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

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IN REPLY REFER TO:
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February 1, 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

Subject: COMMENTS ON DRAFT NPDES GENERAL PERMIT FOR DISCHARGES OF STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITIES

Dear Ms. Irvin:

On behalf of Rear Admiral Betancourt, the Department of Defense (DoD), Regional Environmental Coordinator for EPA Region IX, and the military services in California, I am forwarding enclosure (1), our comments on the Draft Industrial Storm water General Permit. The enclosure includes comments addressing general concerns with the proposed monitoring and Best Management Practices programs followed by comments on specific sections of the Fact Sheet and General Permit.

Should you have any questions regarding this matter, our point of contact is Mr. Brian Gordon, Director, Compliance and Technical Division at (619) 524-6390.

Sincerely,

A. J. GONZALES
Captain, U.S. Navy
Program Director Environment

Enclosure: 1. DoD REC IX Comments on Draft SWRCB Water Quality Order No. 05-XX-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001

DoD REC IX Comments on
Draft SWRCB Water Quality Order No. 05-XX-DWQ
National Pollutant Discharges Elimination System (NPDES)
General Permit No. CAS000001 (General Permit)

General Comments on Proposed Monitoring Program

The proposed permit significantly increases the monitoring requirements over what is currently required in the existing industrial stormwater permit (General Permit). Although in the Fact Sheet there is a statement that the SWRCB is mindful that USEPA has recommended throughout its guidance that BMPs be used in lieu of effluent limitations and that there should be limited use of sampling and analysis in permits, there is no indication these recommendations were considered by staff when drafting the permit. There are several new monitoring requirements that will increase the cost of monitoring and reduce the resources available for BMP implementation.

There are several provisions in the monitoring program that are of significant concern to the California DoD community. The proposed permit eliminates a provision in the existing permit that allows dischargers to sample at a reduced number of substantially similar drainage areas. The primary justification indicated in the Fact Sheet for this change was because dischargers were not consistent in their interpretations of the requirement and implementation of analytic schemes. Eliminating this provision will significantly increase monitoring costs at larger facilities such as military installations. Resources currently used for BMP implementation will in some cases need to be redirected for monitoring. If the basis for the change is confusion on how to implement the provision, it should be incumbent on the SWRCB staff to better explain the criteria for reduced monitoring rather than eliminating a provision that allows dischargers to direct resources toward reducing pollutants in stormwater discharges. The reduced monitoring provision in the existing permit should be maintained in the proposed permit with clarifying information so dischargers and RWQCB understand how to implement it.

The proposed permit requires additional sampling after benchmark values are exceeded. Specifically, the discharger is required to sample the next two consecutive storm events after a benchmark is exceeded. Neither the Fact Sheet nor proposed permit provide any justification for the sampling the next two storm events rather than one storm event. Considering dischargers must already sample two storm events during the wet season regardless of the sample results, adding two more storm events could conceivably double the sampling requirements for the season. Assuming one of the primary objectives of the additional monitoring is to verify that new or revised BMPs have reduced pollutant concentrations below benchmark values, a more appropriate approach would require additional sampling after an assessment is completed and any necessary BMPs changes implemented. There would be little value in sampling before changes can be implemented. To minimize monitoring cost increases while at the same time ensuring BMP effectiveness is validated, the permit should be revised so the discharger is only required to sample one additional storm event if a benchmark is exceeded and only after the discharger has been allowed to implement any necessary

BMP changes. The permit should also clearly state the additional sampling is only required at the outfall where the exceedance was measured.

In addition to the increases in stormwater sampling, the proposed permit would require dischargers to perform additional facility inspections. The permit requires inspections at all storm water drainage areas prior to anticipated storm events. For larger facilities, such as military installations, there can be hundreds of areas that would require inspection. Military installations already have existing storm water pollution prevention programs that include inspections to verify BMP implementation. It would be very difficult and resource intensive to implement this proposed inspection program at a large facility. The proposed permit does not seem to take into account how programs are implemented at facilities with multiple industrial activities and storm water outfalls. This requirement should be removed and the discharger allowed the flexibility to determine inspection frequencies based on site-specific conditions and needs.

