

BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In the Matter of:

California Regional Water Quality Control Board,
San Diego Region Region Order NO. R9-2013-
0026, NPDES NO. CAG719001

U.S. NAVY'S PETITION FOR REVIEW, REQUEST
FOR STAY AND REQUEST FOR HEARING

NO. R9-2013-0026, NPDES NO. CAG719001
GENERAL WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM BOATYARDS AND BOAT
MAINTENANCE AND REPAIR FACILITIES
ADJACENT TO SURFACE WATERS WITHIN THE
SAN DIEGO REGION

1. INTRODUCTION

Pursuant to Section 13320 of the California Water Code and Section 2050 of Title 23 of the California Code of Regulations, the U.S. Navy (Navy) hereby petitions the State Water Resources Control Board (State Board) for review of Order NO. R9-2013-0026, NPDES NO. CAG719001, GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM BOATYARDS AND BOAT MAINTENANCE AND REPAIR FACILITIES ADJACENT TO SURFACE WATERS WITHIN THE SAN DIEGO REGION.

2. INFORMATION REQUIRED BY SECTION 2050

A. Name. Address. Telephone and Email Address of Petitioner Correspondence regarding this Petition should be sent to:

Department of the Navy

Attn: Mr. Brian Gordon, Water Program Manager

937 N. Harbor Drive

San Diego CA 92132

brian.gordon@navy.mil; david.silverstein@navy.mil

(619) 532-2273

B-C. The Navy challenges several provisions of Order NO. R9-2013-0026 (Order) adopted by the Regional Water Quality Control Board for the San Diego Region (Regional Board) on May 8, 2013. A true and correct copy of the Order downloaded from the State Board's internet site is attached.

Challenged provisions relate to the storm water effluent limitation based on chronic toxicity testing with whole effluent, also called Whole Effluent Toxicity Testing (WET) or testing with undiluted effluent. Relevant provisions of the Order include but are not limited to Finding L on page 11, Part IV sections A and B on page 16, Part XVI section I on page 36, Part III section A on page E-4, Part IV section A on pages E-5 through E-7, Part III, section D on pages F-22 and F-23, Part IV on pages F-23 and F-24, Part IV section C paragraph 1 on page F-28, Part IV section C paragraph 5 on pages F-30 through F-33, and Part VI section B on page F-36.

D. Statement of Reasons Why the Action was Improper per CCR Section 2050(a)(4)

1. The Toxicity Standard is Overly Conservative, Not Technically Supported, and Improperly Applies WET Test Methods

The toxicity standard in the Order is overly conservative and not technically supported. The standard is applied at the end of the discharge pipe, with no allowance for a mixing zone. The proposed standard requires compliance at the end of the pipe 100% of the time for routine sampling of discharges that are affected by a wide range of factors. It is technically undisputed that storm water discharges are highly variable. Storm water pollutant concentrations and flow rates and duration are variable. Therefore corresponding toxicity results will also vary. This standard does not take into account the variability of storm water discharges and applies Whole Effluent Toxicity test methods that were originally designed for process discharges that have consistent flow volumes, pollutant concentrations, and are applied at the edge of the mixing zone. Evidence that the standard is overly protective can be found in the Navy's four year toxicity study which established a robust dataset for discharges into San Diego Bay and demonstrated that the toxicity of Navy storm water discharges measured at the end of the discharge pipe consistently (99%) overestimated toxic impacts in the Bay. See **Navy Toxicity Study** at attachment 2.

2. The Order's Toxicity Standard Relies On a Fundamentally Inconsistent Application of Basin Plan Objectives

The challenged standard is justified by the Regional Board using the Basin Plan narrative requirement of "All

1 waters shall be maintained free of toxic substances in concentrations that are toxic, or that produce
2 detrimental physiological responses in human, plant, animal, or aquatic life." This same standard is not
3 applied to other NPDES discharges in the same manner and same extent as it is applied to the boatyards. MS4
4 discharges to the same water body discharging the same pollutants either have no toxicity sampling
5 requirement or sample in the receiving water. The Regional Board acknowledges that the chronic toxicity test
6 is more sensitive and more protective than the acute toxicity test and also acknowledges that existing facilities
7 have not been successful in meeting the acute standard "Naval Base Coronado have ship repair operations and
8 collect storm water samples for acute toxicity analysis. In the 2011-12 wet season, 166 samples were collected
9 at the naval bases and 50 of the samples failed the toxicity test. Boatyard storm water and similar storm water
10 discharges have shown acute toxicity in the past". To the Navy's knowledge no other storm water permits in
11 California include Chronic toxicity effluent limitations using 100% storm water. For these reasons State Board
12 review is warranted.

13 **3. The Toxicity Standard is Flawed Because It Ignores Area-Wide Pollutant**
14 **Sources Over Which the Discharger Has Little or No Control**

15 The proposed standard ignores the impacts of area sources of pollutants that are typical in all
16 urban environments and contribute to toxicity in storm water runoff. The contribution of pollutants in
17 storm water runoff from area sources is undisputed and supported by numerous scientific studies. For
18 example, the TMDL study for Chollas Creek and the March 23, 2009 City of San Diego Aerial
19 Deposition Phase II Study found that sources such as automobiles and industrial plant generation provide
20 a significant portion of the copper in the Chollas Creek watershed. The 2006 Air Toxics Hot Spots
21 program report, produced by Air Pollution Control District, estimates that 99% of zinc and 97% of
22 copper comes from mobile area and natural emission sources. A significant portion of these sources are
23 not from the boatyard facilities so therefore the boatyard facilities have no control over them.

24 The issue regarding area source pollutants is not just a Navy concern. It has also been recognized
25 by legislature. The City of San Diego sponsored SB 346, a Senator Kehoe bill, which required
26 automobile brakes be designed to eliminate pollutants such as copper and zinc. With regard to this bill the

Senate Environmental Quality Committee analysis noted that "[t]he ubiquity of copper in the urban environment, and technical difficulty and impracticality of treating storm water to remove it, means compliance with copper TMDLs will not be feasible without source reduction of copper". Costs could go into the billions of dollars to remediate if source reduction measures are not taken." Without any industrial activity these area sources are more than enough to cause toxicity in storm water runoff if measured at the end of the pipe. Storm water runoff from the Regional Board's own parking lot, which is typical of parking lots across the county, consistently showed acute toxicity. This demonstrates that even a typical parking lot cannot consistently pass the end of pipe acute toxicity standard and speaks to the infeasibility of compliance with an even more sensitive chronic toxicity standard.

4. The Regional Board Has Not Demonstrated that the Toxicity Standard is Technologically or Economically Feasible and Therefore is Contrary to the Porter Cologne Act

The record is devoid of any analysis showing that it is feasible for the boatyards to comply with the new toxicity standard without eliminating all storm water discharges. The Navy maintains it is not feasible to consistently comply with chronic toxicity applied to 100% storm water. This is confirmed by the lengths to which the commercial shipyards have gone to avoid application of the standard to discharges rather than comply with the standard by diverting their storm water to the City of San Diego sanitary sewer system. The boatyards have done the same. The Navy with its much larger facilities cannot do the same due to volume and flow restrictions imposed by the City of San Diego for its sewer system. Compliance with a chronic toxicity standard, if achievable at all, would require larger facilities like the Navy, to install significant infrastructure to collect, and treat/redirect industrial storm water runoff from San Diego area installations at enormous cost. The Regional Board also failed to take economic considerations into account when adopting this incredibly stringent toxicity standard. Porter-Cologne Act. Section 13241 states that the RWQCB "shall take into consideration" factors including "economic considerations" and "water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area." The Regional Board has an obligation to provide an economic analysis of the impacts of the

1 new toxicity requirements as required by the Porter-Cologne Act. The Regional Board also should have done
2 an independent analysis for feasibility. Failure to do so results in an inappropriate and improper act that merits
3 State Board review pursuant to Porter-Cologne Act, Section 13320.

4 **5. The Regional Board Improperly Rejected the Findings of the Navy's Comprehensive Toxicity Study**

5 During the 2002 permit hearings members of the Regional Board had reservations about the Navy's current
6 NPDES permit toxicity requirement. They therefore directed the Navy to conduct a storm water toxicity
7 study. "During the 4-year period ... the U.S. Navy "shall conduct a study of the toxicity in storm water
8 discharges and shall recommend a scientifically valid survival rate for acute exposure ... " The purpose of
9 the study was to provide data to support an alternative toxicity standard that is protective of beneficial
10 uses in the Bay and scientifically defensible. The Navy designed and conducted a study as directed by the
11 Regional Board, spending approximately \$1 million dollars and collecting samples over the course of four
12 years. The study methodology was peer reviewed by many notable water quality experts, including EPA
13 Region IX, Southern California Coastal Water Research Program, Wright University, Applied Marine
14 Sciences, Port of San Diego, and the City of San Diego.

15
16 The study developed a robust dataset of storm water and receiving water toxicity data to support
17 scientifically-based acute toxicity threshold for industrial storm water discharges from Navy facilities that
18 is protective of the receiving water. The study shows that: 1) storm water discharges from Navy
19 industrial facilities rarely cause toxicity in bay waters (Over 99% of the 202 receiving water samples did
20 not show toxicity); 2) toxicity measured in end-of-pipe storm water samples is not predictive of toxic
21 impacts in bay waters (toxicity almost never found in bay water regardless of end-of-pipe toxicity); and 3)
22 receiving water measurements properly predict impacts to San Diego Bay.

23 Based on the extensive data collected during the study the Navy proposed an alternative to the
24 Order's overly stringent toxicity standard that is both scientifically based and protective of beneficial
25 uses. The Regional Board abused its discretion by improperly disregarding the findings of the toxicity

1 study and adopting the current permit with a toxicity standard that is overly protective, inappropriately
2 applied, technologically and economically infeasible, and fails to take the inherent variability of storm
3 water (and contributions from area sources) into account. The study was referenced in the Navy comment
4 letter and during testimony at the May 8, 2013 meeting. Though the focus was on acute toxicity testing, the
5 results are very relevant to chronic toxicity testing with whole effluent.

6 **6. Chronic Toxicity End-of-Pipe Prematurely Sets Adverse Precedent and is Improper in Light of the State Board's**
7 **Action on a State-Wide Toxicity Plan that is Currently Under Development**

8 The State Water Board is currently evaluating with thoughtful consideration how to
9 apply toxicity testing to various sources. Over the last three years, the State Board
10 has held a series of public workshops, has public noticed several drafts of such
11 policy and has just recently made a policy decision to promulgate this as a State Wide
12 Toxicity Plan. This deliberative policy direction recognizes the tremendous
13 complexities associated with toxicity testing; everything from the technical
14 challenges of applying the standard to various sources, the legal hurdles regarding
15 the Federal and State anti backsliding mandates and the commensurate costs that may
16 not be properly balanced with beneficial use protection. The DoD Regional
17 Environmental Coordinator has been actively engaged in this dialogue as evidenced by
18 letters in 2010, 2011, and 2012 supporting the State's efforts to develop
19 state-wide policy and guidance on how this policy might apply to storm water
20 discharges. See letters at Attachment 3.
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34 The Navy is supportive of chronic toxicity testing as a measure of evaluating impacts
35 to aquatic resources and has communicated that to the Regional Board in the context of
36 the recently adopted, and very controversial Regional MS4 permit. Key to this support
37 was the fact that the Regional Board properly applied chronic toxicity in the
38 receiving water. Along with the Navy, many internationally respected storm water
39 scholars conclude if chronic toxicity is to be applied to storm water discharges, then
40 it should be applied in the receiving water versus the end-of-pipe. Receiving water
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1 toxicity testing is consistent with the San Diego Region Basin Plan which states that
2
3 "All waters shall be maintained free of toxic substances in concentrations that are
4
5 toxic, or that produce detrimental physiological responses in human, plant, animal, or
6
7 aquatic life". Receiving water testing is also supported in San Diego Regional Boards
8
9 recent adoption of the Framework for Monitoring and Assessment. Case law reinforces
10
11 and supports this focus on water quality and beneficial uses versus discharge sources,
12
13 "It is clear under both the Clean Water Act and the Porter-Cologne Act that the focus
14
15 of a basin plan is the water bodies and the beneficial uses of those water bodies, not
16
17 the potential sources of pollution for those water bodies."¹ Toxicity limitations for
18
19 storm water discharges are not technology based discharge limitations. Instead they
20
21 are driven by water quality protection goals and are a water quality based limitation
22
23 (WQBEL). Additional case law bolsters this position, "water quality standards set the
24
25 permissible level of pollution in a specific body of water without direct regulation
26
27 of the individual sources of pollution."² Please also see cases cited.³ Not only is
28
29 disparate treatment of the shipyard, boatyard and navy discharges from the municipal
30
31 discharges legally unsupportable, it is not technically supportable. For example, of
32
33 the copper loading in SD Bay, storm water contributes less than 10%. Further, of this
34
35 storm water contribution, 70% is from municipal runoff and 24% is from industrial and
36
37 military run off.
38

39 Receiving water toxicity testing ensures that reliable, and statistically and
40
41 scientifically sound information is produced to show permit compliance, guide
42
43 decisions about and evaluate the progress of efforts to protect and restore the
44
45 quality and beneficial uses of waters in the San Diego Region. The Regional Board's
46

¹ City of Arcadia v. State Water Resources Control Bd. 191 Cal.App.4th 156 (2010).

² City of Arcadia v. U.S. Environmental Protection Agency, 411 F.3d 1103, (Cal.), 2005.

³ Natural Resources Defense Council, Inc. v. County of Los Angeles, 636 F.3d 1235 (Cal.), 2011, citing Union Oil, 813 F.2d at 1483 (citing EPA v. Calif. ex rel. State Water Res. Control Bd., 426 U.S. 200, 205 n. 12, 96 S.Ct. 2022, 48 L.Ed.2d 578 (1976))

1
2 action in the Boat Yard permit to adopt end of pipe chronic toxicity testing is
3
4 premature and sets adverse precedent as it runs counter to Federal and state statutes,
5
6 State and Regional policy, case law.
7
8

9 **E. Manner in Which Petitioner is Aggrieved per CCR Section 2050(a)(5)**

10 The Order includes a stringent toxicity standard for storm water discharges that will be infeasible
11 to comply with on a consistent basis. Although the Navy has no facility covered by the Order, the injury to the
12 Navy is that it may lead to imposition of the same standard on Navy facilities. Although overall the Regional
13 Board has not been consistent in application of the standard in NPDES permits, it seems inevitable for Naval
14 Facilities because historically the Regional Board has imposed a similar end of pipe toxicity standards in San
15 Diego area Navy permits as has been applied in the Boatyard permits. This includes permits issued to Naval
16 Base San Diego, Naval Base Point Loma and Naval Base Coronado (currently under appeal). In addition per 33
17 U.S.C.A. Section 1323, unless other non federal entities are subjected to a standard, the Navy cannot be
18 subjected to it. If the challenged standard is imposed, the cost for facility modifications to attempt compliance
19 with these improper and unnecessary permit conditions has been estimated in excess of \$40 million dollars for
20 San Diego Metro area Navy Installations and there is no assurance that this investment would achieve
21 compliance. The indirect effect of the Order may lead to long-term impact to the Navy's national defense
22 mission affecting the country's most strategic Pacific Basin port. In 2005 in a request that the State Board
23 consider the overall storm water toxicity issue Navy Captain Anthony Gonzales wrote, "A key component of
24 ship homeporting is the ability to do routine maintenance, maintenance critical for ships to meet mission
25 requirements. The inability to meet proposed permit standards either due to cost or San Diego City sewer
26 limitations could create significant scheduling limitations through maintenance that are critical to this
27 homeporting infrastructure."

28 **F. Specific Action Requested by Petitioner per CCR section 2050(a)(6)**

29 Pursuant to Water Code Section 13321 and Title 23, CCR §2053, the U.S. Navy request that the

1 State Board immediately stay the waste discharge requirements in the Order related to toxicity testing
2 requirements and limitations for storm water pending the outcome of this proceeding. These include but are
3 not limited to:

4 Part IV sections A and B on page 16,

5 Part XVI section I on page 36,

6 Part III section A on page E-4,

7 Part IV section A on pages E-5 through E-7,

8 Part III, section D on pages F-22 and F-23,

9 Part IV on pages F-23 and F-24,

10 Part IV section C paragraph 1 on page F-28, and paragraph 5 on pages F-30 through F-33,

11 Part VI section B on page F-36.

12 Further, for the reasons stated in Section D of this Petition, the U.S. Navy requests that the State Board provide
13 an evidentiary hearing on the Order, as authorized by Section 2050.6(b) of Title 23 of the California Code of
14 Regulations. A hearing is necessary to present evidence and expert testimony regarding the infeasibility of the
15 toxicity requirements. The U.S. Navy further requests that the State Board recognize the gravity and state-wide
16 impact of the toxicity standard at issue in this Petition and take all appropriate action, including vacating or
17 modifying those portions of the Order challenged in this Petition and implementing the Navy's proposed
18 receiving water standard. In the alternative, the Navy requests that the State Board remand the matter to the
19 Regional Board with orders to demonstrate how the storm water toxicity standard is scientifically based,
20 technologically and economically feasible and necessary to protect beneficial uses in San Diego Bay, or to
21 implement a toxicity or other standard that does meet these requirements.

22
23 **G. Statement of Points and Authorities in Support of Legal Issues in this Petition**

24 No Statement of Points and Authorities is attached to this petition per phone discussion with Phil Wyels, on
25 June 4, 2013. The petition will be supplemented prior to any hearing.

