



California Regional Water Quality Control Board

Central Coast Region



Linda S. Adams
Agency Secretary

Internet Address: <http://www.waterboards.ca.gov/centralcoast/>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

November 9, 2006

Mr. Avram Frankel
ARCADIS G&M, Inc.
155 Montgomery Street, Suite 1500
San Francisco, CA 94104

Dear Mr. Frankel:

DRAFT GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGES OF HIGHLY TREATED GROUNDWATER TO SURFACE WATERS, CENTRAL COAST REGION – RESPONSE TO COMMENTS

We have reviewed your October 5, 2006 *Comments on Proposed Discharge Requirements* letter; thank you for your submittal. We have outlined our responses to your comments below.

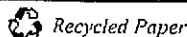
1. **Comment:**

While the proposed revisions to the program are explained thoroughly, the transfer process for current enrollees to coverage under the revised general permit is unclear. Please clarify how and when current enrollees will be transferred. The clarification should be included in the Revised General NPDES Permit.

Response:

Following Central Coast Water Board adoption, current enrollees will automatically be enrolled in the General Permit. (The Central Coast Water Board will consider adoption of the General Permit on December 1, 2006, in San Luis Obispo.) Current enrollees will receive a transmittal letter and a copy of the General Permit from the Central Coast Water Board's Executive Officer shortly after the Central Coast Water Board's adoption. The transmittal letter will provide adequate detail for current enrollees regarding the new requirements of the General Permit. The transmittal letter will explain that we will not pursue enforcement action for noncompliance with any new requirement of the General Permit for 60 days from the date of the letter. If the current enrollee does not wish to continue coverage under the General Permit, he/she should cease discharge and submit a Notice of Termination to terminate enrollment in the General Permit (see General Permit section A.3. on page 7). The discharger may choose to apply for a site-specific NPDES permit or Waste Discharge Requirements. See Fact Sheet, Page 4, *Current Dischargers* for additional information. We will not include this information in the General Permit but we will provide adequate detail in the transmittal letter and Fact Sheet. Please note that the Fact Sheet which was transmitted with the Draft General Permit will be the Fact Sheet for the December 1, 2006 Central Coast Water Board meeting.

California Environmental Protection Agency



Item No. 12 Attachment No. 1
December 1, 2006 Meeting
Highly Treated Groundwater to
Surface Water

2. Comment:

We request that current enrollees retain their previously negotiated effluent limits under the revised program.

Response:

The purpose of the General Permit is to efficiently regulate discharges similar in nature. Effluent limits are not negotiated on an individual basis. For the General Permit, we updated the effluent limits for common constituents listed in Section C.2. of the General Permit to comply with the California Toxics Rule (CTR) and National Toxics Rule (NTR). Therefore, we lowered four common constituents' effluent limits: tetrachloroethene, trichloroethene, 1,2-dichloroethane, and 1,1-dichloroethene. For example, we lowered tetrachloroethene's effluent limit from 5.0 parts per billion (ppb) to 0.8 ppb.

In addition, as described in the General Permit, effluent limits apply to any priority pollutant present in the influent above applicable water quality criteria (see Appendix D). The effluent limits in Appendix D may or may not have changed from previous effluent limits or discharge prohibitions. Current enrollees that prefer an NPDES permit tailored specifically to their discharge should apply for an individual NPDES permit. An individual NPDES permit requires a full Reasonable Potential Analysis (RPA) to determine effluent limits. An RPA considers site-specific receiving water beneficial uses and background receiving water quality.

3. Comment:

We understand that influent sampling for the priority pollutants listed in Appendix D will be required. Please clarify when the sampling will be required, how long permittees will have to perform the sampling, and that the sampling will be a one-time sampling assuming no priority pollutants beyond those already covered in an enrollees current permit are detected.

Response:

For new enrollees, priority pollutant sampling results are required with the Notice of Intent. Therefore, the General Permit requires sampling before any discharge can occur. However, current enrollees already discharging will be required to submit certified analytical results of the influent (or groundwater) for all priority pollutants listed in Attachment D within 60 days of Executive Officer's transmittal of the approved General Permit.

As for the frequency, one-time testing for priority pollutants is required initially. If the influent does not contain priority pollutants above the detection limit, then no additional testing is required. If the influent contains priority pollutants above the detection limit, but less than the water quality criteria or "effluent limit," the discharger will be required to conduct quarterly testing for exceeded priority pollutants for at least one year. (At that time, the Executive Officer may require continued sampling, or termination of sampling, depending on the results.) If the

influent contains priority pollutants above the water quality criteria, then the discharger is required to treat the priority pollutants below the effluent limits. In addition, the discharger is required to conduct monthly effluent testing. We have clarified these requirements in the Fact Sheet section *SIP, Current Discharges* on page 4 and in the Monitoring and Reporting Program section *Monitoring Frequency and Sampling Protocols, Treatment System Monitoring* on page 4.

Please note, in addition, current enrollees will have to test receiving waters near the proposed discharge location for the following: pH, temperature, color, turbidity, dissolved oxygen, total suspended solids, and total dissolved solids [see General Permit A.1.b.(4)].

4. **Comment:**

We understand that the Regional Board expects treatment systems to be designed and operated to remove influent chemicals of concern (COCs) to analytical reporting limits. However, notices of violation are based on effluent limit exceedences and not on detection above reporting limits that are below effluent limits. This clarification should be included in the Revised General NPDES Permit.

