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Public Hearing
Draft Industrial General Permit
Deadline: 9/19/13 by 12 noon

COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

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

Attention: Ms. Jeanine Townsend

Comment Letter – Draft Industrial General Permit

The Sanitation Districts of Los Angeles County (Sanitation Districts) operate comprehensive wastewater and solid waste management systems that serve the needs of a large portion of Los Angeles County. The Sanitation Districts own or operate 18 facilities that are currently covered by the Industrial General Permit. This includes wastewater treatment facilities, operating landfills, closed landfills, recycle centers, materials recovery/transfer facilities, and energy recovery facilities. All of these facilities will be affected by the draft General Industrial Permit and the Sanitation Districts appreciate this opportunity to comment on the 2013 Final Draft National Pollutant Discharge Elimination System (NPDES) Industrial General Permit (final draft permit).

The Sanitation Districts recognize and appreciate the efforts of the State Board staff to consider input from stakeholders during development of the 2012 and 2013 drafts of the permit. The current draft permit represents a major step forward in the clarity and specificity of stormwater regulation in California. In particular, we appreciate the clear statement that exceedances of numeric action levels do not represent permit violations. This statement provides some assurance that those numeric action levels will not be misused. In addition, we appreciate the thoughtful process that staff have set up to incorporate TMDLs. Our primary concern with the latest draft is the potential for misinterpretation of the narrative receiving water limits as outlined in Item 1 below. Responsible dischargers, such as the Sanitation Districts, expend significant resources to comply with the Industrial Stormwater Permit. We believe that dischargers should be afforded a clear process to achieve and maintain compliance.

We are submitting this letter to expand on some of our past comments that we believe are still issues of concern in this final draft permit. We request that the State Board consider these comments and suggested revisions before adopting the final permit.

Comments and Suggested Revisions

1 **Item 1:** There should be a clear process for responsible dischargers to establish their compliance with the narrative receiving water limitations.

The Sanitation Districts share the concerns expressed by the California Stormwater Quality Association (CASQA) about the potential misinterpretations of the narrative receiving water limitation as de-facto water quality based numeric effluent limitations. In previous comments on the General Industrial Permit, CASQA provided a detailed assessment of the development of water quality-based effluent limits. As outlined in their comments, the establishment of such limitations must follow a scientifically sound, and statistically rigorous process and not merely apply the water quality objectives at the end of the discharger's pipe. The law allows best management practices to be used in lieu of numeric water-quality based effluent limits. In fact, the approach of expressing compliance as clear steps for implementing best management practices is used in EPA's 2008 Multi-Sector General Permit for Stormwater Discharges Associated With Industrial Activity ("Multi-Sector General Permit," or "MSGP"), 73 Fed. Reg. 56572 (September 29, 2008). We note that Under Section 2.2 of the MSGP, the end point is described as "control[ling] the discharge as necessary to meet applicable water quality standards in the receiving waterbody," and the MSGP requires that the permittee comply with any additional, more stringent requirements EPA determines are necessary to meet an applicable wasteload allocation or to further control discharges to impaired waters that do not yet have an EPA-approved or established TMDL. In this way, the entire exercise of determining the needs of the water body involves communication from the permitting agency as appropriate. This makes a general permit approach workable, while leaving the possibility of individual permitting if the agency determines that it is needed for sites posing a greater threat to water quality.

The Sanitation Districts request that the State Board provide a process to be followed when a discharge is found to cause an in-stream exceedance of water quality objectives. We recommend that the State Board add a statement to the end of VI.A. to state that a Discharger will not be in violation of Receiving Water Limitation VI.A. as long as the Discharger complies with the procedure currently outlined in XXB.1.

2 **Item 2:** Assigning the U.S. EPA Benchmarks as the annual Numeric Action Levels (NALs) and using the arithmetic mean of analytical data as the annual average are not appropriate for reporting stormwater results.

The Sanitation Districts concur with the State Board's decision to not use the existing dataset for calculating the instantaneous NALs (page 53 of the Fact Sheet). Likewise, we request that the State Board reevaluate the practicality and achievability of setting the U.S. EPA Benchmark for TSS (100 mg/L).

As previously discussed in the comments we submitted for the January 28, 2011 draft Industrial General Permit (Item 1), the U.S. EPA Benchmarks derived from stormwater runoff data of primarily paved surfaces are not economically achievable at unpaved

industrial facilities such as landfills and that the development of any NAL should be technology-based and rely on sector or group-specific data.

