originate from changes carried over from the previous 2003 draft permit issuance.

BERC comment #	Permit Section	Topic:	Fees	Comments	Suggested Remedy/Resolution	Comment status:	
						New	From 2003
1.	none		Flat annual fees: A single permit fee applies. Fees are not scaled to business size or operation for industrial activity.		Scale fees per some criteria, such as number of employees, to provide relief for small business.		✓
2.			\$200 NEC filing fees: Fees are based on an assumed 1 hour agency processing time + 1.5 hour inspection time. As agency inspections are optional and not routine, the fee should be decreased.		<ul style="list-style-type: none"> Adjust the NEC filing fee to equal the processing time plus an additional prorated inspection cost for the small fraction of NEC filers that would likely be inspected. 		✓
	X.2.c.		Annual NEC filing fee: Significant fees for annual NEC renewal certification should not be imposed for a paper exercise when site conditions have not changed from the original filing. While an annual renewal of NEC filing is supported, any associated cost should be sensitive to its impact on businesses.		<ul style="list-style-type: none"> NEC filing fees should be required only for new filings, not for mere renewal of a previous filing. Annual renewal fees, if imposed, should be minimal or non-existent and should relate directly to actual processing costs. 	✓	
		Topic:	Benchmarks				
3.	Fact sheet and V.7. and VIII.4.(f)		Benchmark intent vs. use: There is acknowledged, yet unresolved, conflict between the Board's proposed use of USEPA benchmarks as interim de facto numeric effluent limits with specific corrective action requirements upon any exceedance versus the USEPA's intended use of benchmarks. This conflict, which the Board acknowledges in this Draft Permit, is not only left unresolved, but is ultimately a punitive burden to businesses with questionable end benefit to water quality and storm water pollution prevention. As benchmark exceedances may occur as a result of events or conditions that cannot be controlled by BMPs (like adjacent property run-on, high naturally occurring background levels, or due to anomalies like galvanized fence decomposition), it is unfairly burdensome to require a potentially endless sampling cycle without proven storm water / water quality benefit.		<ul style="list-style-type: none"> Benchmark exceedances should lead to BMP examination and SWPPP evaluation. Some additional sampling events may be reasonably required, but benchmark exceedances should not spark an endless sampling loop for businesses. US EPA benchmarks should not be utilized as quasi-numeric effluent limits, but should be otherwise reasonably considered to support the iterative BMP approach as intended by the US EPA. 	✓	



Topic: SWPPPs		Comments	Suggested Remedy/Resolution	Comment status:	
Permit Section	BERC comment #			New	From 2003
VII.8.c.	4.	BMP Description: BMPs are required to be described both narratively and in a tabular format in the SWPPP. For most, if not all, small businesses, this is unnecessarily duplicative. An allowance should be made for a singular, simplified format.	Delete the narrative requirement for BMPs. Expand the detail required in the tabular format if necessary to streamline.		✓
VII.10.a.	5.	Agency request for SWPPP: SWPPPs must be made available within 5 working days of agency request. Small businesses with limited personnel resources and tight production schedules may face hardships in complying with a very short timeframe.	Loosen the timeframe to 10 days for providing a copy of SWPPP to agency.		✓
Topic: Monitoring Program					
VIII.3.e.	6.	Visual Observations: Documentation must be kept in monthly records of all storm events that did not generate storm water discharge. The onus to record non-discharging events is needlessly burdensome. Precipitation records are readily available in almanacs; it is excessive to impart such a requirement on businesses which already face very prescribed compliance requirements for storm water and many other areas. Other existing monthly, quarterly, and pre-storm observation requirements reinforce the effectiveness of the discharger's monitoring program.	Delete the requirement to record monthly observations for non-discharging events.	✓	
Topic: Sampling & Analysis					
VIII	7.	Deletion of sampling reduction provision: Provisions for sampling reductions have been dropped from the permit. In the existing permit, such a provision exists providing relief to sites having demonstrated compliance, no prohibited discharges and no significant pollutants in past sampling cycles. Where such conditions are expected to continue, relaxed sampling requirements should be provided.	Reinstate a reduced sampling provision similar to that in the existing draft permit for qualifying facilities.	✓	