1
2
3 **H. Statement that the Petition Has Been Sent to the Regional Board and Dischargers**

4 A true and correct electronic copy of this Petition was sent via email on June 7, 2013 to the State Board and
5 Regional Board and the dischargers at the following addresses:

6 State Water Resources Control Board

7 Office of Chief Counsel

8 Jeannette L. Bashaw, Legal Analyst

9 P.O. Box 100

10 Sacramento, CA 95812-0100

11 jbashaw@waterboards.ca.gov

12
13 Mr. David Gibson

14 Executive Officer

15 California State Regional Water Quality Control Board

16 San Diego Region

17 9174 Sky Park Court, Suite 100

18 San Diego, CA 92123-4340

19 Catherine.Hagan@waterboards.ca.gov; David.Gibson@waterboards.ca.gov

20
21
22 Driscoll Boat Works/Driscoll Custom Boats

23 2500 Shelter Island

24 San Diego, CA 92106

25
26 The Marine Group Boat Works –

1 National City (Formerly Knight &
2 Carver YachtCenter)
3 1313 Bay Marina Drive
4 National City, CA 91950
5 Koehler Kraft Company
6 2302 Shelter Island Drive
7 San Diego, CA 92106
8
9 Nielsen Beaumont Marine
10 2420 Shelter Island Drive
11 San Diego, CA 92106
12
13 Shelter Island Boatyard
14 2330 and 2390 Shelter Island Drive
15 San Diego, CA 92106
16
17 The Marine Group Boat Works –
18 Chula Vista (Formerly Southbay
19 Boat Yard)
20 997 G Street
21 Chula Vista, CA 91910
22
23 Dana Point Shipyard
24 34671 Puerto Place
25 Dana Point, CA 92629

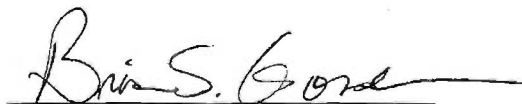
1
2 Driscoll Mission Bay
3 1500 Quivira Way
4 San Diego, CA 92109
5 Oceanside Marine Centre
6 1550 Harbor Drive North
7 San Diego, CA 92054
8

9 **I. Statement that the Substantive Issues or Objections Raised in the Petition Were Raised Before the**
10 **Regional Board**

11 The U.S. Navy raised the issues discussed in this Petition as evidenced by the comments,
12 testimony and documentation submitted to the Regional Board prior to and up through the hearing on
13 May 8, 2013. The U.S. Navy also requests the right to present at the hearing additional evidence in
14 support of this Petition, in accordance with Title 23, California Code of Regulations, Section 2050.6.
15 Petitioner further requests the right to amend this Petition with addition of a Statement of Points and
16 Authorities inter alia. This would be appropriate, as this petition is intended to be held in abeyance, until such
17 time as the Naval Base San Diego Waste Discharge Requirements become final or are appealed.
18

19 **3. CONCLUSION** For the reasons stated above, the Navy request that the State Board issue a stay of
20 the Order's contested provisions pending the outcome of this proceeding and modify, vacate, or remand the
21 Order as requested.
22

23 Respectfully submitted on behalf of the Navy this 7th day of June, 2013.
24



25 Brian S. Gordon,
26 N45 Water Quality Program Manager

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

**ORDER NO. R9-2013-0026
NPDES NO. CAG719001**

GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES FROM BOATYARDS AND BOAT MAINTENANCE AND REPAIR FACILITIES ADJACENT TO SURFACE WATERS WITHIN THE SAN DIEGO REGION

The following Dischargers are subject to waste discharge requirements as set forth in this General Permit:

Table 1. Discharger Information¹

Discharger	Name of Facility	Facility Address
Driscoll Inc.	Driscoll Boat Works/ Driscoll Custom Boats	2500 Shelter Island San Diego, CA 92106
The Marine Group Boat Works, LLC	The Marine Group Boat Works – National City (Formerly Knight & Carver YachtCenter)	1313 Bay Marina Drive National City, CA 91950
Koehler Kraft Company, Inc.	Koehler Kraft Company	2302 Shelter Island Drive San Diego, CA 92106
Nielsen Beaumont Marine	Nielsen Beaumont Marine	2420 Shelter Island Drive San Diego, CA 92106
Shelter Island Boatyard	Shelter Island Boatyard	2330 and 2390 Shelter Island Drive San Diego, CA 92106
The Marine Group Boat Works, LLC	The Marine Group Boat Works – Chula Vista (Formerly Southbay Boat Yard)	997 G Street Chula Vista, CA 91910
Dana Point Shipyard	Dana Point Shipyard	34671 Puerto Place Dana Point, CA 92629
Driscoll Mission Bay, LLC	Driscoll Mission Bay	1500 Quivira Way San Diego, CA 92109
Oceanside Marine Centre, Inc.	Oceanside Marine Centre	1550 Harbor Drive North San Diego, CA 92054

¹ Additional boatyards and boat maintenance and repair facilities may be subject to regulation under this Order (1) upon submission of a Notice of Intent (NOI)(Attachment C) as described in section I.B of this Order and authorization from the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) prior to initiating the discharge or (2) upon submission of a No Exposure Certification (NEC) Form (Attachment J), NEC Report, and fee as described in section I.C of this Order and approval by the San Diego Water Board.

Table 2. Discharge Location

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
SW-SDDRI (Previously C-001)	Driscoll Boat Works / Driscoll Custom Boats Storm Water Runoff	32° 43' 20" N	117° 13' 40" W	America's Cup Harbor, San Diego Bay
SW-KAC (Previously C-001)	The Marine Group Boat Works – National City Storm Water Runoff	32° 39' 33" N	117° 07' 01" W	San Diego Bay

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
BW-KAC-001	The Marine Group Boat Works – National City Ballast Water	1	1	San Diego Bay
SW-KKC (Previously C-001)	Koehler Kraft Company, Inc. Storm Water Runoff	32° 40' 6" N	117° 13' 24" W	America's Cup Harbor, San Diego Bay
SW-NBM (Previously C-001)	Nielsen Beaumont Marine Inc. Storm Water Runoff	32° 43' 02" N	117° 13' 05" W	America's Cup Harbor, San Diego Bay
SW-SIB-01 (Previously C-001)	Shelter Island Boatyard Storm Water Runoff	32° 43' 6" N	117° 13' 26" W	Shelter Island Yacht Basin, San Diego Bay
SW-SIB-02 (Previously C-002)	Shelter Island Boatyard Storm Water Runoff	32° 43' 9" N	117° 13' 30" W	Shelter Island Yacht Basin, San Diego Bay
SW-MGBW (Previously C-001)	Marine Group Boat Works – Chula Vista (South Bay Boatyard) Storm Water Runoff	32° 37' 48" N	117° 6' 24" W	San Diego Bay
SW-DANA-01 (Previously C-001)	Dana Point Shipyard Industrial Storm Water Runoff	32° 27' 37" N	117° 41' 27" W	Dana Point Harbor
SW-MDRIS (Previously C-001)	Driscoll Mission Bay, LLC Storm Water Runoff	32° 45' 34" N	117° 14' 22" W	Mission Bay
SW-OMC-01 (Previously C-001)	Oceanside Marine Centre Inc. Storm Water Runoff	33° 12' 35" N	117° 23' 38" W	Oceanside Harbor
SW-OMC-02 (Previously C-002)	Oceanside Marine Centre Inc. Storm Water Runoff	33° 12' 38" N	117° 23' 38" W	Oceanside Harbor

¹ Discharge Point No. BW-KAC-001 is located on a floating drydock and may occur at any point within the leasehold area of the Marine Group Boat Works – National City facility.

Table 3. Administrative Information

This Order was adopted by the Regional Water Quality Control Board on:	May 8, 2013
This Order shall become effective on:	October 1, 2013
This Order shall expire on:	September 30, 2018
The U.S. Environmental Protection Agency (USEPA) and the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) have classified these discharges as minor discharges. In accordance with Section 2200, Title 23 of the California Code of Regulation, the threat to water quality and complexity of the discharge is determined to be category 2C.	

I, David W. Gibson, Executive Officer, do hereby certify that this General Permit with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Diego Region, on May 8, 2013.



David W. Gibson, Executive Officer

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I. PERMIT COVERAGE**A. Eligibility Criteria**

Discharges covered by this Order (also referred to as General Permit) are limited to industrial storm water from boatyard and boat maintenance and repair facilities in the San Diego Region adjacent to surface water, and drydock ballast water from Marine Group Boat Works – National City's floating drydock. Boatyards and boat maintenance and repair facilities regulated by this General Permit at the time of adoption are listed in Table 4.

Table 4. Regulated Boatyards in the San Diego Region

Dischargers	Previous Order/ NPDES Number	WDID Number	Receiving Water
Driscoll Custom Boats	R9-2005-0147 CA0109061	9 000000484	San Diego Bay Shoreline at America's Cup Harbor
The Marine Group Boat Works, LLC (Formerly Knight and Carver YachtCenter)	R9-2005-0149 CA0109088, as revised by Order No. R9-2010-0096	9 000000816	San Diego Bay
Koehler Kraft Company, Inc.	R9-2005-150 CA0109096	9 000000474	San Diego Bay Shoreline at America's Cup Harbor
Nielsen and Beaumont Marine	R9-2005-0151 CA0109100	9 000000112	San Diego Bay Shoreline at America's Cup Harbor
Shelter Island Boatyard	R9-2005-0152 CA0109118	9 000000344	San Diego Bay, Shelter Island Yacht Basin
The Marine Group Boat Works, LLC (Formerly Southbay Boat Yard)	R9-2005-0153 CA0109126	9 000000481	San Diego Bay
Dana Point Shipyard	R9-2006-0019 CA0109312	9 000000219	Dana Point Harbor
Driscoll Mission Bay, LLC	R9-2006-0020 CA0109291	9 000000305	Mission Bay at Quivira Basin
Oceanside Marine Centre, Inc.	R9-2006-0021 CA0109304	9 000000111	Oceanside Harbor

B. Notice of Intent Application

Any person proposing to discharge pollutants in storm water runoff from a boatyard or a boat maintenance and repair facility directly adjacent to surface water not identified in Table 4 above shall file a completed Notice of Intent (NOI) form (Attachment C) with filing fee for coverage under this Order and obtain authorization from the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) prior to discharging storm water.

C. No Exposure Certification (NEC) Coverage

Dischargers that certify their facility has no exposure of industrial activities or materials to storm water, in accordance with the requirements set forth in section XI of this Order,

are not required to implement a Storm Water Pollution Prevention Plan (SWPPP) or comply with the monitoring requirements of this Order except a SWPPP is required if secondary containment is used to satisfy NEC requirements. Such Dischargers shall conduct one Annual Facility Comprehensive Compliance Evaluation (Annual Evaluation) as described in section XI.F, pay an annual fee, and annually certify that their facilities continue to satisfy the NEC requirements.

Dischargers shall file for NEC coverage by submitting the following permit registration documents to the San Diego Water Board:

1. A completed No Exposure Certification Form, with a Signed Certification Statement (See Attachment J of this Order);
2. A No Exposure Certification Report (See section XI.E.2 of this Order);
3. A current Site Map consistent with requirements in section XI.E.2.c of this Order and included in the NEC Report; and
4. An Annual Fee (Pursuant to Water Code section 2200.5) for new dischargers. Existing dischargers will be invoiced appropriately following adoption of this Order.

D. Coverage

Coverage will be effective for the boatyards or boat maintenance and repair facilities identified in Table 4 above upon the effective date of this Order. Coverage for boatyards or boat maintenance and repair facilities not identified in Table 4 will be effective when the San Diego Water Board issues the Discharger a Notice of Enrollment (NOE) which may include additional or increased monitoring or other facility-specific requirements due to site specific circumstances of the discharge or facility. The effective enrollment date will be specified in the NOE and the Discharger is authorized to discharge starting on the date specified in the NOE.

NEC coverage shall become effective when the San Diego Water Board issues the Discharger a NEC approval letter.

E. Notice of Termination

Dischargers shall submit a written request referred to as a "Notice of Termination (NOT)" to the San Diego Water Board when coverage under this General Permit is no longer required. Discharger eligibility for termination of permit coverage can be established under, the following conditions:

1. A new owner or operator has taken over responsibility for the facility; or
2. The Discharger has ceased boatyard or boat maintenance and repair operations at the facility, and there are not, or no longer will be, discharges of storm water associated with boatyard or boat maintenance and repair operations from the facility (or discharges from the operation of a floating drydock, if applicable); or

3. The Discharger has obtained coverage under an individual or alternative general permit for all discharges required to be covered by an NPDES permit.

The NOT letter constitutes a notice that the Discharger (and his/her agent) at the site has ceased the discharge of storm water under this General Permit. The NOT should include "Notice of Termination (NOT)" In the subject line, the Waste Discharge Identification Number (WDID No.) assigned to the Discharger by the San Diego Water Board when enrolled in the Order, the name and address of the boatyard or boat maintenance and repair facility, and be signed and dated in accordance with the signatory requirements of this Order. The Discharger shall continue to comply with the requirements of this Order until the San Diego Water Board notifies the Discharger in writing that the NOT has been approved. Submittal of a NOT letter does not guarantee termination. Approval of the NOT does not relieve the Dischargers responsibility for paying any applicable outstanding invoices of annual fees or submitting any outstanding required reports as a result of enrollment under this General Permit.

F. Transferring Ownership

Enrollment under this Order is not transferable. The enrolled Discharger must submit a NOT to the San Diego Water Board in the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the enrolled Discharger. The new succeeding owner or operator must submit an NOI application of enrollment under this General Permit and obtain authorization from the San Diego Water Board.

II. FINDINGS

The San Diego Water Board finds:

A. Background. On December 14, 2005, the San Diego Water Board adopted seven individual Waste Discharge Requirement NPDES Permits for discharges of storm water to San Diego Bay from boatyards and boat maintenance and repair facilities within the San Diego Region. The San Diego Water Board adopted an additional three individual Waste Discharge Requirement NPDES Permits for discharges of storm water to Dana Point Harbor, Oceanside Harbor, and Mission Bay from boatyards and boat maintenance and repair facilities on April 12, 2006. Each of the individual NPDES Permits issued in 2005 and 2006 have similar effluent limitations and monitoring requirements, due to the same or substantially similar operations that take place at these facilities. As a result, the San Diego Water Board has decided to issue a general permit for the discharges of storm water from boatyards and boat maintenance and repair facilities instead of reissuing the individual NPDES permits. A total of nine boatyards and boat maintenance and repair facilities will be regulated by this General Permit initially. The San Diego Water Board may enroll other boatyards or boat maintenance and repair facilities under this Order subject to the eligibility criteria described in section I.A of this Order.

B. Discharge Description. This Order covers existing and proposed discharges of storm water from boatyards and boat maintenance and repair facilities within the San Diego Region as well as dry dock ballast and flood water from Marine Group Boat Works – National City. The San Diego Region covers a large portion of San Diego County, portions of South Orange County, and the southwestern portion of Riverside County based on hydrologic drainage areas.

Boatyards and boat maintenance and repair facilities conduct activities that include, but are not limited to; exterior/interior surface coating application/removal (e.g., painting and sanding), wood work, metal work, fiberglass work, hydrowashing, hull cleaning, engine repair, general mechanical/fixture repair, and hazardous waste storage. These industrial activities along with material handling equipment or activities, raw materials, by-products, waste materials or industrial machinery, generate pollutants that have the potential to discharge to receiving waters when exposed to storm water. In addition to storm water, Marine Group Boat Works – National City discharges ballast water and flood water from a floating drydock. Potential storm water pollutants often associated with boat maintenance and repair operations include: biochemical oxygen demand (BOD), metals (copper and zinc), total petroleum hydrocarbons (TPH), oil and grease, tributyltin (TBT), settleable solids, total suspended solids (TSS), and total organic carbon (TOC).

In addition to the discharge of storm water, one of the facilities to be covered under this General Permit (Marine Group Boat Works – National City) discharges ballast water and drydock floodwater to San Diego Bay. The Marine Group Boat Works – National City drydock is used to conduct boat repair and maintenance activities which cannot normally be conducted while a vessel is waterborne. These activities generally include exterior hull repair; abrasive blasting; hydroblasting; painting; the repair or replacement

of shafts, propellers, and rudders; and the repair or replacement of valves and fittings below the waterline. These activities are substantially similar to work done at facilities which haul the vessel out using a travel lift or marine railway. Vessel launching and recovery is accomplished by means of integral ballast tanks, which take in and discharge seawater used to raise and lower the drydock. Potential wastes generated during boat repair include spent abrasives, paint, rust, petroleum products, marine growth and general refuse and debris. The drydock is configured to prevent any waste including industrial process water, storm water, and wash water from entering San Diego Bay receiving water. Potential pollutants from drydock flooding include materials and wastes from boat maintenance and repair operations left on the drydock deck prior to flooding. Potential pollutants in drydock ballast water include sediment and solids that may enter the drydock ballasts, and pollutants already present in the San Diego Bay water pumped into the ballasts. The drydock is required to be cleaned thoroughly before being submerged.

- C. Legal Authorities.** This Order is issued pursuant to section 402 of the Clean Water Act (CWA) and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the Water Code (commencing with section 13370). It shall serve as an NPDES permit for point source discharges from approved facilities to surface waters. This Order also serves as Waste Discharge Requirements (WDRs) pursuant to article 4, chapter 4, division 7 of the Water Code (commencing with section 13260). States may request authority to issue general NPDES permits pursuant to Title 40, Code of Federal Regulations (40 CFR) section 122.28. On June 8, 1989, the State Water Resources Control Board (State Water Board) submitted an application to USEPA requesting revisions to its NPDES Program in accordance with 40 CFR sections 122.28, 123.62, and 403.10. The application included a request to add general NPDES permit authority to its approved NPDES Program. On September 22, 1989, USEPA, Region 9, approved the State Water Board's request and granted authorization for the State of California to issue general NPDES permits.
- D. Background and Rationale for Requirements.** The San Diego Water Board developed the requirements in this General Permit based on information submitted as part of the NPDES permit reissuance applications for the individual boatyards and boat maintenance and repair facilities, through monitoring and reporting programs, and other available information. The Fact Sheet (Attachment F), which contains background information and rationale for the requirements of this Order, is hereby incorporated into this General Permit and constitutes part of the Findings for this General Permit. Attachments A through E, G and H are also incorporated into this General Permit.
- E. California Environmental Quality Act (CEQA).** Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code sections 21100-21177.
- F. Technology-Based Effluent Limitations.** Section 301(b) of the CWA and implementing USEPA permit regulations at 40 CFR 122.44, require that NPDES permits include conditions meeting applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards. This General Permit incorporates technology-based requirements as

discussed in section IV.B of the Fact Sheet (Attachment F). Technology-based requirements in this General Permit include the implementation of a storm water pollution prevention plan (SWPPP), a best management practices (BMPs) plan, numeric action levels (NALs), and effluent limitations for drydock ballast water based on Table A of the *Water Quality Control Plan for Ocean Waters of California, California Ocean Plan*.

G. Water Quality-Based Effluent Limitations. Section 301(b) of the CWA and 40 CFR 122.44(d) require that NPDES permits include effluent limitations more stringent than applicable federal technology-based requirements where necessary to achieve applicable water quality standards.

40 CFR 122.44(d)(1)(i) mandates that NPDES permits include effluent limitations for all pollutants that are or may be discharged at levels that have the reasonable potential to cause or contribute to an exceedance of a water quality standard, including numeric and narrative objectives within a standard. Where reasonable potential has been established for a pollutant, but there is no numeric criterion or objective for the pollutant, water quality-based effluent limitations (WQBELs) must be established using: (1) USEPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in 40 CFR 122.44(d)(1)(vi).

H. Water Quality Control Plans and Policies. The San Diego Water Board's *Water Quality Control Plan for the San Diego Basin* (hereinafter Basin Plan) designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan. The Basin Plan was adopted by the San Diego Water Board on September 8, 1994, and was subsequently approved by the State Water Board on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and the State Water Board. Beneficial uses applicable to coastal waters in the San Diego Basin are summarized in Table 2-3 of the Basin Plan.