Response:

This is clarified in the Revised General Permit on page 20, Finding 20. Violations of numeric or numerically expressed effluent limits, certain toxicity limitations, and certain reporting violations may trigger mandatory minimum penalties. Also, the Fact Sheet, section *The Clean Water Enforcement and Pollution Prevention Act of 1999*, on page 6, states that minimum penalties apply to exceedences above effluent limits. In the Fact Sheet, section *Discharge Prohibitions* on page 7, we explain that we expect the design and operation of the treatment system to treat to non-detectable concentrations. That is a target goal for the design and operation of a treatment system. We will not pursue enforcement action unless an effluent limit is violated. The Fact Sheet and General Permit provide sufficient clarification.

5. **Comment:**

We have read the State Implementation Program (SIP), Basin Plan, National Toxics Rule (NTR), and California Toxics Rule (CTR) and understand that the SIP does not provide specific guidance on the selection of effluent limits for general permits. As a result, it appears the Regional Board selected the most stringent of available criteria to facilitate general permitting to all potential receiving waters. Our concern is that for many constituents, resulting Appendix D effluent limits are: a) significantly lower than previous limits, and often b) below Minimum Levels (MLs). Effluent limits below MLs functionally result in limits that equal analytical detection limits. This will likely results in increased occurrences of minor effluent exceedences that (even for responsible operators who design and operate their systems to avoid exceedences), under proposed general permit provisions, will trigger mandatory notices of violation and associated fines.

It does not appear that the Regional Board has fully considered this outcome and the resulting significant increases in administrative work load that will occur.

Response:

We understand your concern. However, based on the NTR, CTR, SIP, and the Clean Water Enforcement and Pollution Prevention Act of 1999, we cannot change the effluent limits contained in the General Permit to reflect your concern. In general, most receiving waters in our region are designated with the beneficial uses of freshwater habitat (COLD or WARM) and municipal and domestic supply (MUN), which dictate the water quality objectives that are established as effluent limit numeric values contained in Appendix D. We suggest that dischargers pursue alternative permits (i.e., site specific, or WDRs) if receiving water beneficial uses or other factors allow for site-specific effluent limits. You are correct in your assumption that Central Coast Water Board staff selected the most stringent of available criteria to facilitate general permitting to all potential receiving waters. In addition, most treatment systems are designed with redundancy to detect contaminant breakthrough prior to discharge. Therefore, we do not expect that numerous effluent limit violations will occur.

6. **Comment:**

With regard to Comment 4, the lower effluent limits will likely increase application for site-specific permits as current and future dischargers seek effluent limits that directly relate to receiving water uses and receptors. The site-specific permitting process is lengthy, time-consuming, and costly for both the applicant and the Regional Board. We are concerned that the Regional Board has not fully considered this outcome in the development for the Appendix D effluent limits.

Response:

We understand your concern and we agree that additional work by the discharger and Central Coast Water Board staff may be required as a result of the revisions in the General Permit. (See response to Comment 5.)

7. **Comment:**

While we suspect that trihalomethanes (THMs) will not be commonly encountered COCs at sites with general permits, Appendix D would establish independent THM constituent regulation to stringent limits. Currently, both the Regional Boards and the U.S. Environmental Protection Agency (EPA) regulate discharges of THMs from drinking water treatment facilities in aggregate. For example, the primary California and Federal primary Maximum Contaminant Levels (MCLs) are 100 and 80 micrograms per liter ($\mu\text{g}/\text{L}$), respectively. We are unclear whether the Regional Board meant to establish the significant precedent of individual THM regulation with the proposed revised general permit. We also do not understand the basis for THM regulation under NPDES discharges that would be significantly more stringent than that for drinking water treatment effluent. It would appear that the CA MCL is the applicable standard.

Response:

You are correct that for drinking water, Department of Health Services regulates THMs by the MCLs. MCLs take into account protection of human health, detectability, and technological and economical feasibility. However, discharges to inland surface waters trigger the CTR and NTR regulations. The numeric criteria for priority pollutants, developed by the CTR and NTR, are strictly based on protection of human health. Thus, discharges to inland surface waters with the beneficial use designation of MUN must have effluent limits consistent with the NTR and CTR criteria. Other NPDES permits in our region discharging to inland surface waters with MUN designation have the same THM effluent limits that are contained in the General Permit Appendix D.

8. Comment:

For some constituents Appendix D effluent limits are based on the NTR versus the CTR. This is somewhat confusing considering that EPA issued both regulations, the CTR was promulgated after the NTR, and EPA developed the CTR for specific application to California. It would thus seem that for COCs with CTR and NTR limits, the CTR limit would be the most applicable. For example, it would appear the CTR limit would apply for hexavalent chromium.

Response:

The CTR does not replace the NTR. The SIP states on page 4, "For California, the criteria in the CTR supplement the criteria in the NTR (i.e., the CTR does not change or supersede any criteria previously promulgated for California in the NTR, but it does include them in the table of criteria for convenience)." For several constituents, the draft permit used inapplicable criteria from the NTR. We have made subsequent changes to Attachment D to include the most stringent criteria between our Basin Plan, the CTR, applicable provisions of the NTR, and other applicable regulatory limits. The six priority pollutant effluent limits that staff changed are: arsenic, cadmium, chromium (VI), copper, mercury, and zinc.

If you have any further questions, please call **Karyn Steckling at (805) 542-4642** or **Kristina Seley at (805) 549-3121**.

Sincerely,


for Roger W. Briggs
Executive Officer

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cc: Mr. Eric G. Lardiere, Whittaker Corporation
1955 N. Surveyor Avenue
Simi Valley, CA 93063-3386

California Environmental Protection Agency