Topic: Sampling & Analysis, continued		Comments	Suggested Remedy/Resolution		Comment status:	
			Permit Section	Permit Section	New	From 2003
BERC comment # 8.	VIII.4.c.	<p>Additional sampling analysis for receiving water impacts: Requirement to sample for parameters that may cause or contribute to a WQS exceedance in receiving waters. This approach is alarmingly open-ended. Businesses must be responsible for managing their sites appropriately and for preventing pollution due to their activities and associated materials of concern. Businesses have little to no control over receiving waters and in most cases, are probably not even aware of their ultimate "receiving waters."</p> <p>It is the government's responsibility to oversee the state's waters. Businesses's sampling obligations should be limited to those pollutants that are brought to the table by their activities. Businesses should not be expected to assume responsibility for assessing or determining the sources of pollutants in non-exclusive receiving waters.</p>	<p>Alternative 1: Delete the language for businesses to sample for possible impacts to receiving waters.</p> <p>Alternative 2: Severely limit the language requiring sampling for possible impacts to receiving waters. Parameters should be limited to specific pollutants of concern—those correlated to facility's operation, site-specific potential pollutant sources and/or facility-specific materials of concern.</p>	✓		
9.	VIII.4.(f)	<p>Benchmark exceedance corrective action: See previous discussion in Benchmarks section (page 2 of this correspondence). Corrective actions proposed as requirements are punitive with significant adverse financial impacts.</p>	<p>Alternative 1: Eliminate corrective action language for benchmark exceedances to reflect use of benchmarks as US EPA intended.</p> <p>Alternative 2: Incorporate language that acknowledges and provides relief for situations where achievement of benchmarks is not practical (like adjacent property run-on, high naturally occurring background levels, or due to anomalies like galvanized fence decomposition).</p>	✓		
10.	VIII.6.(a)	<p>One time pollutant scan: Requirement to sample once for host of pollutants. Sampling cost will be considerable and is an unfair burden to dischargers. No assured, known benefit will be gained. The costs of such data collection should be borne, or significantly offset, by the state.</p>	<p>Alternative 1: Eliminate pollutant scan language.</p> <p>Alternative 2: Provide an annual fee reduction or fee credit equal to the costs of the pollutant scan sampling.</p>	✓		
11.	VIII.6.(b)	<p>Test method SM210B: Section lists semi-volatile organics as parameter; referenced table lists BOD as parameter.</p>	<p>Verify that this test method/parameters are appropriate.</p>	✓		



Topic: Group Monitoring		Comments	Suggested Remedy/Resolution	Comment status:	
Permit Section	BERC comment #			New	From 2003
	12.	<p>Number of group participants: Requirement to have 10 participants to comprise a group. Groups are a cost-effective and technically rich option for compliance. Small businesses and specialized industries may benefit tremendously from group membership. However, it can be difficult to organize groups of 10 members, especially for small businesses that are highly localized in their contacts. Likewise, small businesses in highly specialized industries (such as recyclers) may not have enough similar business contacts in their local areas to establish a group of 10 participants.</p>	Lower the minimum membership to six participants for groups.		✓
	13.	<p>Definitions: Most small businesses have no background in storm water regulation and will prepare their SWPPPs without professional assistance. Definitions will facilitate compliance.</p>	Provide a thorough explanation of terms and acronyms used in the permit including, but not limited to "off-site discharge", "significant materials", "BCT", "BAT", etc		✓
	14.	<p>Approach of increased regulation of filers versus compliance by non-filers: This permit tightens the regulation of storm water. Although many positive gains for storm water compliance are evident in this draft reissuance of the General Permit, it is arguable that the largest gains in storm water protections would be found in bringing the existing non-filers into even the lesser regulation of the previous permit.</p>	Focus efforts on non-filers.		✓



BERC hopes that these comments will be helpful to you in your consideration process. We hope that the impact of the proposed changes on small business viability will be taken into account alongside the many improvements in storm water protections. We strongly encourage any relief for small businesses relating to these comments that does not compromise storm water and water quality protections. Finally, upon adoption of the final General Permit, we recommend that compliance outreach is undertaken to small businesses to provide information on adopted changes.

Thank you for the opportunity to comment on the 2004 Draft General Permit. If you have any questions concerning this correspondence, please contact me at (916) 364-4110.

Sincerely,

A handwritten signature in black ink that reads 'Robert White'.

Robert White, RG, REA II
BERC Manager

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