The State Water Board adopted the *Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Water and Enclosed Bays and Estuaries of California* (Thermal Plan) on May 18, 1972, and amended this plan on September 18, 1975. This plan contains temperature objectives for surface waters.

The State Water Board adopted the *Water Quality Control Policy for Enclosed Bays and Estuaries of California (Bays and Estuaries Policy)* on May 16, 1974. The *Bays and Estuaries Policy* establishes principles for management of water quality, quality requirements for waste discharges, discharge prohibitions, and general provisions to prevent water quality degradation and to protect the beneficial uses of waters of enclosed bays and estuaries. These principles, requirements, prohibitions, and provisions have been incorporated into this General Permit.

On September 16, 2008 the State Water Board adopted the *Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality* (Sediment Quality Plan).

The Sediment Quality Plan became effective on August 25, 2009. The Sediment Quality Plan establishes: 1) narrative sediment quality objectives for benthic community protection from exposure to contaminants in sediment and to protect human health; and 2) a program of implementation using a multiple lines of evidence approach to interpret the narrative sediment quality objectives. This General Permit implements the requirements of the Sediment Quality Plan.

The State Water Board adopted the *Water Quality Control Plan for Ocean Waters of California, California Ocean Plan* (Ocean Plan) in 1972 and amended it in 1978, 1983, 1988, 1990, 1997, 2000, 2005, and 2009. The State Water Board adopted the latest amendment on September 15, 2009 and it became effective on March 10, 2010. The Ocean Plan is applicable, in its entirety, to point source discharges to the ocean. Although not directly applicable to the discharges eligible for coverage under this General Permit, Table A of the Ocean Plan has historically been used to develop appropriate technology-based effluent limitations for discharges of industrial process water to San Diego Bay by the San Diego Water Board. This Order carries over technology-based effluent limitations previously established for Marine Group Boat Works – National City's floating drydock based on Table A of the Ocean Plan. Further, since the receiving waters for the facilities eligible for coverage under this General Permit share strong hydraulic connections with the Ocean, and share many of the same characteristics of the Ocean, requirements and water quality objectives have been established as necessary to protect the beneficial uses of the Ocean.

The requirements of this General Permit implement the applicable water quality control plans.

- I. **Alaska Rule.** On March 30, 2000, USEPA revised its regulation that specifies when new and revised state and tribal water quality standards (WQS) become effective for CWA purposes. (40 CFR 131.21; 65 Fed. Reg. 24641 (April 27, 2000).) Under the revised regulation (also known as the Alaska rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000 may be used for CWA purposes, whether or not approved by USEPA.
- J. **National Toxics Rule (NTR) and California Toxics Rule (CTR).** USEPA adopted the NTR on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About 40 priority pollutant criteria in the NTR applied in California. On May 18, 2000, USEPA adopted the CTR. The CTR promulgated new priority pollutant criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the State. The CTR was amended on February 13, 2001. These rules contain water quality criteria for priority pollutants and are applicable to discharges regulated under this General Permit.
- K. **State Implementation Policy.** On March 2, 2000, the State Water Board adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). The SIP became effective on April 28, 2000 with respect to the priority pollutant criteria

promulgated for California by the USEPA through the NTR and to the priority pollutant objectives established by the San Diego Water Board in the Basin Plan. The SIP became effective on May 18, 2000 with respect to the priority pollutant criteria promulgated by the USEPA through the CTR. The State Water Board adopted amendments to the SIP on February 24, 2005 that became effective on July 13, 2005. The SIP establishes implementation provisions for priority pollutant criteria and objectives and provisions for chronic toxicity control. The SIP is not applicable to storm water discharges authorized by this General Permit.

- L. Stringency of Requirements for Individual Pollutants.** This Order contains Numeric Action Levels (NALs). An exceedance of a NAL is not a violation of this Order. This Order also contains chronic toxicity limitations, but it does not contain pollutant-specific water quality-based effluent limitations (WQBELs). These requirements are discussed in sections IV.B and IV.C of the Fact Sheet (Attachment F). This Order's technology-based pollutant restrictions implement the minimum, applicable federal technology-based requirements. These limitations are not more stringent than required by the CWA.

All beneficial uses and water quality objectives contained in the Basin Plan were approved under State law and submitted to and approved by USEPA prior to May 30, 2000. Any water quality objectives and beneficial uses submitted to USEPA prior to May 30, 2000, but not approved by USEPA before that date, are nonetheless "applicable water quality standards for purposes of the CWA" pursuant to 40 CFR 131.21(c)(1). Collectively, this General Permit's restrictions are no more stringent than required to implement the requirements of the CWA.

- M. Antidegradation Policy.** Federal regulations at 40 CFR 131.12 require that the State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that the existing quality of waters be maintained unless degradation is justified based on specific findings. The San Diego Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. As discussed in detail in the Fact Sheet, the permitted discharges are consistent with the antidegradation provision of 40 CFR section 131.12 and State Water Board Resolution No. 68-16.

- N. Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and federal regulations at 40 CFR 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations and requirements in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. All effluent limitations in this General Permit are at least as stringent as the effluent limitations in the previous individual NPDES Permits for the facilities eligible for coverage under this General Permit.

- O. Endangered Species Act.** This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or

becomes prohibited in the future, under either the California Endangered Species Act (Fish and Wildlife Code sections 2050 to 2097) or the Federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). This Order requires compliance with effluent limitations, receiving water limitations, and other requirements to protect the beneficial uses of waters of the United States. The Discharger is responsible for meeting all requirements of the applicable Endangered Species Act.

P. Impaired Water Bodies on CWA 303(d) List. Under section 303(d) of the 1972 CWA, states, territories and authorized tribes are required to develop lists of waters which will not meet water quality standards, even after point sources of pollution have installed the minimum required levels of pollution control technology to meet applicable TBELs. On November 12, 2010, USEPA gave final approval to California's 2010 section 303(d) List of Water Quality Limited Segments, as it pertains to the San Diego Region. A discussion of impaired water bodies applicable to this General Permit is provided in section III.D of the Fact Sheet (Attachment F).

Q. Total Maximum Daily Loads. The USEPA requires the San Diego Water Board to develop TMDLs for each 303(d) listed pollutant and water body combination. On February 9, 2005, the San Diego Water Board adopted a Basin Plan amendment incorporating the *Dissolved Copper Shelter Island Yacht Basin, San Diego Bay TMDL (Resolution R9-2005-0019)*. The TMDL was subsequently approved by the State Water Board on September 22, 2005, by the Office of Administrative Law on December 2, 2005, and by USEPA on February 8, 2006.

Storm water from boatyards can contain dissolved copper. Shelter Island Boatyard is the only boatyard that discharges to Shelter Island Yacht Basin. The TMDL does not assign a wasteload allocation (WLA) to the Shelter Island Boatyard or to industrial storm water discharges, but neither does it explicitly exclude such discharges. The Shelter Island Boatyard maintains on-site storage for storm water and the authority to discharge limited amounts of storm water to the municipal sanitary sewer. The Shelter Island Boatyard rarely discharges storm water to the Shelter Island Yacht Basin. The San Diego Water Board finds that the requirements of this General Permit will further incentivize the Shelter Island Boatyard to avoid discharge to the Shelter Island Yacht Harbor and is consistent with the Shelter Island Yacht Basin dissolved copper TMDL.

Applicable 303(d) listings and TMDLs have been considered in the development of this General Permit.

R. Conditional Exclusion – No Exposure Certification (NEC). Pursuant to USEPA Phase II regulations, Dischargers subject to this Order may qualify for a conditional exclusion from specific requirements of this Order if they prepare and submit a NEC demonstrating that their facilities have no exposure of industrial activities and materials to storm water discharges. Dischargers that meet the requirements of the NEC Conditional Exclusion set forth in section XI of this Order are exempt from the SWPPP, sampling requirements, and monitoring requirements in this Order except a SWPPP is required if secondary containment is used to satisfy NEC requirements.

- S. Monitoring and Reporting.** 40 CFR 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorize the San Diego Water Board to require technical and monitoring reports. The Monitoring and Reporting Program (MRP) establishes monitoring and reporting requirements to implement federal and State requirements. This MRP is provided as Attachment E to this General Permit.
- T. Standard and Special Provisions.** Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR 122.42, are provided in Attachment D to this General Permit. The San Diego Water Board has also included in this General Permit special provisions applicable to the individual dischargers. A rationale for the special provisions contained in this General Permit is provided in the attached Fact Sheet (Attachment F).
- U. Provisions and Requirements Implementing State Law.** Some of the provisions/requirements in section VIII.A.2 of this General Permit are included to implement State law only. These provisions/requirements are not required or authorized under the federal CWA; consequently, violations of these provisions/requirements are not subject to the enforcement remedies that are available for NPDES violations.
- V. Executive Officer Delegation of Authority.** The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to Water Code §13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board's behalf on any matter within this General Permit as described in 40 CFR 122.63.
- W. Notification of Interested Parties.** The San Diego Water Board has notified the Dischargers and interested agencies and persons of its intent to prescribe Waste Discharge Requirements for these discharges and has provided them with an opportunity to submit their written comments and recommendations. Details of notification are provided in the Fact Sheet (Attachment F) of this General Permit.
- X. Consideration of Public Comment.** The San Diego Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Fact Sheet (Attachment F) of this General Permit.

THEREFORE, IT IS HEREBY ORDERED, that this General Permit supersedes Order Nos. R9-2005-0147, R9-2005-0149 (as amended by R9-2010-0096), R9-2005-0150, R9-2005-0151, R9-2005-0152, R9-2005-0153, R9-2006-0019, R9-2006-0020, and R9-2006-0021 except for enforcement purposes, and, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, and the provisions of the CWA and regulations and guidelines adopted thereunder, the Discharger shall comply with the requirements in this General Permit.

III. DISCHARGE PROHIBITIONS

A. The dumping, deposition or discharge of the following wastes directly into receiving waters, or adjacent to such waters in any manner that may allow its being transported into the waters is prohibited:

1. paint chips;
2. blasting materials;
3. paint overspray;
4. paint spills;
5. water contaminated with abrasive blast materials, paint, oils, fuels, lubricants, solvents, or petroleum;
6. hydro-blast water;
7. tank cleaning water used to remove sludge and/or dirt;
8. clarified water from oil and water separators, except for storm water discharges treated by an oil and water separator and reported by the Discharger to the San Diego Water Board;
9. steam cleaning water;
10. pipe and tank hydrostatic test water;
11. saltbox water;
12. hydraulic oil leaks and spills;
13. fuel leaks and spills;
14. trash;
15. refuse and rubbish including, but not limited to, any cans, bottles, paper, plastic, vegetable matter, or dead animals deposited or caused to be deposited by human activities.
16. fiberglass dust;
17. swept materials;
18. ship repair and maintenance activity debris;
19. waste zinc plates;
20. marine fouling organisms except the discharge of marine fouling organism removed from unpainted, uncoated surfaces by underwater operations.
21. demineralizer and reverse osmosis brine;
22. oily bilge water;
23. materials of petroleum origin in sufficient quantities to be visible; and
24. polychlorinated biphenyl compounds, such as those used for transformer fluid.

- B.** The discharge of the first flush of storm water runoff from each storm (first 0.25 inch of rainfall), from maintenance and repair areas, storage areas, or other on-site locations where industrial activity may occur (including floating drydocks), is prohibited.
- C.** Discharges of liquids or materials other than storm water (i.e., non-storm water discharges), with the exception of drydock ballast water and flood water from Marine Group Boat Works – National City, either directly or indirectly to waters of the United States are prohibited. These prohibited discharges include, but are not limited to, any water which, during industrial activity, comes into direct contact with, or results from waste or materials used during industrial processes. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.
- D.** All discharges regulated under this General Permit shall comply with discharge prohibitions contained in the San Diego Water Board's and Statewide water quality control plans. The San Diego Water Board's Basin Plan Waste Discharge Prohibitions are hereby incorporated in this General Permit as if fully set forth herein and are summarized in Attachment G.
- E.** Discharges of wastes to waters of the United States are prohibited except as specifically authorized by this General Permit or in a manner or location specifically described in this General Permit or another NPDES permit.
- F.** The direct or indirect discharge of storm water to waters of the United States in a manner causing or threatening to cause pollution, contamination, or nuisance as defined in Water Code section 13050 are prohibited.
- G.** The discharge of storm water from boatyards and boat maintenance and repair facilities to waters within the San Diego Region is prohibited unless a report of waste discharge or Notice of Intent (NOI) has been submitted, and the San Diego Water Board has provided the Discharger with a written Notice of Enrollment (NOE) identifying the discharge subject to waste discharge requirements.
- H.** The discharge of wastes that cause or contribute to the violation of water quality standards (designated beneficial uses and water quality objectives developed to protect beneficial uses) is prohibited.
- I.** If a Discharger reuses or recycles stored or contained storm water in processing activities (e.g., hydrowashing vessels, general vessel wash down, etc.), then the reused/recycled water shall be considered industrial process water and is prohibited from discharge to waters of the United States and/or State under this General Permit.
- J.** The Marine Group Boat Works – National City. is prohibited from discharging anything other than San Diego Bay water in the drydock ballast tank discharge or in the flooding water. The discharge of sediment, chlorine, biocides, or other maintenance byproducts from the drydock ballast tanks or in the flooding water is prohibited

IV. EFFLUENT LIMITATIONS

- A.** Discharges of industrial storm water to waters of the United States shall maintain compliance with the Maximum Daily Effluent Limitation for chronic toxicity. The MDEL is based on the outcome of the Test of Significant Toxicity (TST) approach and the resulting percent effect at the Instream Waste Concentration (IWC). The MDEL is exceeded when a toxicity test results in a "fail," and the percent effect is greater than or equal to 0.50 for chronic toxicity tests in accordance with Compliance Determination section XVI. of this General Permit.
- B.** Discharges of ballast water from the Marine Group Boat Works – National City shall maintain compliance with the following effluent limitations for discharges of ballast water at Discharge Point No. BW-KAC-001 to San Diego Bay, with compliance measured at Monitoring Location No. BW-KAC-001 as described in sections III and IV of the attached MRP.

Table 5. Marine Group Boat Works – National City Ballast Water Effluent Limitations

Parameter	Units	Effluent Limitations		
		Average Monthly	Weekly Average	Instantaneous Maximum
Oil and Grease	mg/L	25	40	75
Settleable Solids	m/L	1.0	1.5	3.0
Total Suspended Solids	mg/L	60	--	--
Turbidity	NTU	75	100	225
pH	Standard Units	--	--	1
Temperature	°F	--	--	2
Chronic Toxicity	Pass/Fail & % Effect	--	--	3

¹ Discharges shall be between 7.0 and 9.0 at all times.

² Discharges shall not be greater than 20°F over the natural temperature of the receiving water at any time.

³ Discharges shall maintain compliance with the Maximum Daily Effluent Limitation for chronic toxicity. The MDEL is based on the outcome of the Test of Significant Toxicity (TST) approach and the resulting percent effect at the Instream Waste Concentration (IWC). The MDEL is exceeded when a toxicity test results in a "fail," and the percent effect is greater than or equal to 0.50 for chronic toxicity tests in accordance with Compliance Determination section XVI.I of this General Permit.

V. NUMERIC ACTION LEVELS (NALS)

- A.** Numeric Action Levels (NALs), found in Table 6 of this Order are used as numeric thresholds for corrective action. An exceedance of an NAL is not a violation of this Order. The Discharger shall implement corrective actions as described below.

1. NAL Exceedance Determination Method:

The Annual Average of all analytical sampling results from all qualifying storm events (QSEs) in a reporting year shall not exceed the Annual NAL Value for any parameter listed in Table 6 below.

Table 6. Numeric Action Levels

Parameter	Test Method*	Detection Limit	Reporting Units	Annual NAL Value
pH	Field Test with Calibrated Portable Instrument or lab sample in accordance with 40 CFR § 136		pH units	6.0-9.0
Total Suspended Solids (TSS)	EPA 160.2 SM2540-D	1	mg/L	100
Total Oil & Grease (TOG)	EPA 413.2 or EPA 1664	1	mg/L	15
Zinc, Total Recoverable	EPA 200.8	0.0005	mg/L	0.26**
Copper, Total Recoverable	EPA 200.8	0.0005	mg/L	0.0332**
Lead, Total Recoverable	EPA 200.8	0.0005	mg/L	0.262**
Chemical Oxygen Demand	SM 5220C	1	mg/L	120
Biochemical Oxygen Demand	SM 5210B	3	mg/L	30

* SM – Standard Methods for the Examination of Water and Wastewater, 18th edition

EPA – EPA test methods

** The NAL is the highest value used by EPA based on their hardness table in the 2008 MSGP.

B. Exceedances of the NAL Annual Average are not a violation of this General Permit.

C. NAL Exceedance Response Actions (ERAs)

1. No Exceedance – Baseline Status

- a. All Dischargers will automatically be placed in Baseline status until they have an exceedance of any NAL Annual Average.
- b. Dischargers in Level 1 or Level 2 status will return to Baseline status upon eight (8) consecutive QSEs resulting in no exceedances of an NAL Annual Average.

2. Level 1 Status - Operational Source Control

In the event that sampling results indicate that an NAL Annual Average is exceeded, the Discharger shall immediately have Level 1 status for any and all parameters exceeded. Within 60 days of obtaining Level 1 status the Discharger shall do the following:

- a. Evaluate industrial pollutant sources and the Storm Water Pollution Prevention Plan (SWPPP) to identify where additional operational source control BMPs and/or SWPPP implementation measures are necessary to prevent or reduce industrial pollutants in storm water discharges in compliance with best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT).

- b. Based upon the above evaluation:
 - i. Implement additional BMPs and SWPPP implementation measures as soon as practicable; and
 - ii. Revise the SWPPP as soon as practicable, but no later than October 1 of the following reporting year.
- c. Submit by August 1 of the following reporting year, a NAL Level 1 Exceedance Report which includes the following items for each constituent that exceeded a NAL Annual Average:
 - i. A summary of the Level 1 evaluation required in section V.C.2.a;
 - ii. A description and implementation schedule for additional BMPs and SWPPP revisions including those that have yet to be implemented as of the annual report submittal date; and
 - iii. A certification that all industrial pollutant sources have been evaluated, and all necessary SWPPP BMPs and implementation measures have been identified.

