Public Comment
Draft IGP
Deadline: 4/29/11 by 12 noon

THE CITY OF SAN DIEGO

April 29, 2011

Electronic Delivery to commentletters@waterboards.ca.gov

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

Subject: **Comment Letter – Draft Statewide General National Pollutant Discharge Elimination System Permit for the Discharge of Storm Water Associated with Industrial Activities (Industrial General Permit)**

Dear Ms. Townsend:

The City of San Diego, Transportation & Storm Water Department (City) appreciates the opportunity to provide comments on the draft Industrial General Permit (draft permit). The City is committed to protecting the beneficial uses of our waters using the best available science and cost-effective approaches. Below is a summary of our comments, while specific comments are included in the attached table.

This draft permit does not demonstrate its scientific basis. In order to ensure compliance with the draft permit, the City (and businesses operating within) would have to undertake extensive monitoring and rely on Numeric Action Levels (NALs) and Numeric Effluent Limits (NELs). Yet, the federal Environmental Protection Agency has clearly stated that NALs and NELs are not appropriate as permit compliance measures.

The draft permit has a tiered compliance approach that allows businesses to move between the tiers as measured amount of pollutants in their monitoring data change. When a facility's monitoring data indicates elevated levels, that facility is moved up from Tier 1 to Tier 2 or 3. When the facility demonstrates compliance with Tier 2 NALs and NELs, the facility is allowed to move back down to Tier 1 compliance requirements. However, this process does not allow businesses to move from Tier 3 back to Tier 2. This action appears to be an oversight, and we recommend that this process be modified to allow movement back to Tier 2 compliance standards.

As California struggles to recover from the economic downturn, we ask you to consider the economic effects of environmental regulations on businesses and local government. Programs

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need to be collaborative to achieve sustainability for the long-term economic health of California while protecting our natural resources. In our judgment, the basis for this draft permit is questionable and thus would be unduly burdensome on the City and its business community.

If you have any questions, please contact Ruth Kolb at (858) 541-4328 or at rkolb@sandiego.gov.

Sincerely,

Kris McFadden
Deputy Director

KM\rk

Attachment: City of San Diego Comments on Draft Industrial General Permit

cc: Almis Udrys, Office of the Mayor
Garth K. Sturdevan, Interim Director
Ruth Kolb, Program Manager
Joan Brackin, Program Manager
Sylvia Castillo, Senior Engineer
Skyla Wallmann, Senior Chemist

#	Permit Section	Permit Page(s)	Topic	Comments/Proposed Changes
1	X	32 and 24	Sector-specific NALs, phased as quality data is available	NALs should be technology-based and rely on sector- or group-specific data that would be augmented during the permit cycle. This process would be similar for other industries. This approach is consistent with the recommended approach of the Blue Ribbon Panel report.
2	X	32 and 24	Assistance from industry-led NAL development teams	Consider a provision to allow industry-specific groups to convene to propose sector-specific NALs based on the BMPs that are BCT or BAT that are economically achievable (EA) for that group. These groups can assist regulators in identifying sites that are representative of dischargers that are complying with the BCT/BAT-EA standard and for those sites, based on discharge data sufficient for establishing NALs, and accompanying BMPs as desired.
3	X	32 and 24	Establishing NALs based on technology, acknowledging that BAT/BCT-EA differs for different sectors	The baseline technology will differ among sectors. For example, the varying drainage patterns in some industrial sectors would not allow permanent placement of treatment BMPs that less dynamic operations allow. Also, existing facilities may have limited right-of-way that precludes the use of some treatment technologies. Allowing for different NALs for existing and new facilities is consistent with the Blue Ribbon Panel report.
4	XVII.E	42	NALs/Corrective Action/Triggers	Large-scale non-attainment of inappropriately-low NALs (based on EPA benchmarks rather than technologies) does not lead to a prioritization of gross polluters. This could place unfair and unnecessary attention on dischargers that are responsibly managing storm water discharges.
5	XVII.2.b	39	Corrective Action	Exceedance of any applicable NAL, if any are adopted, should result in a site-specific assessment of BMP practices to determine if corrective action is necessary and if so, what the corrective action should be (as in Section XVII.B.2.b). When NALs are consistently exceeded after follow-up action by the discharger, allow for a Regional Board to verify that BCT/BAT-EA is being properly implemented and allow for non-attainment of NALs such that subsequent triggers do not elevate the site to higher Levels of Corrective Action. When NALs are adopted, the permit should state that an exceedance of a NAL is not a permit violation as long as the discharger is engaged in the corrective action process.