General Comments on Minimum BMPs

The permit requires dischargers to implement minimum BMPs. In general, we disagree with the requirement for minimum BMPs because it imposes requirements which may not be suited to the industrial site (i.e. site-specific), and therefore, not as effective as other BMPs. In the proposed permit, two of these BMPs are of particular concern for military installations. Weekly inspections of all the outdoor areas listed under this section and identified equipment would be huge burden for larger facilities such as military installations. Military installations are already implementing effective inspection programs and there is no demonstrated need to specify the frequency of inspection. The RWQCBs are responsible for regulating and auditing facilities for compliance with the permit requirements. If the RWQCB staff determine an existing BMP program is not effective, then they can take additional action to ensure compliance. The requirement for weekly inspections should be removed.

Comments on Specific Sections of Fact Sheet

1. Page III, Para. 1: The intended footnote "1" does not show up as a superscript. Re-format to show superscript as intended.

2. General Comment: Storm water is expressed as two words "storm water" Express as one word "stormwater" to be consistent with EPA's terminology.

3. Page V, Para. 7: Conversely, can non-traditional MS4s with industrial facilities from Attachment 1 elect to forego coverage under this Industrial General Permit, if they are already covered under the NPDES General Permit for the Discharge of Stormwater from Small MS4s?

Revise Paragraph to include this option, as it would streamline and reduce permitting process. A regulated non-traditional MS4 can meet the substantive requirements of the

Industrial General Permit by fully complying with provisions of its Small MS4 general permit.

4. Page VI, Para. 9: Last sentence of paragraph (1st paragraph under section "Notification Requirements") suggests that a discharger would be found in violation of "discharging without a permit". Consider a situation when an owner of a facility simply failed to submit a NEC. How could a facility without any industrial activities exposed to stormwater be found in violation of discharging without a permit? Last sentence should be deleted.

5. Page VIII, Para. 5: Does the SWPPP required by the Industrial General Permit have to be a stand-alone document? Or can it be incorporated in a site's Small MS4 SWPPP?

If the answer is affirmative, suggest including a footnote on the page that mentions this option.

6. Page VIII, Para. 5: Requiring the SWPPP to be revised to reflect changes that will be made to the BMPs can be onerous, if multiple changes are made at different times during rainy season (i.e. contracting mechanisms). A record of the BMP changes can be maintained by the facility and then included in an annual update of the SWPPP.

Suggest that improved BMPs be implemented immediately as written, but allow the SWPPP to be updated once after the rainy season to account for any new and improved BMPs, which were implemented that year. This would keep the SWPPP current for the upcoming rainy season, without burdening dischargers with constant SWPPP revisions during the rainy season.

7. Page VIII, Para. 15: Same comment as #6.

8. Page X, Para. 2: Multiple revisions of the SWPPP during a one-year period is an unreasonable burden for many military installations. For one, many have to initiate new contracts. Second, in any military base there is usually a number of organizations that must review and approve the SWPPP. Finally, in most cases if the SWPPP is a base-wide plan it must be signed by the commanding officer, which takes additional time. By the time this revision process has been completed the rainy season could be over.

See comment #6. Suggest relief from the requirement to update the SWPPP every time improved BMPs are implemented. Rather consider an annual review of the SWPPP, and revision once a year if there are changes (i.e. to account for new BMPs).

9. Page XI, Figure 1: There is a "?" inserted between each of the boxes in this figure. This appears to be an error. Explain the use of the "?" in figure 1 or replace with the correct symbol.

10. Page XIII, Para. 2: This paragraph incorrectly lists Table VIII as containing additional analytical parameters. It appears Table VIII.1 is the table that should be listed. List Table VIII.1 in this section instead of Table VIII.