3. Level 2 Status – Treatment / Structural Control

- a. In any subsequent reporting year that sampling indicates a Discharger in Level 1 status exceeds a NAL Annual Average, the Discharger shall immediately have Level 2 status for any and all parameters exceeded.
- b. As soon as practicable after obtaining Level 2 status, the Discharger shall evaluate industrial pollutant sources and the SWPPP to identify locations and install structural and/or treatment control BMPs as necessary to prevent or reduce industrial pollutants in storm water discharges in compliance with BAT/BCT.
- c. The Discharger shall prepare, certify, and submit by August 1 of the following reporting year a NAL Level 2 Exceedance Report which shall include:
 - i. A description of treatment and/or structural source control BMPs, and
 - ii. An implementation schedule for the design and construction of the treatment and/or structural source control BMPs.
- d. Certification Reports. At any time in Level 2 status, the Discharger may evaluate industrial pollutant sources, the SWPPP, non-industrial pollutant sources, and the impact of storm water discharges to receiving waters, and prepare a technical report supporting a BAT/BCT Compliance Certification or Non-Industrial Pollutant Certification as detailed below.

- e. BAT/BCT Compliance Certification.** The BAT/BCT Certification Report shall include:
- i.** An identification and evaluation of all pollutant source(s) associated with industrial activity that are causing an exceedance of an Annual Average with a discussion of the existing BMPs,
 - ii.** A Certification that the Discharger is in compliance with the receiving water limitations of this General Permit (section VII), and
 - iii.** A Certification that no additional operational source control, treatment, or structural source control BMPs are required to reduce or prevent pollutants in storm water discharges in compliance with BAT/BCT. The Discharger shall evaluate each of the following factors in this report: [From 40 CFR Part 125.3(d)]
 - (a)** The total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application;
 - (b)** The age of equipment and facilities involved;
 - (c)** The process employed;
 - (d)** The engineering aspects of the application of various types of control techniques;
 - (e)** Process changes; and
 - (f)** Non-water quality environmental impact (including energy requirements).
- f. Non-Industrial Pollutant Certification.** This Non-Industrial Pollutant Certification Report shall include:
- i.** An identification and evaluation of all industrial and non-industrial related pollutant sources which could/are causing an exceedance of an Annual Average,
 - ii.** A Certification that the Discharger is in compliance with the receiving water limitations of this General Permit (section VII),
 - iii.** A Certification that the pollutant source(s) causing the exceedance of an Annual Average are not generated, caused, or related to the facility's industrial activities, and
 - iv.** A Certification that no additional BMPs are required to reduce or prevent pollutants in storm water discharges in compliance with BAT/BCT.

- g.** The technical reports required to support the certifications described in section V.C.3.e. or f. shall, at a minimum, include the following:
- i.** A description of the industrial pollutant sources and corresponding industrial pollutants that are or may be discharged,
 - ii.** A summary of the existing BMPs,
 - iii.** An evaluation and determination that industrial pollutants in storm water discharges are not causing or contributing to an exceedance of a water quality standard,
 - iv.** Alternate NALs, if applicable,
 - v.** An evaluation and determination of the Dischargers alternative NAL(s) related to compliance with BAT/BCT;
 - vi.** An analysis documenting the costs of structural and treatment controls that would be effective in further reducing pollutant discharges but that exceed BAT/BCT; and
 - vii.** (Applicable to Non-Industrial Pollutant Certification Only) An evaluation of all on-site/off-site analytical monitoring data demonstrating that non-industrial related pollutant source(s) are causing exceedances of an Annual Average. If analytical monitoring data has not been collected to fully support that the source of pollutants in storm water discharges are non-industrial, the technical report shall contain a (one) 1-year monitoring program to (1) collect and analyze samples from non-industrial pollutant sources to fully support that exceedances of an NAL Annual Average are solely caused by non-industrial based pollutant sources, and (2) to assist in determining, along with monitoring data from storm water associated with industrial activities, the appropriate NAL(s).
- (a)** Upon the certifications described in section V.C.3.e and f, the Discharger shall have Baseline status unless 1) the San Diego Water Board rejects the certification, 2) the Annual Average exceeds the Dischargers recommended alternative NAL, or 3) the Annual Average exceeds the NAL in Table 6 for a different pollutant.
- (b)** The San Diego Water Board may review any technical reports submitted in connection with Level 2 certification or reporting requirements. Upon review of a Level 2 report or certification, the San Diego Water Board may direct the Discharger to take further action(s) to comply with this Order.

4. **Compliance Storm Events.** All treatment BMPs for any pollutant shall be designed for no less than a 5-year, 24-hour storm event. Compliance storm events (expressed in inches of rainfall) can be determined by using isopluvial maps accessed at:

<http://www.wrcc.dri.edu/pcpnfreq/sca5y24.gif>

Discharges of storm water shall comply with applicable NALs unless the storm event causing the discharges is determined after the fact to be equal to or larger than the Compliance Storm Event (expressed in inches of rainfall). The Compliance Storm Event is the 5-year, 24-hour storm (expressed in tenths of an inch of rainfall), as determined by using the above maps.

Compliance storm event verification shall be done by reading an on-site rain gauge.

VI. DISCHARGE SPECIFICATIONS

The discharges of storm water and floating drydock ballast water shall comply with the following:

- A. The Discharger shall prevent or minimize the discharge of pollutants from any surface of its floating dry dock during submergence by implementing the Storm Water Pollution Prevention Plan (SWPPP) required by section X.B and Attachment H of this General Permit.
- B. Prior to submergence, or flooding, the entire area of the dry dock deck shall be cleaned by scraping, broom cleaning, and power and pressure washing or other effective BMPs as soon as practical.
- C. Waste management systems must be designed and operated in a manner that will maintain the indigenous marine life and a healthy and diverse marine community.
- D. Waste discharged must be free of:
 - 1. Material that is floatable or will become floatable upon discharge.
 - 2. Settleable material or substances that may form sediments, which will degrade benthic communities or other aquatic life.
 - 3. Substances, which will accumulate to toxic levels in marine waters, sediments, or biota.
 - 4. Substances that significantly decrease the natural light to benthic communities and other marine life.
 - 5. Materials that result in aesthetically undesirable discoloration of the ocean surface.
- E. Waste effluents shall be discharged in a manner that provides sufficient initial dilution to minimize the concentrations of substances not removed in treatment.

F. The location of waste discharges from the Facilities shall assure that:

1. Pathogenic organisms and viruses are not present in areas where shellfish are harvested for human consumption or in areas used for swimming or other body contact sports.
2. Maximum protection is provided to the marine environment.

G. Waste that contains pathogenic organisms or viruses shall be discharged at a sufficient distance from shell fishing and water contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard shall be used.

H. The Discharger shall not cause pollution, contamination, or nuisance, as those terms are defined in Water Code 13050, as a result of the treatment or discharge of wastes.

I. Collected screenings, sludges, and other solids removed from liquid wastes, shall be disposed in a manner approved by the San Diego Water Board.

VII. RECEIVING WATER LIMITATIONS

The receiving water limitations set forth below for waters of the United States within the San Diego Region are based on applicable water quality standards contained in water quality control plans and policies and federal regulations and are a required part of this Order. The discharges of waste regulated under this Order shall not cause or contribute to violations of these receiving water limitations.

A. Water quality objectives set forth in the Water Quality Control Plan for the San Diego Basin (Basin Plan) shall not be exceeded in the receiving water. [Basin Plan]

B. Water quality objectives set forth in Water Quality Control Plans adopted by the State Water Board shall not be exceeded in the receiving water. [State Water Board Water Quality Control Plans]

C. Water quality shall not be less than that prescribed in the Water Quality Control Policies adopted by the State Water Board. [State Water Board Water Quality Control Policy]

D. Priority pollutant criteria promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the a) National Toxics Rule (NTR)¹ (40 CFR 131.36 promulgated on December 22, 1992 and amended on May 4, 1995) and b) California Toxics Rule (CTR)^{2,3} (40 CFR 131.38, (65 Fed. Register 31682-31719), adding section 131.38 to

¹ 40 CFR 131.36

² 65 Federal Register 31682-31719 (May 18, 2000), adding Section 131.38 to 40 CFR

Title 40 of the Code of Federal Regulations, on May 18, 2000) shall not be exceeded in the receiving waters. [USEPA NTR and CTR]

- E. Present and anticipated beneficial uses of receiving waters shall not be unreasonably affected. [Basin Plan]

F. Bacterial Characteristics⁴

1. In waters designated for contact recreation (REC-1), the fecal coliform concentration based on a minimum of not less than five samples for any 30-day period, shall not exceed a log mean 200/100 mL, nor shall more than 10 percent of the total samples during any 30-day period exceed 400/100 mL. [Basin Plan]
2. At all areas where shellfish may be harvested for human consumption, as determined by the San Diego Water Board, the median total coliform density shall not exceed 70 per 100 mL throughout the water column, and not more than 10 percent of the samples shall exceed 230 per 100 mL for a five-tube decimal dilution test or 330 organisms per 100 ml when a three-tube decimal dilution test is used. [Basin Plan]
3. In bays and estuaries designated for contact recreation (REC-1), the most probable number of total coliform organisms in the upper 60 feet of the water column shall be less than 1,000 organisms per 100 ml (10 organisms per ml); provided that not more than 20 percent of the samples at any sampling station, in any 30-day period, may exceed 1,000 organisms per 100 ml (10 per ml); and provided further that no single sample as described below is exceeded. The most probable number of total coliform organisms in the upper 60 feet of the water column in no single sample when verified by a repeat sample taken within 48 hours shall exceed 10,000 organisms per 100 ml (100 organisms per ml). [Basin Plan]
4. In waters designated for non-contact recreation (REC-2) and not designated for contact recreation (REC-1), the average fecal coliform concentrations for any 30-day period, shall not exceed 2,000 organisms per 100 ml nor shall more than 10 percent of samples collected during any 30-day period exceed 4,000 organisms per 100 ml. [Basin Plan]

G. Physical Characteristics

1. Waters shall not contain oils, greases, waxes, or other materials in concentrations which result in a visible film or coating on the surface of the water or on objects in the water, or which cause nuisance or which otherwise adversely affect beneficial uses. [Basin Plan]

³ If a water quality objective and a CTR criterion are in effect for the same priority pollutant, the more stringent of the two applies

⁴ Basin Plan water quality objectives for fecal coliform bacteria for contact recreation, total coliform organisms in bays and estuaries, and fecal coliform bacteria for non-contact recreation may be implemented using a reference system and antidegradation approach or natural sources exclusion approach.

2. Waters shall not contain floating material, including solids, liquids, foams, and scum in concentrations which cause nuisance or adversely affect beneficial uses. [Basin Plan]
3. Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses. [Basin Plan]
4. The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses. [Basin Plan]
5. Waters shall not contain suspended and settleable solids in concentrations of solids that cause nuisance or adversely affect beneficial uses. [Basin Plan]
6. Waters shall not contain taste or odor producing substances at concentrations which cause a nuisance or adversely affect beneficial uses. [Basin Plan]
7. Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. The transparency of waters in lagoons and estuaries shall not be less than 50% of the depth at locations where measurement is made by means of a standard Secchi disk, except where lesser transparency is caused by rainfall runoff from undisturbed natural areas and dredging projects conducted in conformance with waste discharge requirements of the Regional Water Board. With these two exceptions, increases in turbidity attributable to controllable water quality factors shall not exceed 20 % over natural turbidity levels at locations with a natural turbidity of 0 to 50 NTU; 10 NTU at locations with a natural turbidity of 50 to 100 NTU; and 10 % over the natural turbidity level in locations with a natural turbidity of greater than 100 NTU. [Basin Plan]

Within San Diego Bay, the transparency of bay waters, insofar as it may be influenced by any controllable factor, either directly or through induced conditions, shall not be less than 8 feet in more than 20 percent of the readings in any zone, as measured by a standard Secchi disk. Wherever the water is less than 10 feet deep, the Secchi disk reading shall not be less than 80 percent of the depth in more than 20 percent of the readings in any zone. [Basin Plan]

H. Chemical Characteristics

1. The dissolved oxygen concentration shall not at any time be less than 5.0 mg/L. The annual mean dissolved oxygen concentration shall not be less than 7 mg/L more than 10% of the time. [Basin Plan]
2. The pH shall not be changed at any time more than 0.2 units from normal ambient pH. The pH shall not be depressed below 7.0 nor raised above 9.0. [Basin Plan]
3. Waters shall not contain biostimulatory substances in concentrations that promote aquatic growth to the extent that such growths cause nuisance or adversely affect beneficial uses. [Basin Plan]

4. The discharge of wastes shall not cause concentrations of un-ionized ammonia (NH₃) to exceed 0.025 mg/l (as N). [Basin Plan]
5. No individual pesticide or combination of pesticides shall be present in the water column, sediments or biota at concentration(s) that adversely affect beneficial uses. Pesticides shall not be present at levels which will bioaccumulate in aquatic organisms to levels which are harmful to human health, wildlife or aquatic organisms. [Basin Plan]

I. Biological Characteristics

1. Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded. [Ocean Plan]
2. The natural taste, odor, color of fish, shellfish, or other marine resources used for human consumption shall not be altered. [Ocean Plan]
3. The concentration of organic materials in fish, shellfish, or other marine resources used for human consumption shall not bioaccumulate to levels that are harmful to human health. [Ocean Plan]

J. Toxic Materials

1. All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective will be determined by use of indicator organisms, analyses of species diversity, population density, growth anomalies, bioassays of appropriate duration, or other appropriate methods as specified by the Regional Water Board. [Basin Plan]
2. Pollutants in sediments shall not be present in quantities that, alone or in combination, are toxic to benthic communities. [Bays and Estuaries Plan]
3. Pollutants shall not be present in sediments at levels that will bioaccumulate in aquatic life to levels that are harmful to human health. [Bays and Estuaries Plan]

VIII. PROVISIONS

A. Standard Provisions

1. **Federal Standard Provisions.** The Discharger shall comply with all Standard Provisions included in Attachment D of this General Permit.
2. **San Diego Water Board Standard Provisions.** The Discharger shall comply with the following provisions. In the event that there is any conflict, duplication, or overlap between provisions specified by this Order, the more stringent provision shall apply:
 - a. The Discharger shall comply with all applicable federal, State, and local laws and regulations for handling, transport, treatment, or disposal of waste or the

discharge of waste to waters of the United States in a manner which causes or threatens to cause a condition of pollution, contamination or nuisance as those terms are defined in Water Code 13050.

- b. This Order expires on April 9, 2018, after which, the terms and conditions of this permit are automatically continued pending issuance of a new Order, provided that all requirements of USEPA's NPDES regulations at 40 CFR 122.6 and the State's regulations at CCR Title 23, section 2235.4 regarding the continuation of expired Orders and waste discharge requirements are met.
- c. A copy of this General Permit and Notice of Enrollment shall be maintained on-site at the Facility, and shall be available to San Diego Water Board, State Water Board, and USEPA personnel and/or their authorized representative at all times.
- d. The Discharger shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this General Permit and the Notice of Enrollment from the San Diego Water Board, including such accelerated or additional monitoring as may be necessary to determine the nature, and effect of the noncomplying discharge.
- e. The San Diego Water Board or Director of the USEPA may require a person requesting enrollment under this General Permit or subject to waste discharge requirements under this General Permit to apply for and obtain an individual NPDES permit. Cases where an individual NPDES permit may be required include, but are not limited to those described in 40 CFR 122.28(b)(3)(i) and (b)(3)(ii), and where the volume of a discharge exceeds 10 million gallons per year, or the duration of a discharge exceeds 3 years.

B. Monitoring and Reporting Program (MRP) Requirements

- 1. The Discharger shall comply with the MRP, and future revisions thereto, in Attachment E of this General Permit, and any additional monitoring requirements specified in the NOE.

C. Special Provisions – Not Applicable

IX. REOPENER PROVISIONS

- A. This Order may be reopened for modification to include an effluent limitation if monitoring establishes that the discharge causes, has the reasonable potential to cause, or contributes to an excursion above applicable water quality objectives/criteria.
- B. This Order, or coverage under this General Permit, may be modified, revoked and reissued, or terminated for causes including, but not limited to, the following:
 - 1. Violation of any terms or conditions of this General Permit or the Notice of Enrollment from the San Diego Water Board;

2. Obtaining enrollment under this General Permit, or a Notice of Enrollment from the San Diego Water Board, by misrepresentation or failure to disclose fully all relevant facts;
 3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 4. A finding that monitoring for the pollutants listed in this General Permit and MRP do not ensure compliance with water quality criteria or objectives for additional pollutants expected to be present; or
 5. A finding based on data or other sources, by the San Diego Water Board, that continued discharges may cause unreasonable degradation of the aquatic environment.
- C. The filling of a request by the Discharger for modification, revocation and reissuance, or termination of this General Permit or an associated discharge Notice of Enrollment from the San Diego Water Board, or a notification of planned change in or anticipated noncompliance with this Order or discharge Notice of Enrollment does not stay any condition of this General Permit or the Notice of Enrollment from the San Diego Water Board.
- D. If any applicable toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under section 307 (a) of the CWA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in this General Permit, the San Diego Water Board may institute proceedings under these regulations to modify or revoke and reissue the General Permit to conform to the toxic effluent standard or prohibition.
- E. This General Permit may be re-opened and modified, in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include requirements for the implementation of the watershed management approach.
- F. This General Permit may be reopened and modified, in accordance with the provisions set forth in 40 CFR Parts 122 and 124, to include new Minimum Levels (MLs).
- G. This General Permit may be re-opened and modified to revise effluent limitations as a result of future Basin Plan Amendments, or the adoption of a total maximum daily load (TMDL) for the receiving water.
- H. **Toxicity Reopener.** In accordance with 40 CFR Parts 122 and 124, this permit may be modified to include or revise effluent limitations or permit conditions to address toxicity in the effluent or receiving water body, as a result of the discharge; or to implement new, revised, or newly interpreted water quality standards applicable to acute or chronic toxicity.
- I. This General Permit may be re-opened and modified, revoked and, reissued or terminated in accordance with the provisions of 40 CFR 122.44, 122.62 to 122.64,

125.62, and 125.62. Causes for taking such actions include, but are not limited to, failure to comply with any condition of this General Permit, and endangerment to human health or the environment resulting from the permitted activity.

- J.** This Order may be reopened for modification of the receiving waters monitoring and reporting requirements and/or special studies requirements, at the discretion of the San Diego Water Board. Such modification(s) may include, but is (are) not limited to, revision(s) (i) to implement recommendations from Southern California Coastal Water Research Project (SCCWRP), (ii) to develop, refine, implement, and/or coordinate a regional monitoring program, and/or (iii) to develop and implement improved monitoring and assessment programs in keeping with San Diego Water Board Resolution No. R9-2012-0069, Resolution in Support of a Regional Monitoring Framework.