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6	XVII	43	Corrective Action Tiers and Off-Ramps	The City objects to the manner in which the draft Industrial General Permit sets NALs and NELs, and thus to the entire permit approach to tiered corrective action. If another tiered corrective action approach is adopted appropriately, it must contain provisions that allow corrective action based on triggers or events to end when the triggers have been resolved through specified certifications, subsequent sampling or performance showing that conditions have changed appropriately.
7	XVII.D.1	41, Fact Sheet Section K pg 29	Invalid Numeric Effluent Limits	The draft Industrial General Permit and draft Fact Sheet fail to establish the legally required basis for imposing numeric technology-based effluent limits. The draft Industrial General Permit and related Fact Sheet are devoid of any evidence or analysis to support the adoption of NELs as technology-based numeric effluent limitations. The State Water Board has not set forth specific data, other technical basis or legal authority imposing numeric TBELs in this permit, nor has it specifically considered any of the required factors set forth in CWA Section 304 or implementing regulations pursuant to 40 C.F.R. 122.44(a)(1) and 125.3. In addition, US EPA has not promulgated comparable effluent limitations guidelines. The draft Industrial General Permit and draft Fact Sheet therefore fail to establish the legally required basis for imposing NELs. Properly developed TBELs establish performance-based levels of pollutant controls to achieve the applicable technology-based standards (Best Conventional Technology for conventional pollutants (BCT), Best Available Technology Economically Achievable (BAT-EA)) established by the CWA and provide equity among dischargers within industry categories or sub-categories. TBELs aim to prevent pollution by requiring a minimum level of effluent quality that is *attainable* using *demonstrated technologies* for reducing discharges of pollutants. The NPDES Permit Writers' Manual describes a detailed, nine-step process that the permit writer must employ to develop TBELs from effluent guidelines. The "Suspension of Numeric Effluent Limitation" concept is ineffective. In any event, "off ramps" cannot remedy inappropriate NELs or NALs.

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8		NA	Numeric Effluent Limits have not been developed using Best Professional Judgment as stated	The draft Industrial General Permit indicates it is establishing TBELs through the use of best professional judgment (BPJ). Use of BPJ is allowed on a case-by-case basis pursuant to CWA section 402(a)(1), where EPA-promulgated effluent limitations are inapplicable. 40 C.F.R. 125.3(c)(2). The permit writer must apply the factors listed in 40 C.F.R. 125.3(d). Depending upon whether the applicable standard is BPT, BCT or BAT, 40 C.F.R. 125.3(d) requires the consideration of such items as cost compared to pollutant reduction, the age of equipment and facilities involved, the process employed, engineering aspects, process changes and non-water quality environmental impacts. In addition, 40 C.F.R. 125.(c)(2) requires the permit writer to consider the appropriate technology for the category or class of point sources of which the applicant is a member and any unique factors relating to the applicant. The Draft permit does not follow legally required process to develop TBELs on a case-by-case basis using best professional judgment. The draft Industrial General Permit does not attempt to address the required factors that must be considered in setting TBELs. Therefore, implementation of the TBELs as proposed would represent an abuse of discretion.
9			EPA Benchmarks are not Appropriate Numeric Effluent Limits	EPA could not more clearly state that benchmarks are not effluent limitations. In its 2008 Multi-Sector General Permit (Part 6.2.1), EPA confirms: *The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in knowing when additional corrective action(s) may be necessary to comply with the effluent limitations in Part 2.* In light of EPA's unequivocal position, its benchmarks have never and cannot now legally serve as NELs. Finding 42 in the draft Industrial General Permit is particularly objectionable, asserting that "[t]he State Board finds that the USEPA benchmarks serve as an appropriate set of technology based effluent limitations that demonstrate compliance with BAT/BCT." Such an unsupported statement cannot substitute for an appropriate effluent limitations development process, and is totally inconsistent with EPA's clear regulatory conclusions and intent regarding the benchmarks.

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10			Background as Factor in Applying NALs/NELs	Another factor to be considered is the variability in storm water quality caused by atmospheric pollution, dry deposition, and storm water run-on, all of which are beyond the control of individual facilities and make it difficult to distinguish between background storm water quality and anthropogenic effects. The differences in measured storm water quality also may result from changing business conditions that affect a facility's operational hours, the amount and type of materials stored and handled, the volume of products produced, and the amount of loading and unloading that occurs on site. To that end, EPA's Multi-Sector General Permit (MSGP) recognized a "background" pollutant allowance system to use with the benchmark monitoring and related technology-based controls to ensure that individual facilities were only required to control those "discharges associated with industrial activity" at the site, as intended by Congress when it added CWA Section 402(p) to the Act.