11. Page XVIII, Para. 5: This section attempts to justify removing the option for reduced sampling at substantially similar drainage areas. The reason stated for removing this option is because dischargers had differing interpretations and applications of analytical schemes. Removing this option, which is included in the existing general permit, will significantly increase monitoring costs at large facilities, such as military installations and will make it difficult to meet the 1 hour sampling requirement where multiple outfalls exist. Rather than remove this option the criteria required to apply this option should be more clearly stated in the permit. Dischargers should not be penalized for having differing interpretations because the permit does not include adequate information on a monitoring requirement.

Revise the permit monitoring requirements to include the option for reduced sampling at substantially similar drainage areas. Include specific criteria so dischargers and the RWQCB staff have a clear understanding on how to apply this monitoring option.

12. Page XXII, Fact Sheet Figure 3: The requirement for special one-time sample analysis for SVOCs, metals, and COD is unreasonable. Many industrial facilities to be covered under this permit do not present a source for these chemicals, and yet will be asked to sample for them. If high levels of these chemicals are shown in the analysis, dischargers will be asked to track the source, which for stormwater runoff, may not be the industrial facility itself. Strongly recommend that this provision be deleted.

Comments on Specific Sections of General Permit

13. Page 2, Item Number 11: See comment #12. To add, it is mentioned that the one-time sampling will be used to build a database of industrial stormwater discharges, but if there is no known source for these chemicals at the industrial facility, it would therefore, not necessarily represent industrial stormwater discharges. Strongly recommend that this provision be deleted.

14. Page 3, II.3: This section refers to conventional and non-conventional pollutants. Some dischargers may not be familiar with these terms and could benefit if they were included in the permit definitions. Recommend "conventional" and "non-conventional" pollutants be included in the definitions section of the permit.

15. Page 6, V.6.e: The 30 day timeline may not be sufficient to adequately investigate possible violations of receiving water limitations. For example, if a violation of receiving water limitations occurs, dischargers may take repeat samples for verification. Accounting for re-sampling and the laboratory analyses, 30 days may not allow enough time. Large facilities, such as military installations, generally have multiple activities requiring investigation before decisions can be made on BMP revisions. Allowing an extra 15 days will result in a more comprehensive evaluation.

Request increasing from 30 to 45 days to assure proper and thorough evaluation of the potential violations.

16. Page 6, V.6.g: See Comments #6 and #7

17. Page 6, 7.c.v: This section does not state how the certification is submitted. For example, this section could specify the certification is submitted in the report described in paragraph 7.e. Include information specifying how certification will be submitted.

18. Page 6, 7.c.v: There can be instances where the sources of pollutants are not related to industrial operations at the site. Air deposition of municipal pollutants may cause the discharge to exceed USEPA Benchmark values. In these instances when BAT/BCT have been implemented and there are no known sources of pollutants at the site how should this be documented in a certification statement? Include information related to the question included in the comment.

19. Page 7, V.7.e: See comment #15.

20. Page 7, V.7.g: See Comments #6, #7, and #17.

21. Page 7, V.11: Clarification is needed on "filing" date. Clarify last sentence of the paragraph to read: " ...for a period of at least five years from the date they are generated or filed with the RWQCB."

22. Page 8, VII.2.a.i: Some possible pollutant sources at these industrial facilities are municipal in nature, such as galvanized security fencing surrounding an activity, or break pad and tire wear from the privately owned vehicles from workers and customers parked at the site, or municipal pollutants brought on site from air deposition. These pollutants can show up at significant levels in sampling data. The permit should not require these types of sources to be listed in the SWPPP since they are very difficult to evaluate for impacts to storm water. The permit should be clear that all sources refers to industrial activities.

Include language in the permit so it is clear that sources of pollutants included in the SWPPP refers to industrial sources.

23. Page 11, 6.d: The term "significant quantities" is used in this section, but is not defined in the permit. Although "significant spills" is defined in the permit "significant quantities" is not. Recommend definition for "significant quantities" be included in the permit.

24. Page 12, VII.8, Para. 2: Clarify that the minimum BMPs apply only to those industrial facilities that fit within those 9 categories in Attachment 1. For example, in a military base, there are numerous "industrial facilities" which do not fit into the 9

categories in Atch 1 - these "unpermitted" industrial facilities are not required to have BMPs under the Industrial General Permit.