X. STORM WATER DISCHARGE REQUIREMENTS AND INDUSTRIAL BMPS

- A.** The Discharger shall eliminate the discharge of the first-flush (0.25 inch) of storm water runoff for each storm event from the Facility maintenance and repair areas to surface waters or storm drains, and shall appropriately maintain all means by which this is accomplished.
- B.** The Discharger shall continue to implement the Storm Water Pollution Prevention Plan (SWPPP) from the previous NPDES Permit and develop, implement, and maintain a SWPPP consistent with the requirements of Attachment H of this Order by 90 days from the effective date of this General Permit. The SWPPP shall address all areas on which industrial activities occur (including floating drydocks, if any). In addition to addressing storm water discharges, the SWPPP shall also contain BMPs for industrial process performed on-site (pier, float, dock, or other leasehold areas where work may occur directly over or on the receiving water) such as hydrowashing and sand blasting.
- C.** The SWPPP shall contain adequate BMPs to prevent the discharge of any ship repair or other pollutants generated on floating drydocks, if any, as well as BMPs for floating drydock ballast water discharges and vessel cooling water discharges. The Discharger shall incorporate applicable BMPs from USEPA's December 19, 2008 Vessel General Permit (most recently amended on November 2010) into the SWPPP.
- D.** A completed copy of the SWPPP shall be submitted to the San Diego Water Board within 90 days of the effective date for this General Permit or of submission of an NOE. The Discharger shall amend its SWPPP in accordance with 40 CFR 125.100 through 125.104 whenever there is a change in facility/leasehold/work area design, construction, operation, or maintenance, which materially affects the potential for discharge of toxic and hazardous pollutant to surface waters.
- E.** Treatment systems and related collection and conveyance facilities shall be constructed and maintained to prevent the discharge of pollutants to surface waters during and after collection in those facilities.
- F.** Appropriate means, such as but not limited to berms, shall be used to isolate the Facility's maintenance/repair area(s) to prevent storm water run-on from commingling

with the storm water discharge from the maintenance/repair area, and to prevent storm water runoff to offsite areas.

- G.** The Discharger shall develop and implement a method of notifying the owner/operator of each vessel at the Dischargers leasehold of their obligation to prevent the discharge of waste and to comply with Basin Plan Prohibitions regarding the discharge of sewage from vessels as stated below. The Discharger shall have a method of enforcing these requirements as well as the prohibitions listed below:
1. The discharge of treated or untreated sewage from vessels to Mission Bay, Oceanside Harbor, Dana Point Harbor, or other small boat harbors is prohibited.
 2. The discharge of untreated sewage from vessels to San Diego Bay is prohibited.
 3. The discharge of treated sewage from vessels to portions of San Diego Bay that are less than 30 feet deep at MLLW is prohibited.
 4. The discharge of treated sewage from vessels, which do not have a properly functioning USCG certified Type I or Type II marine sanitation device, to portions of San Diego Bay that are greater than 30 feet deep at MLLW is prohibited.

XI. CONDITIONAL EXCLUSION – NO EXPOSURE CERTIFICATION (NEC) REQUIREMENTS

Discharges composed entirely of storm water which have not been exposed to industrial activity are not industrial storm water discharges. These discharges are conditionally excluded from requirements to implement BMPs, to meet Best Available Technology Economically Achievable (BAT) and Best Conventional Pollutant Control Technology (BCT), and monitoring requirements of this Order so long as the following conditions are met: (1) there is no exposure of Industrial Materials and Activities to rain, snow, snowmelt, and/or runoff; (2) all unauthorized non-storm water discharges have been eliminated and all authorized non-storm water discharges satisfy the conditions of an applicable NPDES Permit ; (3) the Discharger satisfies all other requirements of this Section and (4) the Discharger has received a NEC approval letter from the San Diego Water Board. A SWPPP and BMPs are required if secondary containment is used to satisfy NEC requirements to prevent non-storm water discharges of industrial material such as by the wind. Dischargers that do not satisfy all conditional exclusion requirements are required to submit a NOI for coverage under this Order.

A. NEC Specific Definitions

1. No Exposure - all Industrial Materials and Activities are protected by a Storm-Resistant Shelter to prevent exposure to rain, snow, snowmelt, and/or runoff.
2. Industrial Materials and Activities - includes, but is not limited to, material handling activities or equipment, industrial machinery, raw materials, intermediate products, by-products, final products, or waste products.

3. **Material Handling Activities** - includes the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.
4. **Sealed** - banded or otherwise secured, but without operational taps or valves.
5. **Storm-Resistant Shelters** - includes completely roofed and walled buildings or structures. They also include structures with only a top cover supported by permanent supports but with no side coverings, provided material within the structure is not subject to wind dispersion (sawdust, powders, etc.), track-out, and there is no storm water discharged from within the structure that has come into contact with any materials.

B. NEC Qualifications

To qualify for an NEC, Dischargers shall:

1. Provide a Storm-Resistant Shelter to protect Industrial Materials and Activities from exposure to rain, snow, snowmelt, run-on, and runoff.
2. Inspect and evaluate the facility annually to determine that storm water exposed to industrial materials or equipment has not and will not be discharged to waters of the United States. Evaluation records shall be maintained for five (5) years.
3. Register for NEC coverage by certifying that there are no discharges of storm water contaminated by exposure to Industrial Materials and Activities from areas of the facility subject to this General Permit, and certify that all unauthorized non-storm water discharges have been eliminated and all authorized non-storm water discharges satisfy the conditions of an applicable NPDES Permit. NEC coverage and annual renewal requires payment of an annual fee in accordance with section 13260 of the Water Code.
4. NEC registration documents shall be prepared and submitted in accordance with the certification requirements in section XI.E.
5. NEC coverage shall become effective when the San Diego Water Board issues the Discharger a NEC approval letter.

C. NEC Industrial Materials and Activities – Storm-Resistant Shelter Not Required

To qualify for NEC coverage, a Storm-Resistant Shelter is not required for the following:

1. Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated, do not contain residual industrial materials on the outside surfaces, and do not leak;
2. Adequately maintained vehicles used in material handling;

3. Final products, other than products that would be mobilized in storm water discharge (e.g., rock salt);
4. Any Industrial Materials and Activities that are protected by a temporary shelter for a period of no more than ninety (90) days due to facility construction or remodeling; and
5. Any Industrial Materials and Activities that are protected within a secondary containment structure that will not discharge storm water to waters of the United States (based on the historical rainfall record).

D. NEC Limitations

1. NEC coverage is available on a facility-wide basis only, not for individual outfalls. If a facility has industrial storm water discharges from one or more drainage areas that require NOI coverage, the Discharger shall submit an NOI for the entire facility in accordance with section II.B. Any drainage areas on that facility that would otherwise qualify for NEC coverage may be specially addressed in the facility SWPPP by including an NEC Report and a certification statement demonstrating that those drainage areas of the facility have been evaluated; and that none of the Industrial Materials or Activities listed in section XI.E.2.a of this Order are, or will be in the foreseeable future, exposed to precipitation and discharged to surface waters.
2. If circumstances change and Industrial Materials and Activities become exposed to rain, snow, snowmelt, and/or runoff, the conditions for this exclusion shall no longer apply. In such cases, the Discharger shall become subject to enforcement for discharging without a permit. Any Discharger with NEC coverage that anticipates changes in circumstances should submit an NOI to the San Diego Water Board before anticipated exposure.
3. The San Diego Water Board may deny NEC coverage and require NOI coverage upon determining that:
 - a. The discharge is exposed to Industrial Materials and Activities; or
 - b. The discharge would have a reasonable potential to cause, or contribute to an exceedance of an applicable water quality standards.

E. NEC Permit Registration Documents Required for Initial NEC Coverage

Dischargers shall file for NEC coverage by submitting the following items to the San Diego Water Board:

1. The completed NEC form, which includes:
 - a. The legal name, mailing address, contact information, and billing information of the Discharger who operates the facility.

- ### Conditional Exclusion – No exposure Certification (NEC) Requirements

- b. A technical description of any secondary containment and the capacity of the secondary containment.
 - c. A Site map of the facility including any structural Best Management Practices such as treatment facilities and/or secondary containment facilities.
 - d. A statement of qualifications of the responsible lead professional who prepared the report.
3. Annual Fee pursuant to California Code of Regulations section 2200.5 for new dischargers. Existing dischargers will be invoiced appropriately.

F. Requirements for Annual NEC Coverage Recertification

By August 1 of each reporting year beginning in 2014, any Discharger who has previously registered for NEC coverage shall annually submit and certify an NEC Annual Certification Report prepared and certified by a California licensed professional engineer, competent and proficient in the fields pertinent to the report and qualified to prepare such report, demonstrating that the facility has been evaluated, and that none of the Industrial Materials or Activities listed above are, or will be in the foreseeable future, exposed to precipitation and have the potential to be discharged in storm water, aerially, or by other means. The NEC Annual Certification Report shall include a statement of qualifications of the responsible lead professional who prepared the report.

G. NEC Certification Statement

All NEC certifications and recertifications shall include the following certification statement:

"I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of 'no exposure' and obtaining an exclusion from NPDES storm water permitting; and that there are no discharges of storm water contaminated by exposure to industrial activities or materials from the industrial facility identified in this document. I understand that I am obligated to submit a no exposure certification form annually to the San Diego Water Board and, if requested, to the operator of the local Municipal Separate Storm Sewer System (MS4) into which this facility discharges (where applicable). I understand that I must allow the San Diego Water Board, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I understand that I must obtain coverage under an NPDES permit prior to any point source discharge of storm water from the facility. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and

imprisonment for knowing violations.”

XII. SPECIAL STUDIES, TECHNICAL REPORTS & ADDITIONAL MONITORING REQUIREMENTS – NOT APPLICABLE

XIII. SPECIAL PROVISIONS FOR WASTEWATER FACILITIES (POTWS ONLY) – NOT APPLICABLE

XIV. OTHER SPECIAL PROVISIONS – NOT APPLICABLE

XV. COMPLIANCE SCHEDULES – NOT APPLICABLE

XVI. COMPLIANCE DETERMINATION

Compliance with the effluent limitations and action levels contained in sections IV and V of this General Permit will be determined as specified below:

A. General

Compliance with effluent limitation shall be determined using sample reporting protocols defined below and in the MRP and in Attachment A of this General Permit. For purposes of reporting and administrative enforcement by the San Diego Water Board and State Water Boards, the Discharger shall be deemed out of compliance with effluent limitations if the concentration of the constituent in the monitoring sample is greater than the effluent limitation and greater than or equal to the minimum level (ML) or lowest quantifiable level.

B. Multiple Sample Data.

When determining compliance with an AMEL or MDEL for priority pollutants and more than one sample result is available, the Discharger shall compute the arithmetic mean unless the data set contains one or more reported determinations of “Detected, but Not Quantified” (DNQ) or “Not Detected” (ND). In those cases, the Discharger shall compute the median in place of the arithmetic mean in accordance with the following procedure:

1. The data set shall be ranked from low to high, ranking the reported ND determinations lowest, DNQ determinations next, followed by quantified values (if any). The order of the individual ND or DNQ determinations is unimportant.
2. The median value of the data set shall be determined. If the data set has an odd number of data points, then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of the points are ND or DNQ, in which case the median value shall be the lower of the two data points where DNQ is lower than a value and ND is lower than DNQ.

C. Sample Reporting Protocols

1. The Discharger must report with each sample result the acceptable reported ML and the laboratory's current Method Detection Limit (MDL).
2. Dischargers must also report results of analytical determinations for the presence of chemical constituents in a sample using the following reporting protocols:
 - a. Sample results greater than or equal to the reported ML must be reported "as measured" by the laboratory (i.e., the measured chemical concentration in the sample).
 - b. Sample results less than the reported ML, but greater than or equal to the laboratory's MDL, must be reported as "Detected, but Not Quantified", or DNQ.

For the purposes of data collection, the laboratory shall write the estimated chemical concentration next to DNQ as well as the words "Estimated Concentration" (may be shortened to "Est. Conc."). The laboratory may, if such information is available, include numerical estimates of the data quality for the reported result. Numerical estimates of data quality may be percent accuracy (+/- a percentage of the reported value), numerical ranges (low to high), or any other means considered appropriate by the laboratory.

- c. Sample results less than the laboratory's MDL shall be reported as "Not Detected," or ND.
- d. Dischargers are to instruct laboratories to establish calibration standards so that the ML value (or its equivalent if there is differential treatment of samples relative to calibration standards) is the lowest calibration standard. At no time is the Discharger to use analytical data derived from extrapolation beyond the lowest point of the calibration curve.

D. Compliance with Average Monthly Effluent Limitation (AMEL).

If the average (or when applicable, the median determined by subsection B above for multiple sample data) of daily discharges over a calendar month exceeds the AMEL for a given parameter, this will represent a single violation for the purpose of assessing mandatory minimum penalties under Water Code section 13385, though the Discharger will be considered out of compliance for each discharge day of that month for that parameter (e.g., resulting in 31 days of non-compliance in a 31-day month) for discretionary penalties. If only a single sample is taken during the calendar month and the analytical result for that sample exceeds the AMEL, the Discharger will be considered out of compliance for all days when a discharge occurs. For any one calendar month during which no sample (daily discharge) is taken, no compliance determination can be made for that calendar month and no penalty assessed.

E. Compliance with Weekly Average Effluent Limitation (WAEEL).

If the average (or when applicable, the median determined by subsection B above for multiple sample data) of daily discharges over a calendar week (Sunday through

Saturday) exceeds the WAEL for a given parameter, this will represent a single violation for the purpose of assessing mandatory minimum penalties under Water Code section 13385, though the Discharger will be considered out of compliance for each discharge day of that week for that parameter (e.g., resulting in 7 days of non-compliance) for discretionary penalties. If only a single sample is taken during the calendar month and the analytical result for that sample exceeds the WAEL, the Discharger will be considered out of compliance only for days when the discharge occurs. For any one calendar week during which no sample (daily discharge) is taken, no compliance determination can be made for that calendar week and no penalty assessed.

F. Compliance with Maximum Daily Effluent Limitation (MDEL)

The MDEL shall apply to flow weighted 24-hour composite samples, or grab, as specified in the MRP (Attachment E). If a daily discharge exceeds the MDEL for a given parameter, an alleged violation will be flagged and the Discharger will be considered out of compliance for that parameter for that one day only within the reporting period. For any one day during which no sample is taken, no compliance determination can be made for that day.

G. Compliance with Instantaneous Minimum Effluent Limitation.

If the analytical result of a single sample is lower than the instantaneous minimum effluent limitation for a parameter, a violation will be flagged and the Discharger will be considered out of compliance for that parameter for that single sample. Non-compliance for each sample will be considered separately (e.g., the results of two grab samples taken within a calendar day that both are lower than the instantaneous minimum effluent limitation would result in two instances of noncompliance with the instantaneous minimum effluent limitation).

H. Compliance with Instantaneous Maximum Effluent Limitation.

If the analytical result of a single sample is higher than the instantaneous maximum effluent limitation for a parameter, a violation will be flagged and the Discharger will be considered out of compliance for that parameter for that single sample. Non-compliance for each sample will be considered separately (e.g., the results of two grab samples taken within a calendar day that both exceed the instantaneous maximum effluent limitation would result in two instances of noncompliance with the instantaneous maximum effluent limitation).

I. Compliance with Chronic Toxicity Effluent Limitation

The Maximum Daily Effluent Limitation (MDEL) for chronic toxicity is exceeded and a violation will be flagged when a toxicity test results in a "fail" in accordance with the TST approach and the percent effect is greater than or equal to 0.50. Toxicity results shall be reported to the San Diego Water Board as either a "pass" or a "fail" at the Instream Waste Concentration (IWC) of 100 percent effluent in accordance with the Test of Significant Toxicity (TST) approach described in National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document (EPA 833-R-

10-003, 2010). The calculated percent effect at the IWC shall also be reported to the San Diego Water Board.

Pass

A test result that rejects the null hypothesis (H_0) below is reported as "Pass" in accordance with the TST approach:

H_0 : Mean response (100 percent effluent) $\leq 0.75 \times$ Control mean response

Fail

A test result that does not reject the null hypothesis (H_0) above is reported as "Fail" in accordance with the TST approach.

ATTACHMENT A – DEFINITIONS**Anti-Backsliding**

Provisions in the Clean Water Act (CWA) and USEPA regulations [CWA 303 (d) (4); CWA 402 (c); CFR 122.44 (1)] that require a reissued permit to be as stringent as the previous permit with some exceptions.

Antidegradation

Policies which ensure protection of water quality for a particular body where the water quality exceeds levels necessary to protect fish and wildlife propagation and recreation on and in the water. This also includes special protection of waters designated as outstanding natural resource waters. Antidegradation plans are adopted by the State to minimize adverse effects on water.

Average Monthly Effluent Limitation (AMEL)

The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

Average Weekly Effluent Limitation (AWEL)

The highest allowable average of daily discharges over a calendar week (Sunday through Saturday), calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Beneficial Uses

The Beneficial Uses of waters of the State may be protected against quality degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply; power generation; recreation; aesthetic enjoyment; navigation; and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

Best Available Technology Economically Achievable (BAT)

The best existing performance of treatment technologies that are economically achievable within an industrial point source category. BAT standards apply to toxic and non-conventional pollutants.

Best Conventional Pollutant Control Technology (BCT)

The control from existing industrial point sources of conventional pollutants including BOD, TSS, fecal coliform, pH, and oil and grease. The BCT standard is established after considering the "cost reasonableness" of the relationship between the cost of attaining a reduction in effluent discharge and the benefits that would result, and also the cost effectiveness of additional industrial treatment beyond best practicable treatment control technology (BPT).

Best Management Practices (BMPs)

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs

also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Best practicable treatment control technology (BPT)

The average of the best performance by plants within an industrial category or subcategory. BPT standards apply to toxic, conventional, and non-conventional pollutants.

Best Professional Judgment (BPJ)

The method used by permit writers to develop technology-based NPDES permit conditions on a case-by-case basis using all reasonably available and relevant data.

Bioaccumulative Pollutants

Those substances taken up by an organism from its surrounding medium through gill membranes, epithelial tissue, or from food and subsequently concentrated and retained in the body of the organism.

Biochemical Oxygen Demand (BOD)

A measurement of the amount of oxygen utilized by the decomposition of organic material, over a specified time period (usually 5 days) in a wastewater sample; it is used as a measurement of the readily decomposable organic content of a wastewater.

Certifying Official

All applications must be signed as follows:

For a corporation: By a responsible corporate officer, which means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Chronic Toxicity Tests

Chronic toxicity tests measure the sub-lethal effects of a discharge or ambient water sample (e.g. reduced growth or reproduction). Certain chronic toxicity tests include an

additional measurement of lethality.

Composite Sample

Sample composed of two or more discrete samples of at least 100 milliliters collected at periodic intervals during the operating hours of a facility over a 24-hour period. The aggregate sample will reflect the average water quality covering the compositing or sample period. For volatile pollutants, aliquots must be combined in the laboratory immediately before analysis. The composite must be flow proportional; either the time interval between each aliquot or the volume of each aliquot must be proportional to either stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot. Aliquots may be collected manually or automatically.