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11			Numeric Effluent Limits are infeasible	In 2006, the Blue Ribbon Panel concluded that the establishment of numeric limits for industrial sites required a reliable database describing current emissions by industry types or categories, and performance of existing BMPs. The Blue Ribbon Panel concluded that the current industrial permit had not produced such a database. In 2008, EPA similarly concluded in the MSGP that it was infeasible to establish numeric effluent limits because "variability in the system and minimal data generally available make it difficult to determine with precision or certainty actual and projected loadings for individual dischargers or groups of dischargers" as required by 40 C.F.R. 122.44(k)(3). EPA reached this conclusion after a detailed review of monitoring data, after which EPA was unable to determine whether benchmark value exceedances provide any useful indicators of control measure inadequacies or potential water quality problems. (MSGP Fact Sheet, p. 96.) Through its NPDES permit regulations, EPA has interpreted the CWA to allow BMPs to take the place of numeric effluent limitations to control or abate the discharge of pollutants when: (1) "[a]uthorized under section 402(p) of the CWA for the control of storm water discharges"; or (2) "[n]umeric effluent limitations are infeasible." 40 C.F.R. § 122.44(k). EPA cited that regulation and the ample case support for non-numeric limits when finding numeric limits infeasible and choosing to include only non-numeric limits in the 2008 MSGP.
12			NELs not Appropriate in this General Permit	Development of TBELs on a case-by-case basis using BPJ requirements a very detailed analysis of the operations of the applicant, the available technology and the specific industrial category involved. Such a case-by-case analysis is difficult enough in an individual permit; it is impossible to do in a general permit that has application to a wide variety of industries. (See 40 C.F.R. § 125.3(d)
13	XVII.D.2	41	Level 3 Imposition of Numeric Effluent Limits	*Delete Level 3 Corrective Action entirely; the numeric effluent limits must be eliminated.* The "off ramps" for suspension of numeric effluent limits, and emergency conditions and natural disasters are ineffective and inadequate, and cannot substitute for correcting the error in setting these NELs.

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14	X	32 and 24	Numeric Action Levels May Be Premature; They Must not be Virtual Effluent Limits	Because the use of "action levels" is not built upon a firm legal basis, use of numeric values as benchmarks or "action levels" must be very carefully and clearly defined in an NPDES permit. Such numeric values cannot serve as or be converted into NELs. NELs can only be established and implemented through the legally required procedures for the developing NELs and including NELs in NPDES permits. The City is not "per se" opposed to the use of properly derived and statistically valid numeric values (initially as action levels similar to EPA's use of benchmarks) as one of many mechanisms to assess program effectiveness, as long as they are not inappropriately derived or used as numeric effluent limits or "virtual" numeric effluent limits. The analysis addresses possible future establishment of sector or group-specific levels, in addition to an approach that the Board may consider pursuing for industry-wide TSS outlier-based action levels, as long as they are not used as actual or "virtual" numeric effluent limits.
15	V.E.	15	Compliance Storm Event and Design Storm Event	*Edit section as follows:* This General Permit establishes a ~~10-year, 24-hour~~ 2-year, 24-hour (expressed in inches of rainfall) Compliance Storm Event ~~for Total Suspended Solids. In addition, all~~ Treatment BMPs ~~for any other pollutants~~ shall be designed to meet post construction stormwater requirements of the local MS4 permit or the Construction General Permit. This requirement shall not apply to existing treatment controls unless they are reconstructed and trigger the local MS4 or Construction General Permit requirements. ~~for no less than a 10-year, 24-hour storm event~~. Storm event (expressed in inches of rainfall) can be determined by using these maps: ~~http://www.wrcc.dri.edu/pcpnfreq/nca10y24.gif~~ ~~http://www.wrcc.dri.edu/pcpnfreq/sca10y24.gif~~ http://www.wrcc.dri.edu/pcpnfreq/nca2y6.gif http://www.wrcc.dri.edu/pcpnfreq/sca2y6.gif

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16	Summary of Changes Document Table Item 20 and Draft Permit XII.B	Changes Doc Pg 4, Draft Permit Pg 35	Qualified Combined Samples	Summary of Changes Document Table Item 20 and Draft Permit XII.B are inconsistent. Please change Summary of Changes Table from three to four drainage areas.
17	I.G.50	8	QSD/QSP	Use of the same terms ("QSD/QSP") as used in the Construction General Permit (CGP) will likely lead to confusion. Training for Industrial SWPPP activities will be different than that for Construction SWPPP activities. Suggest referring to these qualified parties as "Industrial Qualified SWPPP Developer/Practitioner" (IQSD/IQSP) to distinguish them from those qualified for CGP SWPPP activities. Also, below we are suggesting two levels of QSP training. Suggest referring to these as "IQSP-1" and "IQSP-2" or similar to distinguish between the two levels.

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18	I.G.50	8	QSD Pre-Requisite Certifications/Registrations	The list of "registrations for certifications" required for an Industrial QSD is very limiting, and the proposed certifications will not necessarily ensure that SWPPPs are developed correctly or result in programs that adequately control stormwater discharges. Also, many individuals who have the proposed certifications do not have experience with industrial operations, pollutant sources, or stormwater and environmental management activities. For example, civil PEs in California are not specifically trained in stormwater quality management and it is only through voluntary continuing education or experience that they develop this expertise. Similarly, California geologists do not undergo training in stormwater quality management and are unlikely to have experience in the management of industrial sources of stormwater pollution although a PGs or PEs expertise would be relevant to SWPPP development if it included the design of infiltration BMPs and/or ground water monitoring. Registered landscape architects and professional hydrologists may have very little experience with industrial sites outside of the design or retrofit of landscape based practices. The City suggests that the State reconsider the list of pre-requisite professional certifications. Unlike the recent experience with the CGP, there are not many professional certifications that specifically address industrial storm water management as there were for erosion and sediment control. However, for some sectors, such as landfills, a professional in erosion and sediment control might be very appropriate. In lieu of the currently-defined list of required certifications, we suggest the permit language be revised to reflect one of the options provided below. It is suggested