Suggest revision of sentence to read: "Dischargers shall implement the following minimum BMPs described below at those permitted industrial facilities described in Attachment 1."

25. Page 12, VII.8.i.(1): This section requires weekly inspections. Weekly inspections of the outdoor areas listed in this section at large facilities, such as military locations, will be difficult and costly to implement. There can literally be hundreds of areas requiring inspections. This requirement will pull resources away for other environmental programs and the implementation of BMPs. This approach may be practical at small industrial facilities, but it will place an unnecessary strain on resources for large facilities. Training programs combined with the quarterly inspections already included in this permit are adequate to ensure good BMP implementation. The discharger should decide the need and frequency of inspections necessary to ensure BMP implementation. Remove the requirement for weekly inspections as a minimum BMP.

26. Pages 12-13, VII.8: The idea of having to implement all minimum BMPs on this draft Industrial General Permit (IGP) is prescriptive and extremely inflexible. Consider a pro-active discharger who implements a highly sophisticated BMP. This BMP is highly effective --it has prevented exceedances in the past. But under this draft IGP, this discharger would additionally have to implement the minimum BMPs, BMPs which are not site-specific. The requirement for minimum BMPs only really forces dischargers to spend more money, rather than carefully consider their specific sites and investigate the best BMP. Compliance should not be determined by how many BMPs you have in place, but rather how effective those BMPs are. Strongly recommend deletion of this requirement.

27. Page 12, VII8.i.(4): Recommend adopting the definitions from attachment 5 listed in the No Exposure Certification Section, Page 3, Item 4. "Industrial Materials/Activities that do not require a storm-resistant shelter" to further clarify what stored industrial materials must be covered. Recommend adopting information from attachment 5.

28. Page 13, VII.8.ii.(2): This section requires weekly equipment inspections . Weekly inspections of the equipment at large facilities, such as military locations, will be difficult and costly to implement. There can literally be hundreds of different types of equipment requiring inspections. This requirement will pull resources away for other environmental programs and the implementation of BMPs. This approach may be practical at small industrial facilities, but it will place an unnecessary strain on resources for large facilities. Training programs combined with the quarterly inspections already included in this permit are adequate to ensure good BMP implementation and are adequate for preventative maintenance. The discharger should decide the need and frequency of inspections necessary to ensure BMP implementation. Remove the requirement for weekly inspections.

29. Page 13, VII.8.iii: Many facilities already have existing spill response plans in place to meet this requirement. This section should specifically state that referencing other spill response plans can be used to comply with this requirement. Recommend this section be changed to allow dischargers to reference existing spill response plans.

30. Page 14, VII.8.iv.(5): Include the statement "Weekly inspections may be suspended during periods when there is no outdoor material/waste handling equipment or containers that can be contaminated by contact with industrial materials or wastes." Similar use of this statement has been adopted in other sections of the draft permit and can ease the burden of unnecessary inspections when no potentially contaminating activities have occurred.

Recommend including the statement "Weekly inspections may be suspended during periods when there is no outdoor material/waste handling equipment or containers that can be contaminated by contact with industrial materials or wastes."

31. Page 14, VII.8.viii.(1): PP updates are required after each quarterly inspection as needed. Are pen & ink SWPPP changes sufficient for the quarterly updates with final SWPPP update completed no more than 90 days after completion of the ACSCE?

32. Page 16, VII.10.a: This section requires discharger to provide copy of SWPPP to agencies within 5 working days upon request. Many of the SWPPPs at larger facilities, such as military installations have SWPPP that comprise several large binders. Copying these SWPPPs and getting them to the agencies within 5 working days would be very difficult. Suggest modification from 5 to 10 working days to be consistent with Annual Report requirement (see page 7).

33. Page 17, VII.10.e: What is the regulatory driver for "Discharges shall report any non-compliance with Permit requirements within seven days..."? 40 CFR 122.41 lists reporting requirements of 24-hour notification of non-compliance and "Other noncompliance" as reported at the time monitoring reports are submitted. Reporting all non-compliance within seven days seems to be above and beyond what is required. Revise this section so the reporting requirements are consistent with federal requirements.