Conventional Pollutants

Pollutants typical of municipal sewage, and for which municipal secondary treatment plants are typically designed; defined at 40 CFR 401.16 as BOD, TSS, fecal coliform bacteria, oil and grease, and pH.

Daily Discharge

Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any 24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

For composite sampling, if 1 day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

Degrade (Degradation)

Degradation shall be determined by comparison of the waste field and reference site(s) for characteristic species diversity, population density, contamination, growth anomalies, debility, or supplanting of normal species by undesirable plant and animal species. Degradation occurs if there are significant differences in any of three major biotic groups, namely, demersal fish, benthic invertebrates, or attached algae. Other groups may be evaluated where benthic species are not affected, or are not the only ones affected.

Detected, but Not Quantified (DNQ)

Sample results that are less than the reported Minimum Level, but greater than or equal to the laboratory's MDL.

Discharge Monitoring Report (DMR)

Means the USEPA uniform form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved states as well as by USEPA. The USEPA will supply DMRs to any approved state upon request. The USEPA national forms may be modified to substitute the state agency name, address, logo, and other similar information, as appropriate, in place of USEPA's.

Dredged Material

Any material excavated or dredged from the navigable waters of the United States, including material otherwise referred to as "spoil".

Effluent Limitation

Any restriction imposed by an Order on quantities, discharge rates, and concentrations of pollutants that are discharged from point sources into waters of the United States, the waters of the contiguous zone, or the ocean.

Enclosed Bays

Indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. This definition includes but is not limited to: Humboldt Bay, Bodega Harbor, Tomales Bay, Drakes Estero, San Francisco Bay, Morro Bay, Los Angeles Harbor, Upper and Lower Newport Bay, Mission Bay, San Diego Bay, Oceanside Harbor, and Dana Point Harbor.

Estuaries and Coastal Lagoons

Waters at the mouths of streams that serve as mixing zones for fresh and ocean waters during a major portion of the year. Mouths of streams that are temporarily separated from the ocean by sandbars shall be considered as estuaries. Estuarine waters will generally be considered to extend from a bay or the open ocean to the upstream limit of tidal action but may be considered to extend seaward if significant mixing of fresh and salt water occurs in the open coastal waters. The waters described by this definition include but are not limited to the Sacramento-San Joaquin Delta as defined by section 12220 of the Water Code, Suisun Bay, Carquinez Strait downstream to Carquinez Bridge, and appropriate areas of the Smith, Klamath, Mad, Eel, Noyo, and Russian Rivers.

First Flush

Storm water runoff that occurs between the time a storm event begins and when a minimum of 0.25 inch of precipitation has been collected in a rain gauge or equivalent measurement device at a location on the site which is representative of precipitation at the site. A storm event is a period of rainfall that is preceded by at least seven days without rainfall.

Grab Sample

An individual sample of at least 100 milliliters collected at a randomly selected time over a period not exceeding 15 minutes. The sample is taken from a waste stream on a one-time basis without consideration of the flow rate of the waste stream and without consideration of time of day.

Instantaneous Maximum Effluent Limitation

The highest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous maximum limitation).

Instantaneous Minimum Effluent Limitation

The lowest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous minimum limitation).

Maximum Daily Effluent Limitation (MDEL)

The highest allowable daily discharge of a pollutant.

Method Detection Limit (MDL)

The minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in Title 40 of the Code of Federal Regulations, Part 136, Attachment B.

Minimum Level (ML)

The concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

Natural Light

Reduction of natural light may be determined by the San Diego Water Board by measurement of light transmissivity or total irradiance, or both, according to the monitoring needs of the San Diego Water Board.

Not Detected (ND)

Those sample results less than the laboratory's MDL.

Nuisance

Water Code section 13050, subdivision (m), defines nuisance as anything which meets all of the following requirements:

1. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.
2. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
3. Occurs during, or as a result of, the treatment or disposal of wastes.

Qualifying Storm Events (QSEs)

A qualifying storm event occurs when sufficient precipitation generates runoff from the Facility that is discharged into the receiving water and has not been preceded by a qualifying storm event for at least 7 days.

Reported Minimum Level

The ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this General Permit. The MLs included in this General Permit correspond to approved analytical methods for reporting a sample result that are selected by the San Diego Water Board either from Appendix II of the Ocean Plan in accordance with section III.C.5.a of the Ocean Plan or established in accordance with section III.C.5.b of the Ocean Plan. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the reported ML.

Storm Event

A storm event is a period of rainfall of at least 0.25 inches of rain that is preceded by at least seven days without rainfall.

Technology-Based Effluent Limit

A permit limit for a pollutant that is based on the capability of a treatment method to reduce the pollutant to a certain concentration.

Test of Significant Toxicity (TST)

Test of Significant Toxicity (TST) is a statistical approach used to analyze toxicity test data. The TST incorporates a restated null hypothesis, Welch's t-test, and biological effect thresholds for chronic and acute toxicity.

Toxicity

The aggregate toxic effect of a waste discharge measured directly by a chronic or acute toxicity test. This aggregate effect is frequently referred to as "whole effluent toxicity".

Toxic Pollutant

Pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator of USEPA, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. Toxic pollutants also include those pollutants listed by the Administrator under CWA section 307(a)(1) or any pollutant listed under section 405 (d) which relates to sludge management.

Toxicity Reduction Evaluation (TRE)

A study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity

Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests).

Waste

As used in the Ocean Plan, waste includes a Dischargers total discharge, of whatever origin (i.e., gross, not net, discharge).

Water Quality Control Plan

Consists of a designation or establishment for the waters within a specified area of all of the following:

1. Beneficial uses to be protected.
2. Water quality objectives.
3. A program of implementation needed for achieving water quality objectives.

Water Quality Objectives

The limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area. Water quality objectives referenced in this Order are based on State policies and plans.

Water Quality Standards

The limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area: Water quality standards referenced in this Order are based on federal regulations (NTR and CTR).

Whole Effluent Toxicity (WET)

The aggregate toxic effect of an effluent measured directly by a chronic or acute toxicity test.

ATTACHMENT B – MAPS OF CURRENT BOATYARDS

Figure B-1. Boatyards in San Diego Bay and Mission Bay
(See Figure B-3. for a detail of South San Diego Bay boatyards, B-4. for a detail of Shelter Island boatyards and Figure B-5. for a detail of Mission Bay boatyard)

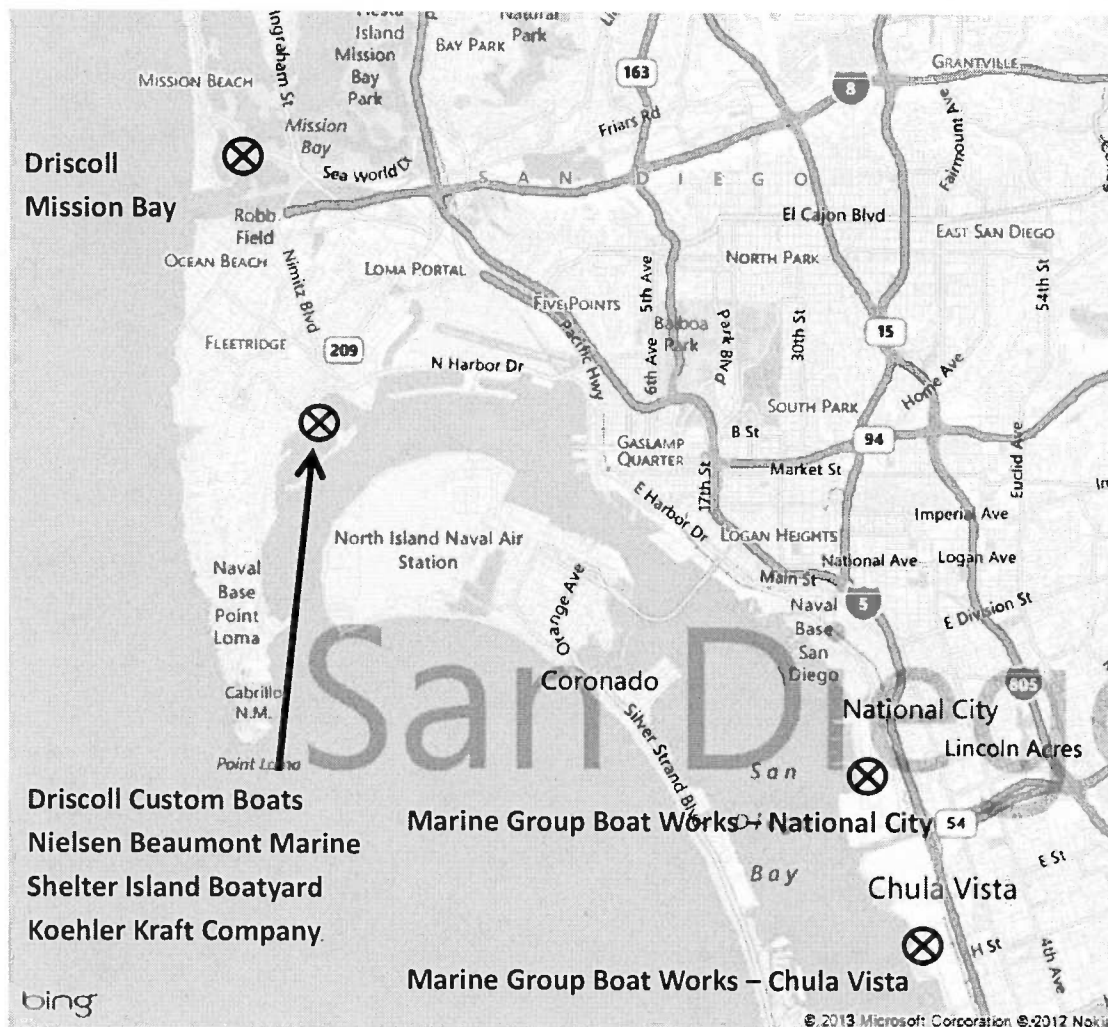


Figure B-2. Dana Point and Oceanside Boatyard
(See Figure B-6. for detail on Oceanside Marine Centre and Figure B-7. for detail on Dana Point Shipyard)

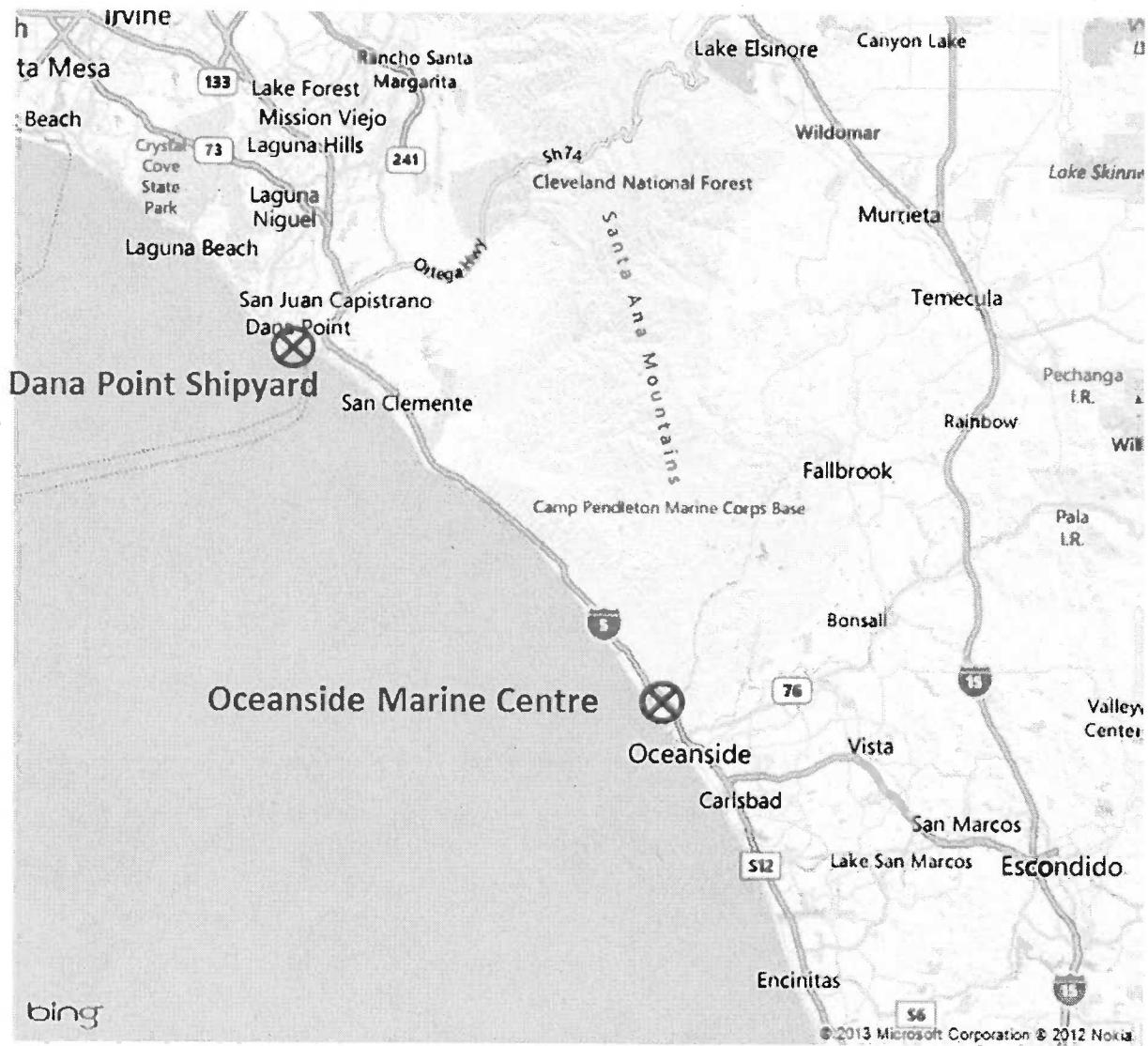
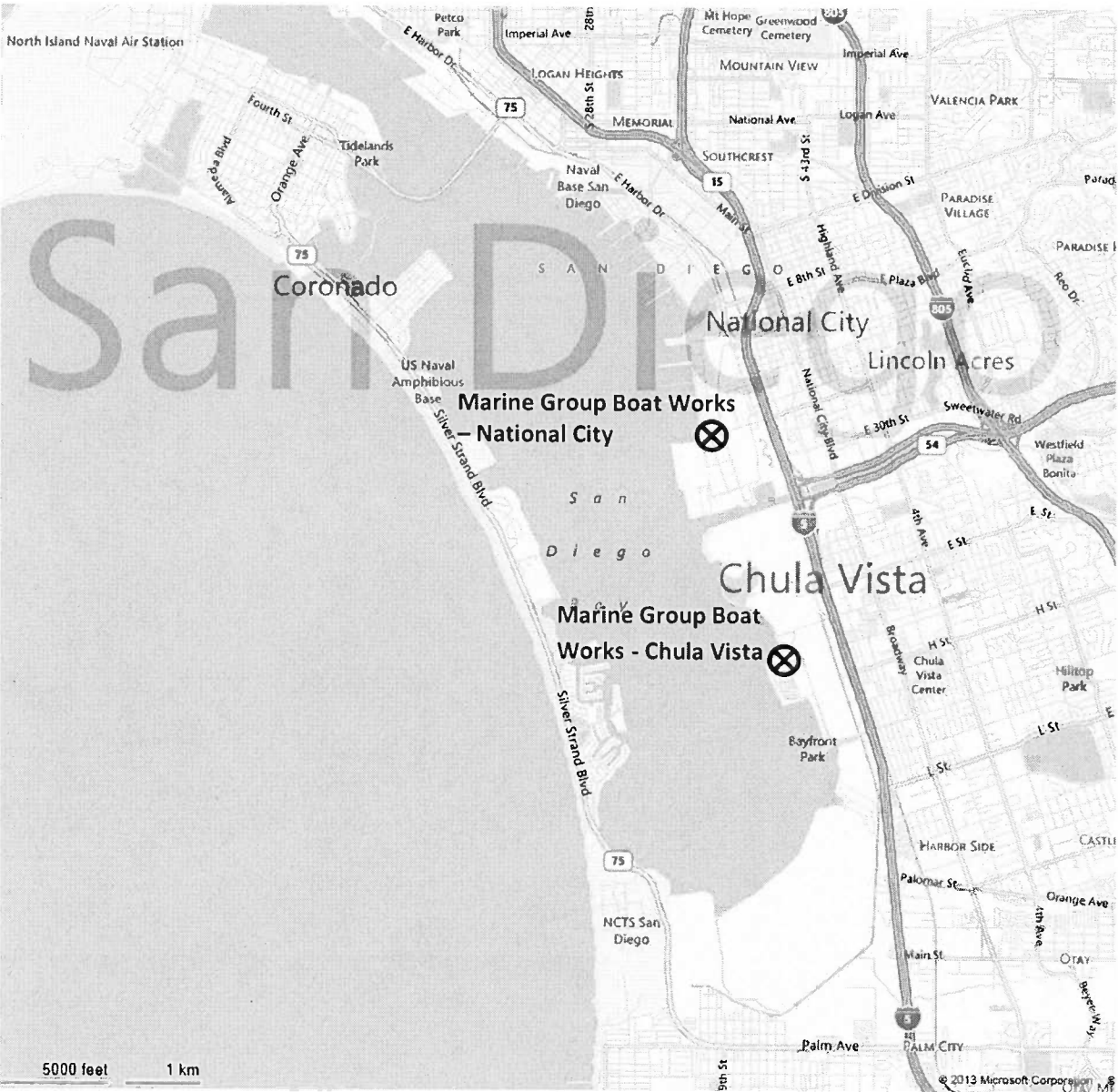


Figure B-3. South San Diego Bay Boatyards



[illegible]

