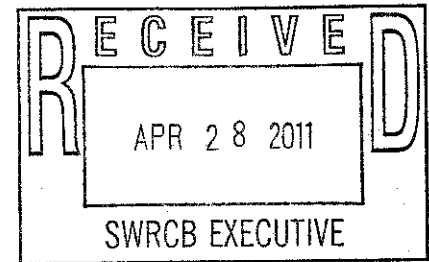




April 28, 2011



Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Re: Comments Letter - Draft Industrial General Permit

Dear Ms. Townsend:

The San Diego Unified Port District (Port) appreciates the opportunity to comment on the State Water Resource Control Board's (SWRCB) proposed 2011 Draft Industrial General Permit (Draft Permit) for storm water discharges. The Port is committed to its mission of being an environmental steward for San Diego Bay. We value clean water and enhancing natural resources and environmental health. We are proud of what we have accomplished to date; however, we recognize that more remains to be done. We emphasize the need to develop programs that are beneficial to water quality and the environment, yet remain cost effective.

The Port has carefully reviewed the Draft Permit and its benefit to water quality, as well as the potential impact on the Port and the Port's industrial tenants. The Port has several concerns with new proposed regulations and hopes that the SWRCB will take our comments into consideration as they move forward in the permit adoption process. The issues below are further discussed in the Port's attached comments:

- No Exposure Certification
- Numeric Action Limits and Numeric Effluent Limits
- Qualified Storm Events, Sampling Frequency, and Equipment
- Qualified SWPPP Developer and Qualified SWPPP Practitioner
- Inspection Frequency
- Requirement of Specific Best Management Practices
- 10-year 24-hour Compliance Storm Event

Port of San Diego Comment Letter – Draft Industrial General Permit

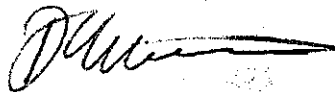
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We respectfully request that the SWRCB consider the comments and concerns submitted on behalf of the Port and encourage revisions to the Draft Permit as necessary. Additionally, the Port generally supports the comments presented by industry-supported groups, such as CASQA. We appreciate the opportunity to comment and look forward to participating as you further develop the final draft of the 2011 Industrial General Permit.

Please contact Damon Lacasella of my staff at [dlacasel@portofsandiego.org](mailto:dlacasel@portofsandiego.org) or (619) 686-6534 for clarification of any of the comments.

Sincerely,



Darlene Nicandro, Director  
Environmental & Land Use Management

## **GENERAL COMMENTS**

### **1. No Exposure Certification**

Currently, "light" industrial facilities with "no-exposure" are exempt from the Industrial General Permit (General Permit). The Draft Permit proposes that dischargers of light industry facilities that were previously excluded from coverage must either obtain coverage under the Draft Permit or comply with the requirements for "Conditional Exclusion". This regulation has the potential to impact approximately 10 light industrial tenants and facilities on Port Tidelands. To comply with the Conditional Exclusion, light industry facilities with no exposure will need to annually apply for a "No-Exposure Certification" (NEC).

This proposed regulation does not have a beneficial impact on water quality and will only serve to increase cost and labor to both industry and the Regional Boards. This proposed requirement will add annual costs (at least \$200) and require additional staff time to complete the NEC. Many facilities also may need to hire an outside consulting firm to complete and certify the NEC. Assessing an annual fee for the NEC to facilities that pose no threat to water quality is unwarranted. Additionally, this proposed requirement will add staff time and cost to the Regional Water Quality Control Boards (Regional Board) to review, verify, and approve each NEC submitted. The Port requests that this requirement be removed from the Draft Permit.

### **2. Numeric Action Limits (NALs) and Numeric Effluent Limits (NELs)**

The Draft Permit proposes to use the USEPA water quality benchmarks as NALs and NELs for industrial stormwater discharges. The development of NALs and NELs should be scientifically-based using the best available current data, of which the proposed USEPA benchmarks are neither. The use of USEPA benchmarks is intended for facilities to determine the overall effectiveness of control measures and should not be used as effluent limits. For these reasons and those following, the Port objects to the use of NALs and NELs as proposed in the Draft Permit.

Exemptions for exceedances of NALs and NELs should be considered when naturally occurring phenomena are the cause of the elevated results. For example, the NAL/NEL for Electrical Conductivity (EC, 200 mg/L) is not attainable for facilities located on or adjacent to receiving water that is comprised of seawater, as is the case for tenants and Port facilities. Discharge locations are often inundated by tidal water which has an average EC of 35,000 mg/L. At a minimum, the Port requests that the SWRCB consider including an exemption for NAL and NEL exceedances caused by factors unrelated to industrial activities.

Additionally, the Draft Permit proposes that facilities that exceed NALs move from Level 1 to Level 2 or Level 3 whereby sample collection is increased. Moreover, exceedances of Level 3 NELs will be subject to mandatory fines. The Port is very concerned that the Draft Permit does not contain any mechanism to return to a lower sampling level as sample results indicate improvements in stormwater discharges. As such, the Port requests that a provision for enabling a return to Level 1 be added, provided the facility shows they can meet specific criteria.