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				that the State Water Board-sponsored Industrial General Training Team (referenced in Section I, page 8, Item G. 50) be tasked with choosing one of these options and developing the specific details (such as defining the required relevant education and experience discussed in option #2): 1) In lieu of defining a list of pre-requisite certifications, the appropriate qualifications for an Industrial QSD should be determined by the completion of the state-sponsored or approved training program and examination. The training program would focus on the requirements of the permit, and provide exposure to a variety of industrial discharge conditions/situations. The examination should be comprehensive and detailed, and include practical applications, such that, in order to pass, examinees will have to combine their personal experience and skills with the knowledge they gain from the training program. 2) In lieu of defining a list of pre-requisite certifications, the City suggests replacing the proposed list with language that requires Industrial QSD applicants demonstrate a specified level of relevant education and experience. The education and experience can be demonstrated during the application process for the Industrial QSD course or examination. This would be similar to the processes currently used by other professional certification programs. The definitions of "relevant education and experiences" would be developed by the stakeholder group or the Industrial General Permit Training Team. Should the State Water Board want to maintain a list of pre-requisite registrations or certifications, the City suggests this requirement be limited to facilities in higher levels on the corrective action tiers. The State Water Board's stakeholder group

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				should investigate potentially relevant certifications and identify the ones that should be included in the final permit. The City suggests that the following professional certifications be additionally considered: • Certified Professional in Storm Water Quality (CPSWQ) – EnviroCert International • Certified Professional in Erosion and Sediment Control (CPESC) – EnviroCert International • Registered Environmental Assessor I or II (REA) – Department of Toxic Substances Control • Certified Hazardous Materials Manager CHMM – Institute of Hazardous Materials Management • Industrial Waste Treatment Plant Operator – California Water Environment Association • Environmental Compliance Inspector – California Water Environment Association • Certified Municipal Separate Storm Sewer System Specialist (CMS4S) – EnviroCert International. Notwithstanding professional registration or certification, the State Water Board should maintain the requirement for training and testing potential Industrial QSDs as stormwater control is a multi-disciplined process and knowledge of pollution prevention techniques beyond a specific field is necessary. The Industrial General Permit should include a statement that services such as engineering or landscape architecture must be performed by an appropriately licensed professional. The clarification should be expanded to note that not all aspects of SWPPP development necessarily constitute a specific professional service, e.g., that while a SWPPP may include a Civil Engineer designed feature, the whole
				SWPPP as a matter of course does not constitute the practice of civil engineering.

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19	VII.A,B	15	All dischargers required to have a QSP and QSD.	The Construction General Permit includes specific certifications registered through Enviro Cert International, Inc. as prerequisites for QSD personnel. While some included certifications may not be appropriate for the Industrial General Permit, some, such as the Certified Professional in Storm Water Quality (CPSWQ), appear to be appropriate. Additionally, within the Enviro Cert Registry, the Certified Municipal Separate Storm Sewer System (CMS4S) Specialist may be an appropriate prerequisite for a QSD within this Industrial General Permit. Recommend the addition of the CPSWQ and CMS4S as acceptable pre-requisite certifications for a QSD. Can the QSD and QSP oversee numerous sites? With limited staffing and resources, the changes to the IGP would place a significant burden on the existing staff.
20	VII.A,B	15	Training Qualifications and Certification	Regarding the statewide training protocol, how many classes will be offered? When and when will the classes be offered? Will they be offered in San Diego County? How many hours/days are the classes? Would a qualified QSP or QSD be able to train staff and delegate the implementation of the SWPPP? The state should offer online training and testing for QSD and QSP applicants.
21	VII.B.2 and B.3	16	Training Courses Required within 1 Year	Industrial QSDs and QSPs are required to have successfully completed training within one year from the effective date of the permit. Based on the CGP training experience, this may be unrealistic; it will likely take at least several months for the Industrial QSD/QSP training programs to become established once there is a clear requirement in the draft permit. The City recommends that the language be revised to require the training within two years of the announcement from the State Water Board that the training programs have officially been established.

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22	IX.C.1.b and X.E.2	29, 30	Definition of a Qualifying Storm Event	Attachment K states that a QSD "Is a storm event that was preceded by **five** consecutive days of dry weather. Dry weather shall be defined as **five** consecutive days of combined rainfall of less than **¼ inch** as measured by an on-site rainfall measurement device". This is inconsistent with the definition in the Permit which is defined as ***two*** *consecutive days of combined rainfall of less than* ***1/8 inch...***" Neither the permit nor the glossary specifies the period of time over which a storm must produce the minimum rainfall indicated, nor is the end of a qualifying storm event clearly specified. Rain events typically include periods of dry weather lasting anywhere from a few minutes to several hours. Discrepancies in the definition between the text of the permit and the Glossary, ambiguities in how the end of a storm event is defined, as well as a lack of guidance on how a qualifying storm event should be predicted could lead to further confusion and difficulty demonstrating compliance with the permit requirements. It is recommended that the definition of a qualifying storm event be modified in both the text of the permit as well as in the Glossary to state that a qualifying storm event is an event that produces ¼-inch of rainfall in a period of 24-hours or less.
23	IX.C.4	29	Pre-storm visual monitoring and maintenance activities	"Anticipated storm event" is not clearly defined. Recommend the identification of a single weather forecast agency, and a revision of the definition of an anticipated storm event to coincide with the Construction General Permit's definition of a "Likely Precipitation Event", which reads "Any weather pattern that is forecasted to have a 50% or greater chance of producing precipitation in the project area. The discharger shall obtain likely precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at http://www.srh.noaa.gov/forecast)".

