



THE CITY OF SAN DIEGO



September 12, 2013

VIA EMAIL TO: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Ms. Jeanine Townsend,  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

Dear Ms. Townsend:

**Subject: Comment Letter – Draft Industrial Storm Water General Permit**

Thank you for the opportunity to comment on the State Water Resources Control Board's (State Board) Draft Industrial Storm Water General Permit (Draft IGP). The City of San Diego, Transportation & Storm Water Department (The City) is committed to protecting and improving water quality in our region.

The City appreciates the significant revisions/modifications made by the State Board in the 2013 Draft IGP. We believe that both the 2012 and 2013 Draft IGP's are significant improvements over the 2011 Draft IGP, but the City still has concerns regarding the potential impacts to both the City and businesses within the City of San Diego and throughout the State of California.

The City urges the State Board to remain consistent with federal requirements related to the No Exposure Certification (NEC) provisions in the IGP and not create additional burden on sites without industrial activities exposed to storm water. The City also recommends the State Board invest in a comprehensive outreach program to industrial facilities previously considered "light industry" under the 1997 Permit, but now required to actively submit NECs. The City is concerned that much of the outreach and questions/confusion from industrial sites related to these new requirements may fall on City NPDES staff, creating undue burden.

The City is also concerned with the lack of certainty and potentially extreme costs associated with investigating Numeric Action Levels (NALs) in addition to complying with the complex Exceedance Response Action (ERA) process. While the ERA process has been improved, we are concerned there will be inconsistent implementation throughout our jurisdiction, and urge the

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State Board to develop appropriate guidance for both dischargers and those tasked with review/oversight of BMP implementation and IGP compliance.

As a regulated municipality, the City's NPDES Permit requires implementation of stringent new development/redevelopment standards, focused on promoting low impact development (LID) and green infrastructure alternatives throughout our City and watersheds. The re-issuance of the IGP is an ideal forum for the State Board to promote green infrastructure improvements at industrial sites and support existing local, state, and national objectives. The City urges the State Board to create a clear pathway for industrial dischargers to utilize LID as a pathway to IGP compliance.

As California businesses struggle to recover and compete both nationally and internationally, we ask the State Board to consider the economic effects of this draft IGP on businesses and local government. We are concerned that the complexity and potential costs associated with compliance with the IGP will have a detrimental impact on businesses within the City.

While the City's comments on the primary areas of concern for the draft IGP are summarized in this letter, we have incorporated these comments as well as other important issues in the attached table.

If you have additional questions, please contact Andre Sonksen at (858) 541-4317 or at [asonksen@sandiego.gov](mailto:asonksen@sandiego.gov).

Sincerely,



Kris McFadden  
Deputy Director

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Attachment: City of San Diego Draft Industrial General Permit Amendment Comment Table

cc: Scott Chadwick, Assistant Chief Operating Officer, Office of the Mayor  
Garth K. Sturdevan, Director, Transportation & Storm Water Department  
Ruth Kolb, Program Manager, Transportation & Storm Water Department  
Andre Sonksen, Program Manager, Transportation & Storm Water Department

#	Page	Section	Topic	Comments
1.	57-61	XVII	Impacts to the MS4 NPDES programs due to the number of NEC Facilities that may require coverage	<p>The City is concerned that the outreach and questions from industrial sites on the new No Exposure Certification (NEC) requirements may fall on the City NPDES staff, creating an undue burden. The City urges the State Board to invest in a comprehensive outreach program to industrial facilities previously considered “light industry” under the 1997 Permit, which will now be required to actively submit and pay for an NEC.</p> <p>Based on the State Water Board’s estimate, approximately 30,000 businesses will be required to file an NEC across the state. The City estimates between 900 and 950 businesses within San Diego alone will be impacted, with many potentially requiring full IGP coverage. If the State Board is going to assess an annual fee for filing NECs, the fees should be used to fund the outreach program rather than potentially pushing the burden on local municipalities.</p>
2.	57-61	XVII	Costs incurred by NEC Facilities	<p>US EPA and West Coast states with NPDES permitting authority (i.e., Washington and Oregon) only require submittal of the NEC checklist once every 5 years. In addition, they do not require a filing fee or require the development and submittal of a site map. The City recommends the State Water Board be consistent with federal and other surrounding states NEC filing requirements, and not subject small, low threat to water quality, businesses to excessive costs associated with annual fees and submitting updates on an annual basis. The City also recommends removing the requirement to develop and submit a site map with the same level of detail as required of sites with full IGP coverage. Developing a SWPPP compliant site map may require small businesses to hire professional assistance creating additional economic burden on these businesses.</p>
3.	46-52	XII	The Exceedance Response Action	<p>The City commends the State Board for streamlining the ERA process. While the ERA process has been improved, we are concerned there will be inconsistent</p>