34. Page 18, VIII.3.e: What is the rationale for prior to conducting each monthly visual observation, requiring storm events to be recorded that occurred during operation hours and did not produce a discharge?

35. Page 19, VIII.3.f: Please define an anticipated storm event. Is it greater than 50% chance of rain, 40% chance of rain, etc.? Is there an approved source for anticipating storm events such as a NOAA website?

36. Page 19, VIII.4.c.v: Suggest deletion. Inclusion of this provision implies that the RWQCB sees something in the facility that requires additional sampling. But because the Industrial General Permit regulates categories of industrial facilities, it is unfair to

require 1 transportation facility, for example, to sample for parameter X and not require the same of another transportation facility simply because their RWQCB did not require it. Suggest deletion of this requirement.

37. Page 19, VIII.4.f: Situations may arise where benchmarks are exceeded and all possible sources of pollutants have been eliminated from the site. The sources of these pollutants may not be industrial. Recommend adding language that if the discharge can prove that the source of the pollutants causing benchmarks to be exceeded, then the repetitive consecutive sampling can be stopped. This can eliminate the situation of continuing to sample for pollutants that a discharger has no control over.

38. Page 19, VIII.4.f.ii: Please explain the basis for the requirement to sample for the next two consecutive qualifying storm events after an exceedance has been detected. Why two events, and not one or three?

39. Page 19, VIII.4.f.ii: See Comment #26. Do samples have to be collected at each permitted industrial facility within a base for the next 2 consecutive rain events, or only at that industrial facility that exceeded the benchmark value?

40. Page 20, VIII.6: Quantitative monitoring requirements is an expensive and burdensome requirement. Because operations at individual industrial activities can very greatly we recommend that quantitative monitoring requirements only be required for group monitoring participants. This will allow for trend comparison of pollutants amongst discharges with similar types of industrial operations. Requiring quantitative monitoring of all industrial discharges will provide a pool of data to wide and varied to be of much comparative use. Strongly recommend deletion of this requirement.

41. Page 20, VIII.6: See Comment #9. The one-time pollutant scan is problematic because the connection between these chemicals and the industrial facility categories have not been demonstrated specifically to be a source of these chemicals. Strongly recommend deletion of this requirement.

42. Page 20, VIII.6.a: Clarify if one sample for EACH industrial facility within a site is required to be sampled in the one-time pollutant scan. For example, in a military installation or municipality, there are multiple industrial facilities subject to this permit. Item VIII.61 requires "one sample collected from the first storm event" for the one-time pollutant scan. Does this mean one sample from each permitted industrial facility, or one sample for each permit holder?

43. Page 21, VIII.9.k: 40 CFR 136 requires pH samples to be tested monitored within 15 minutes. Additionally, Section 13176 of the Porter-Cologne Water Quality Control Act requires that monitoring analysis be performed by a laboratory certified pursuant to Article 3 (commencing with section 100825) of Chapter 4 of Part 1 of Division 101 of the Health and Safety Code. Request clarification from the SWRCB on how storm water samples taken in the field during rain events are to be tested within 15 minutes of being collected by a certified lab as described above.

44. Page 23, VIII.13.b: Please clarify where X.9 and X.10 are located in this draft permit.

45. Page 25, Table VIII.2: Why was EPA Test Method 200.8 with a detection limit of up to a factor of 100 times more sensitive than needed to identify if the discharge exceeded benchmarks picked over EPA Test Method 200.7? Along with an unnecessary degree of sensitivity, EPA Test Method 200.8 is more expensive than EPA Test Method 200.7.

46. Page 25, Table VIII.2: Table VIII.2, What is the source of the benchmark values chosen for Specific Conductance and Total Organic Carbon? They do not appear to be from the Multi-Sector Permit.

47. Page 25, Table VIII.2: What will be the guidance for sampling potential pollutants that are not listed on Table VIII.2. Will these non-listed potential pollutants also have benchmark values and if so how will they be derived?

48. Attachment 3: Recommend adding a definition of "nuisance".