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24	IX.C.4	29	Anticipated Storm Event	The City has numerous unmanned facilities so we are unable to obtain the required information to determine if a QSE is occurring and/or if sampling is appropriate. For example, off-site staff doesn't know (a) if it's raining at the site, (b) when the rain started, (c) when the rain stopped, and (d) if there were 48 hours of dry weather prior to collecting rain in a rain gauge. How can unmanned facilities comply with recording storm events and/or sample within 4 hours without the ability to obtain this information?
25	IX.C.5	30	Visual Monitoring of Non-Qualified Storm Event	Please justify the reason for requiring the record-keeping for non-QSE. What is the beneficial use of this data? Over what time frame is a non-QSE? Should require visually monitoring storm water discharges from the first QSE of each month only.
26	X.A	30	Sampling and Analysis Requirements	Permit conflicts with Fact Sheet frequency, Figure 3, page 37 which states: **Twice/Annually** (October/May) Our facilities are located in San Diego County with an average rainfall of < 11 inches annually resulting in limited opportunity for sampling a QSE. We would likely encounter a QSE with the twice/annually (October/May) timeframe.
27	X.A and X.G	30	Sampling and Analysis requirements Missed Storm Events	Permit language should be modified to clarify the consequence of missing the first qualifying storm event for a quarter. The draft Industrial General Permit language appears to imply that all subsequent events during that quarter must be sampled. Revise language to say, *"Dischargers who fail to sample the first qualifying storm event of a quarter shall sample the next qualifying storm events that occurs during the quarter."*
28	X.D	30	Sampling Quarters	Reporting period is July 1-June 30 as stated in VIII.I (pg 27) Recommend changing the 1st Qtr to July, Aug, Sept, etc. to coincide with the reporting period.
29	X.E.1	30	Definition of a qualifying storm event	The wording "has produced" could be taken to mean that sampling cannot be initiated until at least ¼ inch of rain has fallen. Recommend clarifying the language to allow for sampling as soon as discharge begins.

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30	X.E.2	30	Sampling and Analysis requirements Rain Gauges and Qualifying Storm Events	1/8-inch is not a typical unit of measure for commercially available rain gauges. A more appropriate increment of rainfall measurement would be 1/10–inch to allow for use of a wide-variety of rain gauges and to be more compatible with other increments of measurements typically used for both on-site automated rain gauges and NOAA weather stations. State Water Board staff indicated during the February 23 workshop that use of a publicly available rain gauge may be appropriate in some cases, especially when a site is located adjacent to a rain gauge with publically available data. The permit language should be modified to allow for flexibility related to the use of nearby, publically available rain gauges.
31	X.F, Footnote 3	31	Definition of a qualifying storm event	Footnote 3 on page 31 associated with X.F isn't helpful because it assumes that after ¼ inch of rain over a weekend that either (a) it is still raining on Monday morning and/or (b) that there is still enough storm water present to take a sample. Also, the four hour window is triggered at the opening of business on the next business day. This is important given Monday holidays and the fact that some businesses may be closed on Mondays. *...and the discharger must sample within 4 hours, of the opening of business on ~~that Monday~~ the next business day.* It is recommended that facility operating hours be defined such that facilities that typically cease operations when rain is forecast are clearly required to collect samples if the facility typically would have been open if rain was not occurring.
32	X.F	31	Definition of a qualifying storm event	Our organization has numerous unmanned facilities so we are unable to obtain the required information to determine if a QSE is occurring and/or if sampling is appropriate. For example, off-site staff doesn't know (a) if it's raining at the site, (b) when the rain started, (c) when the rain stopped, and (d) if there were 48 hours of dry weather prior to collecting rain in a rain gauge. How can unmanned facilities comply with recording storm events and/or sample within 4 hours without the ability to obtain this information?