Figure B-5. Driscoll Mission Bay

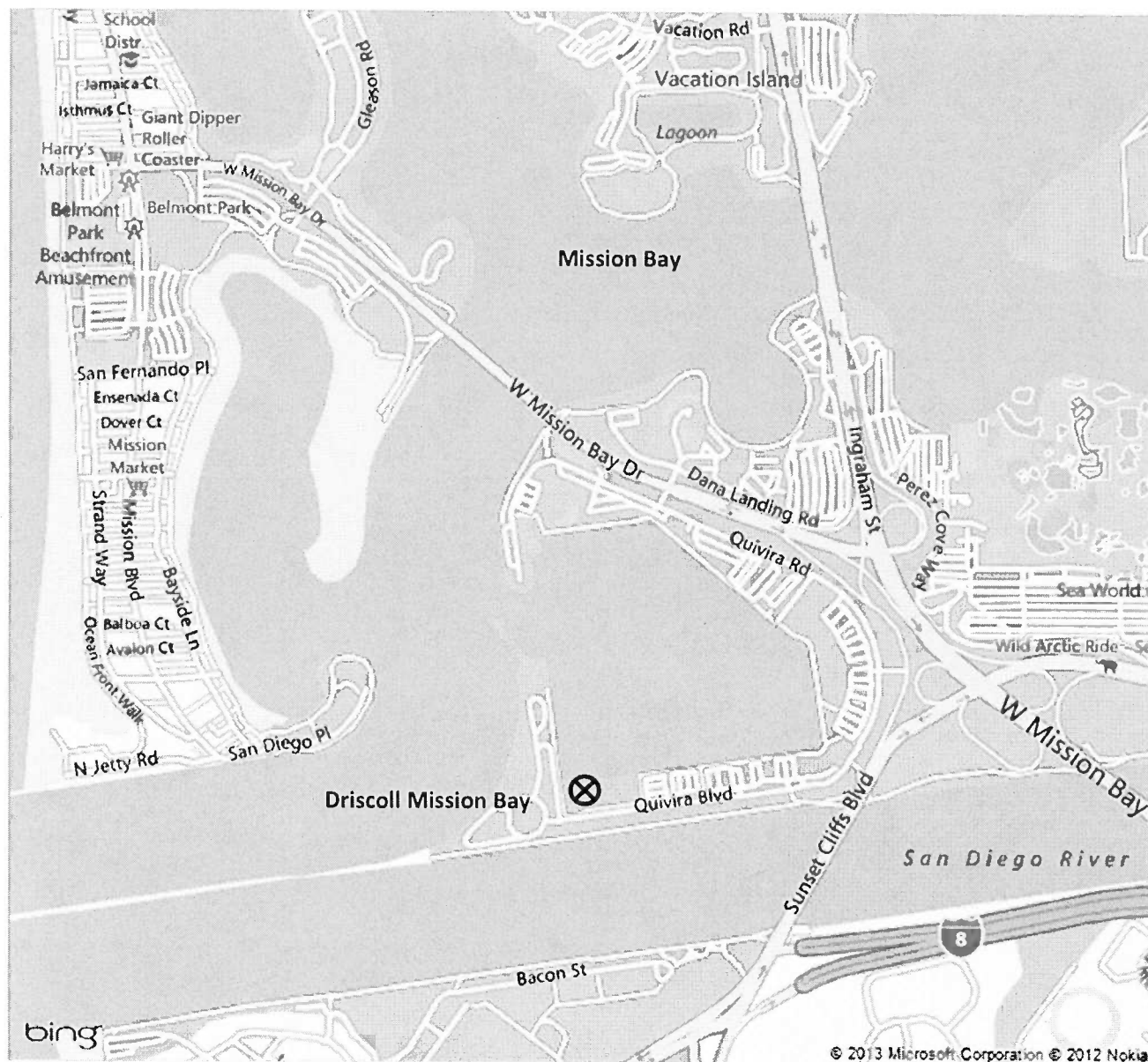


Figure B-6. Oceanside Marine Centre, Inc.

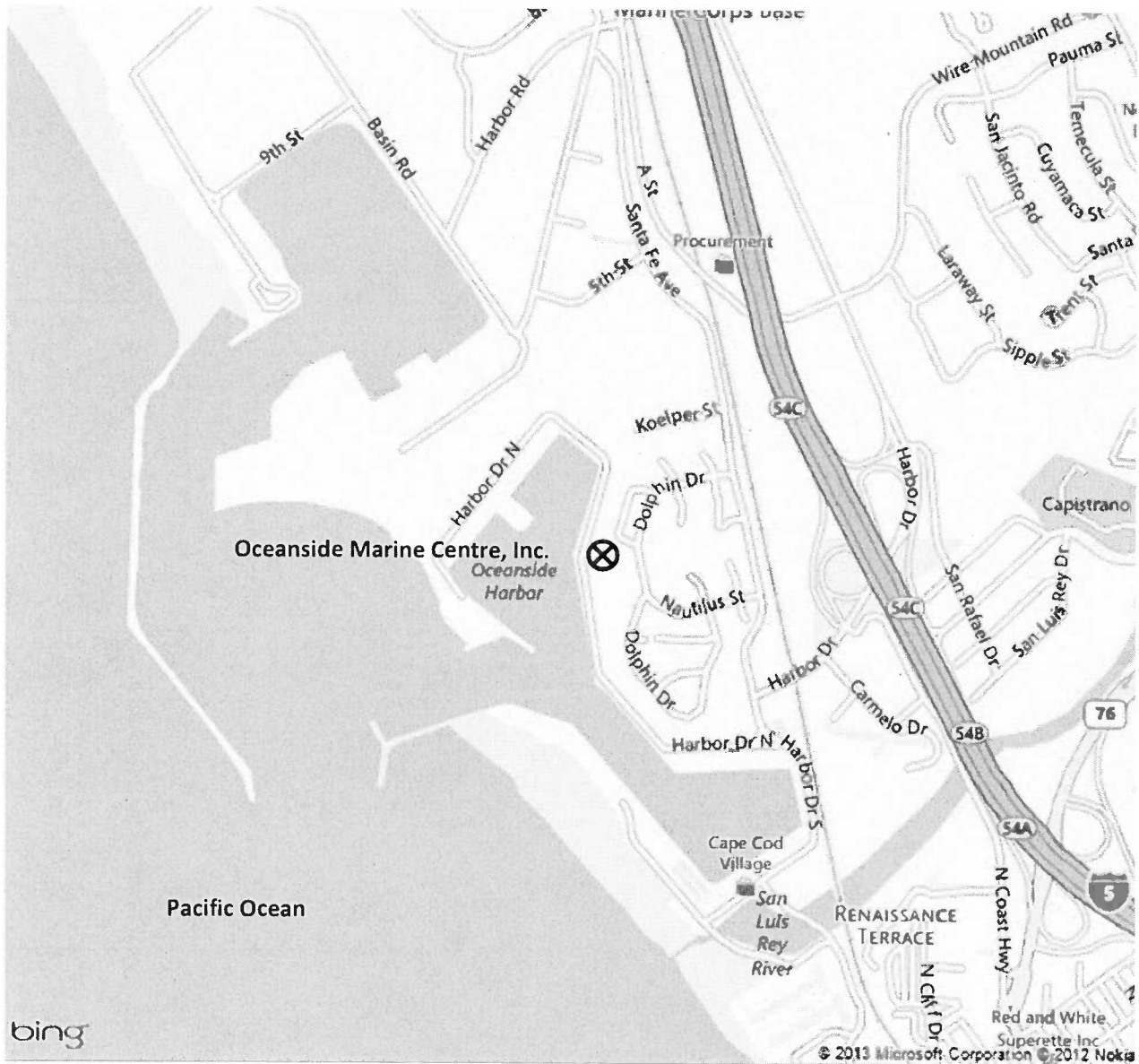
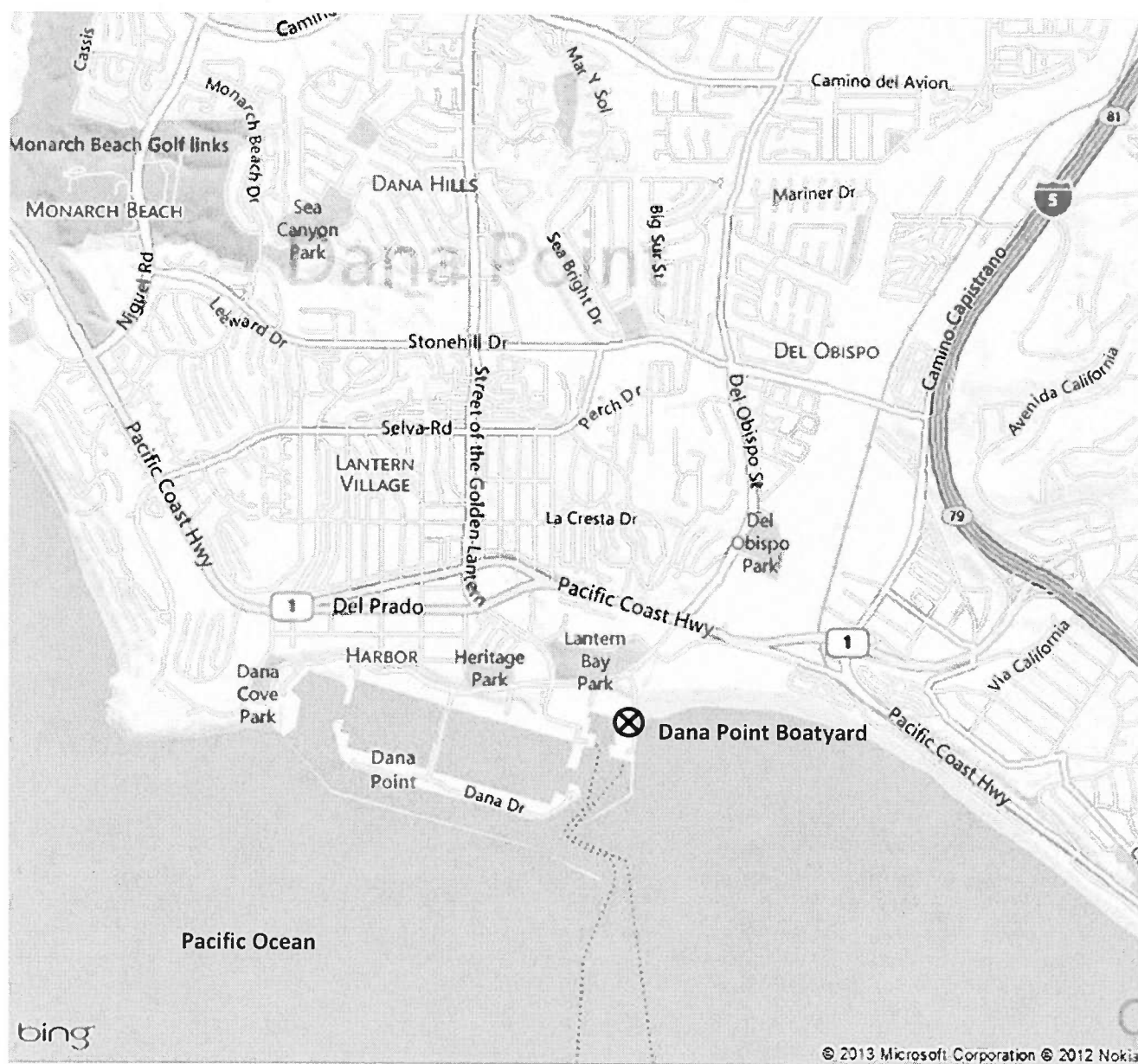


Figure B-7. Dana Point Boatyard



ATTACHMENT C – NOTICE OF INTENT (NOI)**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

Notice of Intent to Comply With the Terms of the
General Waste Discharge Requirements for the Discharges of Storm Water Runoff
Associated With Boatyards and Boat Maintenance and Repair Facilities, San Diego Region
(ORDER NO. R9-2013-0026, NPDES NO. CAG719001)

I. NOI Status

Submittal of this Notice of Intent (NOI) is for (mark only one item):

- | |
|--|
| ☐ Operation and Maintenance of the boatyard and/or boat maintenance and repair facility |
| ☐ Change of information (i.e., New Ownership) |

II. Items Required for Determining Eligibility

The following items must be completed and submitted in order for the San Diego Water Board to determine eligibility:

- | |
|--|
| ☐ A complete NOI |
| ☐ A map with all information specified in Attachment H – Storm Water Pollution Prevention Plan sections D.1 and 2. |
| Application Fee in accordance with California Code Of Regulations Title 23. Division 3. Chapter 9. Waste Discharge Reports And Requirements Article 1. section 2200 (b)(3) Annual Fee Schedules. |
| ☐ Make checks payable to the State Water Resources Control Board |
| Amount Submitted: \$ _____ |

- | |
|---|
| _____ (name of applicant) |
| ☐ Certifies that only storm water runoff from a boatyard will be discharged to surface waters from the facility. |
| ☐ Has reviewed and understands the Order |
| ☐ Will comply with all terms, conditions, and requirements of the Order. |

III. Facility Owner

Company Name:			
Mailing Address			
City	State	Zip	Phone
Contact Person:		Title:	
e-mail address:			

IV. Facility Location

Facility Name:			
Street Address:			
City:	State:	Zip:	Phone:
Latitude:		Longitude:	
Contact Person:		Title:	
e-mail address:			

V. Billing Information

Company Name:			
Mailing Address:			
City:	State:	Zip:	Phone:
Contact Person:		Title:	
e-mail address:			

VI. Receiving Water Information

Storm water from the facility property discharges (check all that apply):

☐ Directly to Waters of the U.S. (e.g., river, lake, creek, ocean, harbor)
☐ Indirectly to Waters of the U.S.
☐ To a storm drain system – enter owner's name (e.g., San Diego County)
Name of Receiving Water:

VII. Activities Performed

Activities performed on the facility property include (check all that apply):

☐ Hydrowashing	☐ Electrical work
☐ Fiberglass work	☐ Wood work
☐ Metal work	☐ Canvas fabrication
☐ Paint/Coating application	☐ Welding/Brazing
☐ Light Mechanical work	☐ Hazardous waste storage
☐ Other (list and describe):	

VIII. Material Handling

Types of materials that will be handled and/or stored on the facility property include (check all that apply):

☐ Petroleum products	☐ Asphalt/Concrete
☐ Hazardous substances	☐ Treated wood products
☐ Metal	☐ Solvents
☐ Paint	☐ Plated products
☐ Other (list and describe):	

IX. Implementation of NPDES Permit Requirements

Check all boxes that apply:

Storm Water Pollution Prevention Plan (SWPPP)	
☐	A SWPPP that includes the minimum requirements described in section X and Attachment H of this General Permit has been prepared for this facility and submitted to the San Diego Water Board.
Monitoring Program	
☐	A Sample Collection Plan has been developed and submitted to the San Diego Water Board as described in the Monitoring and Reporting Program of this General Permit.
Permit Compliance Responsibility	
☐	A qualified person has been assigned responsibility to ensure full compliance with this General Permit and to implement all elements of the SWPPP
☐	A qualified person is responsible for preparing and submitting all quarterly and annually required reports, data, and observation listed in the Monitoring and Reporting Program of this General Permit to the San Diego Water Board
☐	A qualified person is responsible for eliminating all unauthorized discharges identified in the SWPPP.

X. Map

Have you included a site map with this submittal?	☐ Yes	☐ No
Does your facility map clearly indicate all sample locations?	☐ Yes	☐ No

XI. Discharge and Monitoring Locations

Complete all applicable spaces. If additional discharge and monitoring locations, provide the information in a supplementary attachment.

Location Name/Number	Latitude	Longitude
Discharge Point(s)		
Discharge Monitoring Point(s)		

XII. Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. In addition, I certify that the provisions of the permit, including the criteria for eligibility will be complied with."

Printed Name:

Signature:

Date:

Agency and Title:

Submit the NOI, first annual fee, map, and other attachments to the following address:

San Diego Water Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Attn: Boatyards and Boat Maintenance and Repair Facilities
Core Regulatory Unit
NOTICE OF INTENT

ATTACHMENT D – STANDARD PROVISIONS**I. STANDARD PROVISIONS – PERMIT COMPLIANCE****A. Duty to Comply**

1. The Discharger must comply with all of the conditions of this General Permit. Any noncompliance constitutes a violation of the Clean Water Act (CWA) and the California Water Code and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. (40 CFR § 122.41(a).)
2. The Discharger shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this General Permit has not yet been modified to incorporate the requirement. (40 CFR § 122.41(a)(1).)

B. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this General Permit. (40 CFR. § 122.41(c).)

C. Duty to Mitigate

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this General Permit that has a reasonable likelihood of adversely affecting human health or the environment. (40 CFR. § 122.41(d).)

D. Proper Operation and Maintenance

The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this General Permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this General Permit. (40 CFR. § 122.41(e).)

E. Property Rights

1. This Order does not convey any property rights of any sort or any exclusive privileges. (40 CFR § 122.41(g).)

2. The issuance of this General Permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. (40 CFR § 122.5(c).)

F. Inspection and Entry

The Discharger shall allow the San Diego Water Board, State Water Board, United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to (40 CFR § 122.41(i); Water Code, § 13383):

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this General Permit (40 CFR § 122.41(i)(1));
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this General Permit (40 CFR § 122.41(i)(2));
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this General Permit (40 CFR § 122.41(i)(3)); and
4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the Water Code, any substances or parameters at any location. (40 CFR § 122.41(i)(4).)

G. Bypass

1. Definitions

- a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. (40 CFR § 122.41(m)(1)(i).)
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (40 CFR § 122.41(m)(1)(ii).)
2. Bypass not exceeding limitations. The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance I.G.3, I.G.4, and I.G.5 below. (40 CFR § 122.41(m)(2).)

3. Prohibition of bypass. Bypass is prohibited, and the San Diego Water Board may take enforcement action against a Discharger for bypass, unless (40 CFR § 122.41(m)(4)(i)):
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (40 CFR § 122.41(m)(4)(i)(A));
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance (40 CFR § 122.41(m)(4)(i)(B)); and
 - c. The Discharger submitted notice to the San Diego Water Board as required under Standard Provisions – Permit Compliance I.G.5 below. (40 CFR § 122.41(m)(4)(i)(C).)
4. The San Diego Water Board may approve an anticipated bypass, after considering its adverse effects, if the San Diego Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above. (40 CFR § 122.41(m)(4)(ii).)
5. Notice
 - a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass. (40 CFR § 122.41(m)(3)(i).)
 - b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below (24-hour notice). (40 CFR § 122.41(m)(3)(ii).)

H. Upset

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (40 CFR § 122.41(n)(1).)

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Standard Provisions – Permit Compliance I.H.2 below are met. No determination made during administrative review of claims that noncompliance was

caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review. (40 CFR § 122.41(n)(2).)

2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that (40 CFR § 122.41(n)(3)):
 - a. An upset occurred and that the Discharger can identify the cause(s) of the upset (40 CFR § 122.41(n)(3)(i));
 - b. The permitted facility was, at the time, being properly operated (40 CFR § 122.41(n)(3)(ii));
 - c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) (40 CFR § 122.41(n)(3)(iii)); and
 - d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above. (40 CFR § 122.41(n)(3)(iv).)
3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof. (40 CFR § 122.41(n)(4).)

II. STANDARD PROVISIONS – PERMIT ACTION

A. General

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition. (40 CFR § 122.41(f).)

B. Duty to Reapply

If the Discharger wishes to continue an activity regulated by this General Permit after the expiration date of this General Permit, the Discharger must apply for and obtain a new permit. (40 CFR § 122.41(b).)

C. Transfers

This Order is not transferable to any person except after notice to the San Diego Water Board. The San Diego Water Board may require modification or revocation and reissuance of the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the CWA and the Water Code. (40 CFR § 122.41(l)(3); § 122.61.)

