



California Regional Water Quality Control Board

San Francisco Bay Region



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Arnold Schwarzenegger

SPECIAL HEARING
2/3/05
cc: BD, DI, DWQ
e-cys: BD, CC, HMS, TH, CMW

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File No. 1538.09 (RAD/KHL)

43. san francisco bay
regional board

Ms. Debbie Irvin, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Comments on the 2004 Draft NPDES Industrial Stormwater General Permit Reissuance

Dear Ms. Irvin:

Thank you for the opportunity to comment on the Draft NPDES Industrial Stormwater General Permit (General Permit). Water Board staff has reviewed the General Permit and has the following comments.

1. Fees

The permit should include a provision that clearly states how annual fees will be assessed, including how they will be assessed relative to the timing of approved Notices of Termination (NOTs). This would help address the following problem that we encounter: A facility closes, but does not file an NOT until the permittee receives its annual fee bill. An NOT is then submitted, but Board staff may not be able to determine that the facility was closed prior to the annual fee billing date. Please place language in the permit defining a grace period (e.g., 3 months) past a facility's annual fee billing date, such that the annual fee would not be due, or only a portion would be due (i.e., it would be pro-rated), when the NOT was submitted and approved after the facility's annual fee billing date. For example, we recommend if an NOT is submitted 3 months into the billing year, then the entire annual fee would still be considered due?

2. Section IV, Non-Storm Water Discharges

Overall, this section is acceptable, but it should include minimum BMPs applicable to each specified discharge. A number of the Phase I MS4 programs have developed acceptable BMPs for such discharges, and they could serve as a source of information that should then be included in the General Permit. This information should be compiled and incorporated into the General Permit

prior to its consideration before the State Board. Simply requiring that "[d]ischargers include specific BMPs in [their] SWPPP to" address these discharges seems likely to result in uneven implementation and make it very difficult to enforce.

Section IV.1.c., drinking fountain water, atmospheric condensate. Please include a sentence stating that this does not include cooling water.

Section IV.1.d, irrigation drainage and landscape watering. Please include a sentence or other BMPs noting that a significant source of pollutants in such water is chlorine/chloramines, which can be quite toxic to aquatic life. As such, any discharge that has chlorine/chloramine residual above the detection limit should be prohibited, without exception.

Last sentence, IV.2, begins "Discharges from fire fighting activities...." Please change this to "Discharges from **emergency** fire fighting activities," so as to make clear the permit does not include activities such as: fire truck washing/equipment washing; drills & other practices; etc.

3. Section VI, Provisions

Section VI.10, Annual Reports. Please include language here to allow for the future electronic (e.g., web-based) submittal of annual reports, and outlining the parameters for such submittal.

4. Section VII, Stormwater Pollution Prevention Plan Requirements

Section VII.3.b, Pollution Prevention Team. Please revise this section to require that contact information for these individuals be included in the SWPPP (e.g., telephone numbers, fax numbers, email addresses, addresses, etc.).

Section VII.6.d, Significant Spills and Leaks. Should the permit require permittees to also keep a record, for a period of 5 years, of all spills reported to OES?

5. Section VIII, Stormwater Monitoring Program and Reporting Requirements

In general, we support the requirement to sample two storms each year. However, the limitations imposed on which storms may be sampled are significant and, for many facilities, may result in no storms being sampled in a year. As such, the permit should include fallback language that allows samples to be taken for storms that do not meet the criteria, in order to ensure some quantitative measure of performance during the year.

As an example, for the current rainy season in Oakland, from October 1 - January 25, there were 20 days with rainfall of 0.1 inches or greater—events of 0.1 inches or greater commonly being thought of as those most likely to generate runoff. Of those, there were 5 days that occurred on business days and with at least 3 or more preceding dry days (or days with less than 0.1 inches of rainfall). Of those 5, zero occurred during business hours, assuming a facility operated from 8 am - 5 pm, Monday through Friday.

While we understand the goal of the antecedent dry day requirement is to be able to capture some level of buildup of industrial pollutants on a facility and the expected wash-off, thus providing a discharger and the public some measure of the effectiveness of the discharger's BMPs, the current requirements appear to significantly limit the potential rainfall events that could be sampled under the permit. Also, the permit currently requires that pollutants be sampled towards the beginning of a rainfall event (by requiring sampling only for those events in which runoff begins during business hours). We note that the pollutographs for the sampled pollutants may vary over the course of a storm, with some pollutants exhibiting a "first flush" effect, and others discharging relative to rainfall intensity (e.g., certain particulate pollutants), or perhaps even evenly throughout a storm (e.g., some dissolved pollutants). As such, while we would tend to want to see samples collected sooner rather than later in a storm, and with more antecedent dry days rather than fewer, we would suggest that the overall requirements could be relaxed through the use of a fallback requirement to ensure that some sampling does take place. We believe that the results of such sampling would still be of assistance to the permittees with respect to evaluating BMP effectiveness, and to the Boards and public with respect to evaluating permittee compliance with the permit.