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33	X.F; Attachment K	31	Timing of storm water sampling	As described in the Permit's footnote to the cited language, the draft Permit allows samples to be collected many hours after initial discharge has started in some cases or soon after initial discharge has started in other cases. Because most pollutants tend to have higher concentrations in the first flush, allowing sampling over such a wide range of points a storm hydrograph is likely to reduce data comparability. The Construction General Permit requires dischargers to sample "during the first two hours of discharge from rain events that occur during business hours and which generate runoff." The USEPA MSGP requires sampling within the first 30 minutes of a measurable storm event, and the current version of the Industrial General Permit requires sampling within the first hour of discharge. If benchmarks are to be applied to discharges, recommend standardizing the time of sample collection to improve data comparability.
34	X. G.	31	Sampling Requirements	Our facilities are located in San Diego County with an average rainfall of < 11 inches annually resulting in limited opportunity for sampling a QSE. We would not have time to make up the sampling event for the April-June Quarter if the reporting period ends on June 30th. We would likely encounter a QSE with the twice/annually (October/May) timeframe.
35	X.H.4	31	Sample analysis for constituents contributing to the impairment of water bodies on the 303(d) list	It is unclear whether the facilities that exist within areas that drain to water bodies listed as impaired for constituents that lack any established benchmarks will still be required to analyze their samples for such constituents. Numerous water bodies are listed as impaired due to bacteria, for example, yet no benchmark values exist. The Permit should clarify whether facilities will be required to monitor for constituents for which downstream impairments exist but no benchmark values is listed and, if monitoring for such constituents is required, how the collected data should be evaluated.

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36	X (Table 1), XI (Table 4)	32,34	NALs and NELs	Electrical conductivity (EC, also referred to as specific conductance in the Permit) is no longer included as a parameter for which a benchmark applies in the 2008 MSGP. However, it is still included in the draft Permit and is a required analysis for all permitted facilities. Unlike other parameters such as TSS or pH, EC readings provide limited value in evaluating BMP effectiveness or locating sources of pollutants generated by industrial activities. Because EC has not proven especially useful in the past in identifying areas where BMP improvements are needed and because it is not included in the 2008 MSGP, it is recommended to be removed from the Permit.
37	X (Table 1)	32	Reporting Units	Electrical Conductivity (EC) reporting units listed as **mg/L**. Reporting units should be umhos/cm. Please change to reflect correct units.
38	X (Table 1), XI (Table 4)	32,34	NALs and NELs for Electrical Conductivity	The draft Permit lists the NAL/NEL for Electrical Conductivity at 200 umhos/cm which is more than four times lower than the drinking water standard of 900 umhos/cm. What is the justification for the limit to be significantly lower than the drinking water standard?
39	X (Table 1), XI (Table 4)	32,34	Detection Limits	Please clarify "detection limit" as found in Tables 1 and 4. How should these limits be evaluated? How are these limits compared to a laboratory's minimum detection limit (MDL)? A certified laboratory cannot set MDLs; they must be determined statistically following 40CFR136 protocol.

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40	XI (Table 4)	34	Test Methods and Detection Limits	Several parameters listed in Table 4 identify only one approved test method, rather than both the EPA and the equivalent Standard Method. Many laboratories are certified only to one method for a given parameter. This restriction will reduce the number of laboratory options available to dischargers, particularly in remote areas where options are severely limited. The Test Method column of Table 4 should be modified to include both the EPA and the equivalent Standard Method. Additionally, the detection levels for several parameters are inconsistent with the test methods identified and are well below levels achievable by several state certified laboratories. For example, the method detection limit for oil and grease using EPA method 1664 is 1.4 mg/L; however, Table 4 of the Draft IGP identifies a detection limit of only 1 mg/L. Because detection levels vary with test methods and most of the parameters identified in Table 4 can be analyzed using both the EPA and the equivalent Standard Method, a numeric detection limit should not be specified in the permit.
41	X (Table 1), XI (Table 4)	32,34	Lab Method for Oil and Grease	Test method EPA 413.2 (as listed in Tables 1 and 4) has been withdrawn from 40 CFR Part 122 and is no longer a valid analysis due to Freon regulations. Recommend removal of test method EPA 413.2 from IGP.
42	XI (Table 4)	34	NALs and NELs	The Permit Fact Sheet states that the NALs in the Permit are taken from the USEPA Multi-Sector General Permit (MSGP). However, it appears that some of the benchmarks, such as that for ammonia, are taken from the 2000 MSGP rather than the 2008 MSGP. If the MSGP is to be used as the source of benchmark values, the SWRCB should ensure that benchmarks in the Industrial General Permit are taken from the most recent version of the MSGP, or, if the 2000 MSGP values are believed to be more appropriate, the rationale for that determination should be included in the Permit Fact Sheet.

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43	XI (Table 4)	34	NALs and NELs	Industry-specific USEPA MSGP benchmarks are applied generally to all industries. The 2008 MSGP does not include a benchmark list that is generally applicable to all industries. Rather, each industry group has its own industry-specific list of parameters to monitor and corresponding benchmarks. Note that the 2008 MSGP also does not list any parameters for which benchmarks apply for several industry groups. The Permit Fact Sheet does not appear to include any rationale for compiling all the industry specific benchmarks into one list and then applying those to all industries, including those for which the MSGP does not include any benchmarks or monitoring requirements. Additional justification for applying the MSGP benchmarks in a way that is significantly different than their use in the MSGP should be provided, or the benchmarks should be applied on an industry specific basis only.
44	XI	32	Analysis Reporting	Due to numerous sites, numerous other regulatory reporting requirements, and limited staffing, the number of days to input analytical data into SMARTS should be extended. In the past, data collected during the rainy season was submitted in June of the following year illustrating that data submittal was not time sensitive. Recommend increasing electronic reporting from 30 days to at least 60 days.
45	XI (Table 4)	34	pH Testing Method	*Test method is listed as "EPA 9040 and/or Field Test with **Calibrated Paper** or Portable Instrument".* Please define "calibrated paper" method.