3 Furthermore, we share the concerns expressed by CASQA with regard to reporting the straight average (arithmetic average) of analytical results as the annual average of any water quality parameter, except for pH. Stormwater quality is highly dependent on rainfall intensity as well as the type of industrial facilities generating the runoff. At landfill facilities, TSS concentrations vary significantly and at times can experience exponential growth due to rainfall intensity. As a result, it is more representative to use geometric average of analytical results, which is more suitable for data that range several orders of magnitude, when reporting the annual average of an analytical parameter.

4 **Item 3**: Reporting a zero value for a "non-detect" or a "less than the method detection limit (MDL)" analytical result, as described in Section XI.B.11, can potentially generate a biased-low running average for an analytical parameter.

The Sanitation Districts have concerns with regard to reporting "non-detect" data as anything other than as reported by the laboratory. The Sanitation Districts recommend that the final draft permit include reporting protocols similar to those already adopted by the Los Angeles Regional Water Quality Control Board for other NPDES permits[1].

Reporting "non-detect" results as zero values will generate a biased-low running average over a permit cycle. A better way to report the two categories of sample results that are less than the Minimum Level or the Reporting Limit (ML/RL) is as follows:

(1) Sample results < laboratory's MDL
Report sample results that are less than the laboratory's MDL as "less than the numerical value of the MDL". This preserves the integrity of the original laboratory value and allows future analysis of the data.

(2) Laboratory's MDL ≤ Sample results < ML/RL.
Report the estimated chemical concentrations with the appropriate data qualifiers, so that it is clear to the end user that these results are "detected, but not quantified" (DNQ). In reality, a DNQ result is a numerical estimate of the chemical concentration of the sample, and as such, it is often reported as a numerical estimate with the letter "E" in front of it. For example, a DNQ value of 5.0 mg/L is reported as E5.0 mg/L.

5 The reporting protocols recommended here have previously been adopted by the Regional Board for NPDES reporting purposes and can be found in many Waste Discharge Requirements for the Sanitation Districts' Water Reclamation Plants. Consequently, we propose that similar language, as provided below, be considered for Section XI.B.11 of the final draft permit for sampling analysis reporting:

[1] Reporting protocols as stipulated in the Monitoring and Reporting Programs such as NPDES Order No. R4-2009-0078 issued for the Joint Outfall System at San Jose Creek Water Reclamation Plant.

Section XI.B.11 Sampling Analysis Reporting

- *The Discharger shall report with each sample result the applicable reported Minimum Level (ML) and the current Method Detection Limit (MDL), as determined by the procedure in 40 C.F. R. Section Part 136.*

- *The Discharger shall report the results of analytical determinations for the presence of chemical constituents in a sample using the following reporting protocols:*

  1. *Sample results greater than or equal to the reported ML shall be reported as measured by the laboratory (i.e., the measured chemical concentration in the sample).*

  2. *Sample results less than the RL, but greater than or equal to the laboratory's MDL, shall be reported as "Detected, but Not Quantified," or DNQ. The estimated concentration of the analyte shall also be reported.*

  3. *For the purposes of data collection, the laboratory shall write the estimated chemical concentration next to DNQ as well as the words "Estimated Concentration" (may be shortened to "E" or "Est. Conc."). The laboratory may, if such information is available, include numerical estimates of the data quality for the reported result. Numerical estimates of data quality may be percent accuracy (+ a percentage of the reported value), numerical ranges (low to high), or any other means considered appropriate by the laboratory.*

  4. *Sample results less than the laboratory's MDL shall be reported as "Not Detected," or ND and the numerical value of the MDL shall be provided.*

  5. *Dischargers are to instruct laboratories to establish calibration standards so that the ML value (or its equivalent if there is differential treatment of samples relative to calibration standards) is the lowest calibration standard. At no time is the Discharger to use analytical data derived from extrapolation beyond the lowest point of the calibration curve.*

The Sanitation Districts thank you in advance for your careful consideration of our comments. If you have any questions concerning this letter or need additional information, please contact the undersigned at (562) 908-4288, extension 2826.

Very truly yours,

Grace Robinson Chan

Kristen M. Ruffell
Section Head
Water Quality Section

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