We would suggest that such fallback language would require sampling during any storm generating runoff if sampling had not previously been possible over, for example, the first three months of a rainy season, or similar language. The sample results should then indicate the conditions under which the sample had been taken (e.g., number of antecedent dry days, time at which runoff began, etc.). The permit should require that at least one or two fallback events should be sampled each year, in the event that events fitting within the more stringent limits do not take place.

Further, we note that Section VIII.3.a includes similarly restrictive language for monthly visual observations. Again, while we appreciate the goal of making observation of pollutant washoff more likely by allowing enough time for accumulation, we believe that there would remain value to having fallback observations each month in the event that there was not a qualifying storm. Therefore, please revise this section as we have described above for the analytical sampling.

Section VIII.5, p.20, "Dischargers with facilities subject to federal storm water effluent limitation guidelines." What are these facilities? Could they simply be listed in an appendix, so this information is collected in one place as part of the permit?

Section VIII.5.b and c. "Estimate or calculate the volume of storm water (and regulated pollutants) discharged from each drainage area." Please revise this to state whether these calculations are required to be completed on an annual basis, a per-storm basis, etc.

Section VIII.7.d. Allows compositing of samples for analysis. Dischargers may composite samples from up to 4 drainage areas. The goal of doing economically efficient sampling is laudable, but this seems a large number of drainage areas from which to do a single composite. Is it possible to reduce the number of areas that may be composited, or to provide criteria/guidance for compositing to ensure that the analytical results are then meaningfully representative of the sampled areas?

Section VIII.8.a.iii. Please, change the "three consecutive dry day" language by adding some fallback language to ensure at least some sampling each year, as suggested above.

Section VIII.13, Annual Report. Please include language/provision for future electronic submittal of annual reports.

6. Section IX, Group Monitoring

Based on our review of the General Permit and its associated Fact Sheet, we remain concerned that the sampling required of Group facilities appears significantly less than that expected of non-Group facilities. While we support the ability of similar facilities to have their monitoring and certain inspections completed as a group, it is unclear what water quality benefit is derived from allowing reduced sampling as compared to other facilities. The purposes of sampling and inspections include allowing a permittee to determine whether adjustments to its implemented stormwater measures are required, how well the implemented measures are performing, and demonstrating to the Boards and the public whether a permittee is implementing effective stormwater measures and thus appropriately complying with the permit. By reducing the number of sampling events, these opportunities for internal feedback on a particular facility and demonstrations to the public are significantly reduced. We note that this impact is not necessarily insignificant, as groups include some of the most-polluting categories of industry (e.g., auto dismantlers).

Therefore, we would support continuing the Group Monitoring provision, but by bringing sampling up to the same annual level as that required of all other industries, as detailed below.

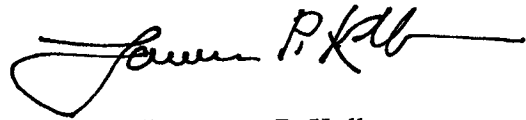
Section IX 1.b. The requirement that each participant collects and analyzes samples from a minimum of two qualifying storm events over five years should be revised to require the same annual sampling as is required of all other facilities. While group members are all in the same industry, individual facilities may vary significantly in design and operation, making it important to regularly assess their compliance and progress under the General Permit.

Summary

Again, thank you for the opportunity to comment on the draft General Permit. While we believe it appropriately continues the existing stormwater program, there are areas of the permit that could be revised to make clearer what it means to comply with it, and to better ensure the protection of the beneficial uses and quality of State waters. We would welcome the opportunity to discuss our comments with you further.

If you have any questions or comments on this letter, please contact Keith Lichten at (510) 622-2380, or via e-mail to klichten@waterboards.ca.gov, or Rico Duazo at (510) 622-2340, or via email to rduazo@waterboards.ca.gov

Sincerely,



Lawrence P. Kolb
Assistant Executive Officer

Cc: Shin-Roei Lee, RWQCB
Wil Bruhns, RWQCB
Mary Ann Jones, SWRCB - DWQ