#	Permit Section	Permit Page(s)	Topic	Comments/Proposed Changes
46	XI.2 XII.B	32, 35	Monitoring Methods and Exceptions Qualified Combined Samples	This is the first introduction of "qualified combined samples". This concept needs to be defined in Appendix K or introduced earlier, or refer to where this is discussed. It is unclear as to whether the combined samples must be of similar volume or weighted based on flow rates, flow totals, surface area, or other parameter? Within the CGP, a concept of weighting the individual samples based on the proportion of the flow or the area of the site they represent is being introduced into SMARTS now. This concept has some merit, but if it will be used in the IGP it should be detailed and discussed during the permit development. There are concerns about the stipulation that only laboratories are allowed to combine samples. Some dischargers have qualified laboratory staff and may prefer to combine samples in-house. A set of protocols and a Standard Operating Procedure reference complete with QA/QC should be given to maximize consistency in sampling techniques. There is a requirement for dischargers to collect samples from all drainage areas. Some sites have structural obstacles in place that prevent sampling of each individual drainage area before combining with offsite discharges. How will situations like these be addressed?

#	Permit Section	Permit Page(s)	Topic	Comments/Proposed Changes
47	XI	32	Daily Average	The Daily Average concept as stated is unclear. It is not known whether SMARTS will average of all locations sampled each day, all samples from a single location on a given calendar day, or if the result will be a running average of all samples. It states in the draft IGP that this will be performed electronically "when dischargers are required to report multiple analytical results (applies to facilities with multiple discharge locations)". How will this averaging of multiple discharge locations be different than the Qualified Combined Sample techniques? Further definition of the Daily Average concept must also describe: - How will sampling at night around midnight affect this? - Is this intended to be a running average? - Will this just be used for intraday sampling or will it continue throughout the event? Will SMARTS notify a discharger if any one of the NAL Corrective Action Triggers has been met?

#	Permit Section	Permit Page(s)	Topic	Comments/Proposed Changes
48			Monitoring/inspection Frequency	Attachment 5 provides a tabular summary of the inspections required by the draft IGP. As proposed, the draft IGP will significantly increase the inspection and monitoring burden on facilities without providing a comparable benefit to water quality. The number of inspections under the existing permit is estimated to be approximately 40. By contrast, the number of inspections expected under the proposed IGP is approximately 450. This is an increase of approximately 1,150% As an alternative, we propose the following suggested Routine Inspection Program that would use a combination of documented monthly inspections and quarterly SMARTS reporting as the backbone of the inspection program. Specific elements of the proposed Routine Inspection Program include: - Annual pre-storm inspection to be completed by September 15th, which documents inspection and corrective actions (if needed) for all areas that contain potential pollutant sources. (NOTE: quarterly pre-storm inspections may be more likely to be accepted.) - Monthly documented inspections to meet requirements of Section VIII.H.a, b, and d - SMARTS should be programmed to send an inspection and reporting reminder email each month to the QSP assigned to each project - Weekly, undocumented inspection, to meet the requirements of Section VIII.H.1.a, b, and d - Quarterly reporting to SMARTS to certify that all undocumented weekly inspections were completed

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				In addition to the proposed Routine Inspection Program, we have developed an alternate Event-Based Inspection Program. This proposed program, which uses some earned from the CGP event-based inspection program, would consist of the following: - Sampling only for storm events when the noaa.gov website predicts greater than 0.25-inch of rain for the event with a minimum 50% probability. - Where noaa.gov predicts a small volume event, sampling is not required - Requirement to document non-discharging events will be met by completing an event log in SMARTS during quarterly reporting - Pre-storm inspection documentation shall be uploaded to SMARTS during the first quarterly reporting.
49	I.J Finding #57	9	Consistent Compliance/Sampling Exemptions	While this concept is forward thinking and provides incentive to consistently compliant dischargers, there are a few items that should be clarified in the draft IGP. - Must all permit requirements be met in order to reduce sampling? - Can data from sampling conducted pursuant to the current permit be used to demonstrate a historical compliance trend? - Over what duration must the discharger demonstrate consistent compliance? - What is the minimum number of samples that will be required? We ask that the State Water Board clarify and fully detail the requirements and process related to Reduction of Sampling for dschargers consistently meeting permit requirements.
50	XII. A. 4	35	Monitoring Methods and Exceptions	Please clarify this section. This section appears inconsistent with the previous sections. Please consider amending the language to clarify that samples only need to be collected from all drainage areas associated with industrial activities.