### **3. Qualified Storm Events (QSEs), Sampling Frequency, and Equipment**

Currently, industrial facilities are required to collect and analyze storm water samples from two storm events during the “wet” season, which extends from October through April. The Draft Permit no longer identifies a “wet” season and industrial facilities will be required to collect and analyze samples from one qualifying storm event per quarter. Moreover, if a facility has an exceedance of NALs, the required sampling frequency may be increased to two QSEs per quarter for Level 2 and every QSE for Level 3. As proposed, a QSE is a storm event which produces more than  $\frac{1}{4}$ ” of rainfall during facility operating hours (day or night) that is preceded by two or more days of dry weather. Facilities would also be required to have an on-site rain gauge to determine when a QSE has occurred. The Draft Permit also requires facilities to record storm events that occurred of less than  $\frac{1}{4}$  of an inch or more than  $\frac{1}{4}$  of an inch during operating hours that did not produce a discharge. The Port is concerned with the increase in staff time and laboratory costs required to complete the monitoring and sampling and questions the value that this increased effort would provide towards water quality improvements.

Additionally, facilities would be required to conduct field analysis of pH and specific conductance using a calibrated portable instrument. This proposed regulation requires facility staff to be properly trained on the use of the field monitoring equipment and eliminates the use of stationary sample collection devices. Again, the Port is concerned with the increased staff time and cost to complete the monitoring, equipment calibration and maintenance, and sampling.

Currently, a single representative sample is acceptable for multiple drainage areas that are identical in industrial activity. The Draft Permit is proposing that samples be collected from each drainage area. While the Draft Permit provides for the laboratory compositing of analytical samples from multiple drainage areas, this does not eliminate the staff time to collect each sample. Therefore, the Port recommends that the language currently in effect be continued and allow for a single representative sample for similar drainage areas.

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#### **4. Qualified SWPPP Developer (QSD) and Qualified SWPPP Practitioner (QSP)**

The Draft Permit proposes the use of a QSD and requires that the QSD complete state-sponsored training, pass an exam, have a registration for certification, and appropriate experience. Per the Draft Permit, the registration for certification shall be one of the following: a California registered professional civil engineer, a California registered professional geologist or engineering geologist, a California registered landscape architect, or a professional hydrologist registered through the American Institute of Hydrology. The Port supports the use of a QSD approach and agrees that training is necessary for the QSD to have knowledge of the specific industrial operations, pollutant sources, and best management practices of a facility to properly develop a SWPPP. However, the regulation requiring the QSD to be a California registered professional will force many industrial facilities to hire either additional staff or consultants to prepare, write, amend, and certify the facility SWPPP. Provided that the QSD complete the State Water Board-sponsored or approved QSD training course, the requirement to also be a California registered professional is unnecessary and imposes a financial burden that does not correlate to a benefit of water quality. The Port believes that an on-site representative with specific knowledge of the operations and potential pollutants is more appropriate as a QSD. Therefore, the Port requests that the requirement for the QSD to be a California registered professional be removed.

Additionally, the Draft Permit proposes that an appropriately trained QSP be appointed to implement the SWPPP. However, the Draft Permit does not allow for the QSP to delegate aspects of the SWPPP implementation, such as inspections or sampling. These regulations will unduly lead to increased costs for industrial facilities to train multiple QSPs to implement their SWPPP. The Port recommends the Draft Permit require the QSP to receive proper training, but be able to delegate some aspects of SWPPP implementation to trained employees.

#### **5. Inspection Frequency**

The Draft Permit proposes a significant increase (weekly, monthly, quarterly, and pre-storm) in the number of documented inspections required to be reported annually. While intended to improve verification of proper BMP implementation and maintenance, the increased frequency of monitoring and documenting inspections will likely not generate useful results. Most facility operators conduct daily visual inspections of BMPs and equipment during normal operations. These new regulations will greatly increase the cost of training, inspecting, and documentation with little benefit to water quality. The Port believes that the current (quarterly) inspection frequency is adequate and requests that the SWRCB keep the existing Permit's inspection frequency.

#### **6. Requirement of Specific Best Management Practices (BMPs)**

The Draft Permit proposes a set of specific BMPs for all discharges. The Port strongly supports the use of BMPs. However, the regulation as proposed does not allow facilities the flexibility of implementing BMPs appropriate for their specific operations and associated pollutants of concern. As proposed, facilities are required to implement all minimum BMPs unless clearly inapplicable to the facility. However, the QSD has the burden to prove, in detail, when a minimum BMP is not applicable for their facility. The Draft Permit also proposes the facilities describe and implement appropriate facility-specific BMPs. The Port recommends that industrial facilities have the ability to specify appropriate facility-specific BMPs to address potential pollutants from their operations and activities.

#### **7. 10-year 24-hour Compliance Storm Event**

The Draft Permit proposes that all treatment control BMPs be designed to capture and treat a "10-year 24-hour" storm event. A "10-year 24-hour" event is a very large event (approximately 2.5" for San Diego). Treatment control BMPs should be designed and installed to effectively remove pollutants from a typical storm event, not the extreme. An over-designed treatment control BMP is ineffective, very costly to implement and maintain, and does not correlate to a significant additional benefit to water quality. In similar permits, such as the General Construction Permit, the design and compliance storm event is determined to "5-year 24-hour" storm event. Therefore, the Port objects to the use of a "10-year 24-hour" for compliance and design of treatment control BMPs and recommends that a more appropriate compliance storm event be considered.