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			Process	implementation throughout our jurisdiction and urge the State Water Board to develop appropriate outreach and guidance for both dischargers and those tasked with review/oversight of BMP implementation and IGP compliance.
4.	NA	NA	Low Impact Development/ Green Infrastructure Incentives	The City strongly recommends this IGP include low impact development (LID) and green infrastructure incentives that promote existing development improvements that are in line with the City’s MS4 permit. The City’s MS4 permit includes LID requirements for development and significant redevelopment projects to reduce pollutants in storm water runoff. Industrial facilities retrofitting their sites with LID projects to comply with the IGP should be provided incentive/credit for installing these types of BMPs that have the potential to significantly reduce the volume of discharge and subsequent mass of pollutants from the site. The current draft IGP requires the site to evaluate these types of BMPs based solely on discharge concentration, not accounting for the overall pollutant removal associated with the BMP. The City urges the State Water Board to look for opportunities to provide this incentive.
5.	21	VII.B	Total Maximum Daily Loads	<p>This section of the Draft IGP sets a high bar for new dischargers in watersheds subject to TMDLs. This provision would effectively prevent new businesses from opening or require new business to implement substantially higher level of BMPs to meet water quality standards if there is no remaining load available.</p> <p>At a minimum the term ‘new discharger’ should be defined in the IGP for the purposes of this section. The definition of new discharger for the purposes of this section should not include renewing dischargers, existing facilities that were previously exempt (NEC facilities), or new owners of existing facilities.</p> <p>The City strongly recommends that the State Water Board reconsider this language and develop a proposal that would allow for the equitable distribution</p>

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				of remaining load capacity for new businesses within impaired watersheds so as to not unfairly restrict business development.
6.	32	H.1.f.v	Sediment Basin Design	<p>Clarify that existing sediment basins do not need to be redesigned. Similar to treatment control design, the City recommends this design standard apply to new sediment basins.</p> <p>If <u>new</u> sediment basins are implemented, ensure compliance with the design storm standards in Section X.H.6.</p>
7.	34-35; 37	X.H.6; XI.B	Numeric Action Levels, Sample Analysis Reporting, and Design Storm	The City supports the use of the 85th percentile, 24-hour storm as the design storm which is consistent with the MS4 permit requirements. The City recommends that data collected from storm events which exceed the design storm event be excluded from Numeric Action Level (NAL) instantaneous and annual averages assessments.
8.	41-42	Table 2	Method Detection Limit	<p>The Method Detection Limits (MDLs) are set, in several cases, orders of magnitude lower than the NAL. Additionally, low MDLs will not necessarily result in data values with these low concentrations as variables, such as sample matrix effects can raise laboratory Minimum Levels above MDLs. While Dischargers recognize that it is in their best interest to obtain data reported at concentrations lower than the NALs, the very low MDLs specified in Table 2, will increase analytical costs, and will limit laboratories that can perform the analyses.</p> <p>We also note that the terminology Minimum Level is not standard; the concept conveyed by the definition of Minimum Level in the Glossary is most commonly referred to as the Reporting Level or Practical Quantification Limit by laboratories. Additionally, the use of the term Minimum Level is not consistent with the State Implementation Policy, which is the primary regulatory document that uses this terminology in California. The City appreciates the fact that the</p>

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				State Water Board included a definition of Minimum Level in the IGP, but believes that over the course of the permit term, this non-standard terminology will cause confusion.
9.	51	XII.D.3.b	Water Board Review/ Response to Level 2 ERA Action Plans	<p>The Water Boards should take advantage of the Level 2 Action Plans to engage with dischargers on corrective action plans to respond to NAL exceedance. The Action Plan should serve as a planning stage with both the dischargers and regulators participating in a discussion about pollutant sources and water quality improvements. This is especially important because once dischargers begin to implement the Action Plan and develop the Technical Report they will be embarking on significant investments for special studies and potential capital improvements for structural/treatment controls. The City recommends that the permit be designed to encourage this type of communications between dischargers and Water Boards and recommends that language similar to what has been included in section XII.D.3 be incorporated into XII.D.1 as a new item e.</p> <p><i>Recommended Language Changes</i></p> <p>e. The State Water Board and Regional Boards (Water Boards) may review the submitted Level 2 ERA Action Plan. Upon review of a Level 2 ERA Action Plan, the Water Boards may concur with the plan or request changes to the Level 2 ERA Action Plan.</p>