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51	XII	36	Large Areas of Land Disturbance	The City recommends that closed landfills and inactive portions of landfills be removed from the definition of facilities with "Significant Land Disturbances." Landfill areas that are inactive or in post-closure phase are no longer operating or conducting industrial activities that result in significant land disturbances. Inactive or previously active areas of a landfill are typically capped with a vegetated cover to provide protection from wind and erosion. Most of these inactive or closed areas are no different from a recreational facility, a golf course, or a local community park and therefore should not be subject to additional sampling requirements developed for facilities with significant land disturbances.
52	XII. D.	36	Visual monitoring and sample collection exceptions	Please clarify this section. If these exceptions apply, is the discharger still required to sample an additional storm in the following quarter (under section X. G)?
53	XIII	36	Facilities with significant land disturbances	Recommend clarifying the language of this section to identify if sampling is required on days that the facility is not operating. Also, this section may be burdensome if a storm event continues for some time; there should be a reasonable number of days prescribed in the text to enable a facility to cease sampling in the case of a protracted series of storms.
54	XIII.	36	Facilities with significant land disturbances	Recommend that a specific minimum disturbed land area be set so that facilities will be able to determine internally if they apply to the additional sampling requirements. Also, include a description of a land disturbance. The General Construction Permit describes applicable projects as "any construction or demolition activity, including, but not limited to, clearing, grading, grubbing, or excavation, or any other activity that results in a land disturbance of equal to or greater than one acre."

#	Permit Section	Permit Page(s)	Topic	Comments/Proposed Changes
55	XVII.E.1	42	NAL corrective action triggers	NALs are applied to results from individual storms, which is inconsistent with the use of benchmarks in the USEPA MSGP. The USEPA MSGP requires comparison of the overall average of the four storms to be sampled each year to the benchmark values; data from individual storms are not compared to the benchmark values. Comparing the results to annual averages would better account for the high storm to storm variability in constituent levels measured in wet weather sampling.
56	XX.A	43	Annual Reporting Requirements	Reporting timeframe too short. Our organization has numerous sites which must comply with not only the IGP but also numerous other regulations with reporting deadline requirements. Recommend minimum of 30 days from end of reporting period to adequately and correctly complete the annual reports and obtain signatures from legally responsible officials.
57	XXI.A,B; Attachment C	44-45	Facilities without exposure to storm water are required to recertify annually and pay a yearly fee	In the current economic environment, placing a yearly fee on businesses that do not represent a threat to storm water would seem to impose a burden disproportionate to the benefits. For example, in the City of San Diego alone, this requirement would apply to over 800 industrial facilities at which inspections have found no significant exposure. Suggest alternatively requiring recertification less frequently, such as once every 5 years and/or, as well as including a maximum facility size, below which certification and/or the annual fee is waived.
58	XXI.E	46	NEC Certification	The Draft permit should specify who is authorized to prepare and sign the NEC certification.
59	XXVII.G, H.2	52	Duty to Provide Information	Please define "within a reasonable time" with respect to providing requested information to regulatory agencies.
60	XXVII.H. 1,3,4	52	Inspection and Entry	Propose changing "within a reasonable time" to "prescheduled times" in relation to inspections and entry due to limited staffing, shift work, and schedule flexibility.
61	XXVII.O	54	Severability	Please define the entities that can declare portions of the General Permit invalid.

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63	General Comment	N/A	Monitoring requirements	The 2008 NRC report *Urban Stormwater Management in the United States* finds that industrial data has been highly variable and has been based on grab samples collected mainly toward the beginning of storms. The NRC report finds that this monitoring, including monitoring in California (citing studies by Stenstrom and Lee), has produced little meaningful, scientifically valid data. The NRC report recommends conducting well-designed scientific studies on a more regional basis within states to identify benchmarks applicable to specific industries or activities. These studies would be designed to collect robust data to assess what benchmarks would be appropriate for individual sites based on industry or activity. The proposed Permit does not appear to include such a component. The proposed monitoring design, which includes grab samples that can be taken at different points during a storm depending on the timing of the storm and a facility's standard operating hours, does not appear likely to provide data sufficiently robust to be used for future refinement of benchmarks or other numeric limits.
64	General Comment	N/A	NAL/NEL	The NALs and NEL's prescribed in the draft permit are EPA benchmark values from the MSGP which were not developed nor intended to be adopted as effluent limits. These benchmark values are not based upon local data and do not take into account existing background levels, as a result they may be widely unachievable. Dischargers may be forced into treatment and even then compliance with the NALs is uncertain. If action levels and effluent limits are to be implemented, local, industry specific data should be utilized to develop achievable levels that will serve to improve water quality.
65	General Comment	N/A	Inspection and Monitoring Requirements	The inclusion of numerous new inspection and monitoring requirements may result in hundreds of additional inspections per facility each year and the corresponding increase in inspection documentation is overly burdensome. These requirements should be streamlined and condensed.

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66	I.E.46	7	Atmospheric Deposition	Finding 46 as written is confusing; it could be interpreted to mean that only atmospheric deposition from natural disasters would be considered. This is inappropriate in areas of the state with significant air pollution problems. *Finding 46 should be modified to address background/offsite sources. We suggest the following language to replace the existing Finding language:* "46. Pollutants in stormwater discharges caused by background conditions, atmospheric deposition, run-on, or by any natural disaster, including forest fires, do not apply toward any NAL corrective action trigger determinations."