III. STANDARD PROVISIONS – MONITORING

- A.** Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. (40 CFR § 122.41(j)(1).)
- B.** Monitoring results must be conducted according to test procedures under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503 unless other test procedures have been specified in this General Permit. (40 CFR § 122.41(j)(4); § 122.44(i)(1)(iv).)

IV. STANDARD PROVISIONS – RECORDS

- A.** Except for records of monitoring information required by this General Permit related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by Part 503), the Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this General Permit, and records of all data used to complete the application for this General Permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the San Diego Water Board Executive Officer at any time. (40 CFR § 122.41(j)(2).)

B. Records of monitoring information shall include:

- 1. The date, exact place, and time of sampling or measurements (40 CFR § 122.41(j)(3)(i));
- 2. The individual(s) who performed the sampling or measurements (40 CFR § 122.41(j)(3)(ii));
- 3. The date(s) analyses were performed (40 CFR § 122.41(j)(3)(iii));
- 4. The individual(s) who performed the analyses (40 CFR § 122.41(j)(3)(iv));
- 5. The analytical techniques or methods used (40 CFR § 122.41(j)(3)(v)); and
- 6. The results of such analyses. (40 CFR § 122.41(j)(3)(vi).)

C. Claims of confidentiality for the following information will be denied (40 CFR § 122.7(b)):

- 1. The name and address of any permit applicant or Discharger (40 CFR § 122.7(b)(1)); and
- 2. Permit applications and attachments, permits and effluent data. (40 CFR § 122.7(b)(2).)

V. STANDARD PROVISIONS – REPORTING

A. Duty to Provide Information

The Discharger shall furnish to the San Diego Water Board, State Water Board, or USEPA within a reasonable time, any information which the San Diego Water Board, State Water Board, or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this General Permit or to determine compliance with this General Permit. Upon request, the Discharger shall also furnish to the San Diego Water Board, State Water Board, or USEPA copies of records required to be kept by this General Permit. (40 CFR § 122.41(h); Water Code, § 13267.)

B. Signatory and Certification Requirements

1. All applications, reports, or information submitted to the San Diego Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below. (40 CFR § 122.41(k).)
2. All permit applications shall be signed by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA). (40 CFR § 122.22(a)(3).)
3. All reports required by this General Permit and other information requested by the San Diego Water Board, State Water Board, or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in Standard Provisions – Reporting V.B.2 above (40 CFR § 122.22(b)(1));
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) (40 CFR § 122.22(b)(2)); and
 - c. The written authorization is submitted to the San Diego Water Board and State Water Board. (40 CFR § 122.22(b)(3).)
4. If an authorization under Standard Provisions – Reporting V.B.3 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Standard

Provisions – Reporting V.B.3 above must be submitted to the San Diego Water Board and State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 CFR § 122.22(c).)

5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (40 CFR § 122.22(d).)

C. Monitoring Reports

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this General Permit. (40 CFR § 122.22(l)(4).)
2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the San Diego Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. (40 CFR § 122.41(l)(4)(i).)
3. If the Discharger monitors any pollutant more frequently than required by this General Permit using test procedures approved under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in Part 503, or as specified in this General Permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the San Diego Water Board. (40 CFR § 122.41(l)(4)(ii).)
4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this General Permit. (40 CFR § 122.41(l)(4)(iii).)

D. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this General Permit, shall be submitted no later than 14 days following each schedule date. (40 CFR § 122.41(l)(5).)

E. Twenty-Four Hour Reporting

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time

the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. (40 CFR § 122.41(l)(6)(i).)

2. The following shall be included as information that must be reported within 24 hours under this paragraph (40 CFR § 122.41(l)(6)(ii)):
 - a. Any unanticipated bypass that exceeds any effluent limitation in this General Permit. (40 CFR § 122.41(l)(6)(ii)(A).)
 - b. Any upset that exceeds any effluent limitation in this General Permit. (40 CFR § 122.41(l)(6)(ii)(B).)
3. The San Diego Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours. (40 CFR § 122.41(l)(6)(iii).)

F. Planned Changes

The Discharger shall give notice to the San Diego Water Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when (40 CFR § 122.41(l)(1)):

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b) (40 CFR § 122.41(l)(1)(i)); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are not subject to effluent limitations in this General Permit. (40 CFR § 122.41(l)(1)(ii).)
3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan. (40 CFR § 122.41(l)(1)(iii).)

G. Anticipated Noncompliance

The Discharger shall give advance notice to the San Diego Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with General permit requirements. (40 CFR § 122.41(l)(2).)

H. Other Noncompliance

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above. (40 CFR § 122.41(l)(7).)

I. Other Information

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the San Diego Water Board, State Water Board, or USEPA, the Discharger shall promptly submit such facts or information. (40 CFR § 122.41(l)(8).)

VI. STANDARD PROVISIONS – ENFORCEMENT

- A.** The San Diego Water Board is authorized to enforce the terms of this permit under several provisions of the Water Code, including, but not limited to, sections 13385, 13386, and 13387

VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS**A. Non-Municipal Facilities**

Existing manufacturing, commercial, mining, and silvicultural Dischargers shall notify the San Diego Water Board as soon as they know or have reason to believe (40 CFR § 122.42(a)):

1. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this General Permit, if that discharge will exceed the highest of the following "notification levels" (40 CFR § 122.42(a)(1)):
 - a. 100 micrograms per liter (µg/L) (40 CFR § 122.42(a)(1)(i));
 - b. 200 µg/L for acrolein and acrylonitrile; 500 µg/L for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol; and 1 milligram per liter (mg/L) for antimony (40 CFR § 122.42(a)(1)(ii));
 - c. Five (5) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge (40 CFR § 122.42(a)(1)(iii)); or
 - d. The level established by the San Diego Water Board in accordance with section 122.44(f). (40 CFR § 122.42(a)(1)(iv).)

2. That any activity has occurred or will occur that would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant that is not limited in this General Permit, if that discharge will exceed the highest of the following "notification levels" (40 CFR § 122.42(a)(2)):
- a. 500 micrograms per liter ($\mu\text{g/L}$) (40 CFR § 122.42(a)(2)(i));
 - b. 1 milligram per liter (mg/L) for antimony (40 CFR § 122.42(a)(2)(ii));
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the Report of Waste Discharge (40 CFR § 122.42(a)(2)(iii)); or
 - d. The level established by the San Diego Water Board in accordance with section 122.44(f). (40 CFR § 122.42(a)(2)(iv).)

ATTACHMENT E – MONITORING AND REPORTING PROGRAM**Table of Contents**

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ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)

Regulations at section 122.48, title 40 of the Code of Federal Regulations (40 CFR 122.48) require that all National Pollutant Discharge Elimination System (NPDES) permits specify monitoring and reporting requirements. Water Code sections 13267 and 13383 also authorize the California Regional Water Quality Control Board, San Diego (San Diego Water Board) to require technical and monitoring reports. This MRP establishes monitoring and reporting requirements, which implement the federal and State regulations.

I. GENERAL MONITORING PROVISIONS

- A.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples effluent shall be taken at the monitoring locations specified below and, unless otherwise specified, before the monitoring flow joins or is diluted by any other waste stream, body of water, or substance. Receiving water monitoring shall occur during a discharge in the receiving water approximately 1 foot below the surface immediately in front of a monitored discharge. Monitoring locations shall not be changed without notification to and the approval of this San Diego Water Board.
- B.** Monitoring must be conducted according to United States Environmental Protection Agency (USEPA) test procedures approved at 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants under the Clean Water Act (CWA) as amended, unless other test procedures are specified in this General Permit and/or this MRP and/or this San Diego Water Board.
- C.** A copy of the monitoring and reports signed, and certified as required by Attachment D, Standard Provisions V.B, of this General Permit, shall be submitted to the San Diego Water Board at the address listed in section VII.B.5.c this MRP.
- D.** The Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring, instrumentation, copies of all reports required by this General Permit and this MRP, and records of all data used to complete the application for this General Permit. Records shall be maintained for a minimum of five years from the date of sample, measurement, report, or application. This period may be extended by request of this San Diego Water Board or by the USEPA at any time.
- E.** All analyses shall be performed in a laboratory certified to perform such analyses by the California Department of Health Services or by a laboratory approved by the San Diego Water Board.
- F.** The Discharger shall report in its cover letter all instances of noncompliance not reported under Attachment D, section V.H of this General Permit at the time monitoring reports are submitted. The reports shall contain the information listed in Attachment D, section V.E of this General Permit.

G. All monitoring instruments and devices used by the Discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy. All flow measurement devices shall be calibrated at least once per year to ensure continued accuracy of the devices.

H. Monitoring results shall be reported at intervals and in a manner specified in this General Permit or in this Monitoring and Reporting Program.

II. MONITORING LOCATIONS

Storm water monitoring shall be conducted at the specified monitoring locations in Table E-1 for each storm water discharge location at the facility to demonstrate compliance with the requirements in this General Permit.

In addition, Marine Group Boat Works – National City shall monitor the discharge of drydock ballast water to demonstrate compliance with effluent limitations and additional requirements in this General Permit as specified in Table E-2.

Table E-1. Storm Water Monitoring Locations

Discharge Point	Monitoring Location Name	Monitoring Location Description
Driscoll Custom Boats	SW-SDDRIS	A representative sample location for the discharge of storm water to America's Cup Harbor, San Diego Bay
Marine Group Boat Works – National City	SW-KAC	A representative sample location for the discharge of storm water to San Diego Bay
Koehler Kraft Company, Inc.	SW-KKC	A representative sample location for the discharge of storm water to America's Cup Harbor, San Diego Bay
Nielsen Beaumont Marine	SW-NBM	A representative sample location for the discharge of storm water to America's Cup Harbor, San Diego Bay
Shelter Island Boatyard	SW-SIB-01	A representative sample location for the discharge of storm water to Shelter Island Yacht Basin
Shelter Island Boatyard	SW-SIB-02	A representative sample location for the discharge of storm water to Shelter Island Yacht Basin
The Marine Group, LLC (Formerly, Southbay Boat Yard)	SW-MGBW	A representative sample location for the discharge of storm water to the San Diego Bay
Dana Point Shipyard	SW-DANA-01	A representative sample location for the discharge of industrial storm water to the Dana Point Harbor located on the South end of the Facility
Driscoll Mission Bay, LLC	SW-MDRIS	A representative sample location for the discharge of storm water to Mission Bay
Oceanside Marine Centre, Inc.	SW-OMC-01	A representative sample location for the discharge of storm water to Oceanside Harbor located on the Southwest end of the Facility
Oceanside Marine Centre, Inc.	SW-OMC-02	A representative sample location for the discharge of storm water to Oceanside Harbor located on the Southwest end of the Facility

Table E-2. Marine Group Boat Works – National City Ballast Water Monitoring Location

Discharge Point	Monitoring Location Name	Discharge Point Latitude
BW-KAC-001	Marine Group Boat Works – National City Ballast Water	A location where a representative sample of the drydock ballast water can be obtained just prior to, or during, the discharge into the San Diego Bay

III. EFFLUENT MONITORING REQUIREMENTS**A. Discharge Monitoring**

1. Dischargers shall monitor industrial storm water discharges at locations identified in Table E-1 as specified in Table E-3 and section VI.D of this MRP.

Table E-3. Storm Water Monitoring Requirements.

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Volume of Discharge	Gallons	Estimate ¹	2 qualifying storm events per year ³	2
Oil and Grease	mg/L	Grab	2 qualifying storm events per year ³	2
Total Suspended Solids	mg/L	Grab	2 qualifying storm events per year ³	2
Chemical Oxygen Demand	mg/L	Grab or Composite	2 qualifying storm events per year ³	2
Settleable Solids	ml/L	Grab	2 qualifying storm events per year ³	2
pH	Standard Units	Grab	2 qualifying storm events per year ³	2
Copper, Total Recoverable	µg/L	Grab or Composite	2 qualifying storm events per year ³	2
Lead, Total Recoverable	µg/L	Grab or Composite	2 qualifying storm events per year ³	2
Zinc, Total Recoverable	µg/L	Grab or Composite	2 qualifying storm events per year ³	2
Tributyltin (TBT)	µg/L	Grab or Composite	2 qualifying storm events per year ³	2
Chronic Toxicity	Pass/ Fail and % Effect	Grab or Composite	2 qualifying storm events per year ³	4

¹ The volume of storm water discharge can be estimated by multiplying: (amount of rainfall in inches/12) X square feet of surface area X impervious factor. There are 7.5 gallons of water per cubic foot.

² Pollutants shall be analyzed using the analytical methods described in 40 CFR Part 136; for priority pollutants the methods must meet the lowest minimum levels (MLs) specified in Attachment 4 of the SIP, where no methods are specified for a given pollutant, by methods approved by the San Diego Water Board or the State Water Board.

³ A qualifying storm event occurs when sufficient precipitation generates runoff from the Facility that is discharged into the receiving water and has not been preceded by a qualifying storm event for at least 7 days.

⁴ As described in section IV. of this MRP.

2. Marine Group Boat Works – National City, shall monitor the discharge of drydock ballast water at Monitoring Location No. BW-KAC-001 as specified in Table E-4.

Table E-4. Marine Group Boat Works – National City – Ballast Water Monitoring

Parameter	Units	Sample Type	Minimum Sampling Frequency ¹	Required Analytical Test Method
Flow	GPD	Grab	1/Quarter	Estimate
pH	Standard Units	Grab	1/Quarter	²
Temperature	°F	Grab	1/Quarter	²
Arsenic, Total Recoverable	µg/L	Grab	1/Quarter	²
Copper, Total Recoverable	µg/L	Grab	1/Quarter	^{2,3}
Settleable Solids	ml/L	Grab	1/Year	²
Turbidity	NTU	Grab	1/Year	²
Total Suspended Solids	mg/L	Grab	1/Year	²
Oil and Grease	mg/L	Grab	1/Year	²
Total Petroleum Hydrocarbons (TPH)	mg/L	Grab	1/Year	²
Polynuclear Aromatic Hydrocarbons (PAH)	µg/L	Grab	1/Year	²
Tributyltin (TBT)	µg/L	Grab	1/Year	²
Chronic Toxicity	Pass/ Fail and % Effect	Grab	1/Year	⁴
Total Residual Chlorine	µg/L	Grab	1/Year	²
Remaining CTR Priority Pollutants	µg/L	Grab	Once in Year One Once in Year Four	²

¹ Monitoring for ballast water shall only occur when there is a discharge not regulated by the USEPA's Vessel General Permit.

² As specified in 40 CFR Part 136, for priority pollutants the methods must meet the lowest minimum levels (MLs) specified in Attachment 4 of the SIP, where no methods are specified for a given pollutant, by methods approved by the San Diego Water Board or the State Water Board.

³ Samples shall be analyzed for copper according to method 1638 or 1640. The commonly used methods 6010B and 200.7 have been found to give inaccurate copper reading in saline-matrix samples due to interference with the sodium-argon complex, which has a molecular weight similar to copper.

⁴ As described in section IV. of this MRP.

IV. WHOLE EFFLUENT TOXICITY TESTING REQUIREMENTS

A. Chronic Toxicity

1. Chronic toxicity test samples shall be collected prior to the point of discharge, at the designated monitoring location for the effluent as specified in Tables E-1 and E-2. The total sample volume shall be determined both by the specific toxicity test method used and the additional volume necessary for TIE studies. Sufficient sample

volume shall be collected to perform both the required toxicity tests and any TIE studies.

Monitoring results shall be submitted annually with the annual report, as specified in section VII.B of this MRP.

A species sensitivity screening shall be conducted during the first sample collection under this General Permit. The Discharger shall collect a single storm water sample and a single ballast water sample and concurrently conduct three toxicity tests using a fish, an invertebrate, and an alga species. The test species that exhibits the highest percent effect at the IWC during a species sensitivity screening (i.e. the most sensitive species) shall be utilized for routine monitoring during the permit cycle. The species sensitivity sample from a storm water location must be from a sample location with the most expected toxicity.

2. Marine and Estuarine Species and Test Methods

The Discharger shall follow the methods for chronic toxicity tests as established in Code of Federal Regulations, title 40, section 136.3 using a single-concentration test design for routine monitoring, or a five-concentration test design for additional toxicity testing if the limitation is exceeded. The United States Environmental Protection Agency (U.S. EPA) method manuals referenced therein include *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Fourth Edition* (EPA-821-R-02-013), and *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, Third Edition* (EPA-821-R-02-014). Additional methods for chronic toxicity monitoring are outlined in *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms, First Edition* (EPA-600-R-95-136).

The Discharger shall conduct a static renewal toxicity test with the topsmelt, *Atherinops affinis* (Larval Survival and Growth Test Method 1006.01); a static non-renewal toxicity test with the giant kelp, *Macrocystis pyrifera* (Germination and Growth Test Method 1009.0); and a static non-renewal toxicity test with the purple sea urchin, *Strongylocentrotus purpuratus* (Embryo-larval Development Test Method

If laboratory-held cultures of the topsmelt, *Atherinops affinis*, are not available for testing, then the Discharger shall conduct a static renewal toxicity test with the inland silverside, *Menidia beryllina* (Larval Survival and Growth Test Method 1006.01), found in the third edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms* (EPA/821/R-02/014, 2002; Table IA, 40 CFR Part 136). Additional species may be used by the Discharger if approved by the San Diego Water Board.

All toxicity tests shall be conducted as soon as possible following sample collection. The 36-hour sample holding time for test initiation shall be targeted. However, no more than 72 hours shall elapse before the conclusion of sample collection and test initiation.

3. Compliance determination

The Maximum Daily Effluent Limitation for chronic toxicity is exceeded and a violation will be flagged when a toxicity test results in a "fail" in accordance with the TST approach and the percent effect is greater than or equal to 0.50 .

Toxicity results shall be reported to the San Diego Water Board as either a "pass" or a "fail" at the Instream Waste Concentration (IWC) of 100 percent effluent in accordance with the Test of Significant Toxicity (TST) approach described in National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document (EPA 833-R-10-003, 2010). The calculated percent effect at the IWC shall also be reported to the San Diego Water Board.

The Maximum Daily Effluent Limitation for chronic toxicity is exceeded and a violation will be flagged when a toxicity test results in a "fail" in accordance with the TST approach and the percent effect is greater than or equal to 0.50 .

Pass

A test result that rejects the null hypothesis (H_0) below is reported as "Pass" in accordance with the TST approach:

$$H_0: \text{Mean response (100 percent effluent)} \leq 0.75 \times \text{Control mean response}$$

Fail

A test result that does not reject the null hypothesis (H_0) above is reported as "Fail" in accordance with the TST approach.

B. Quality Assurance

1. The Discharger shall follow quality assurance measures, instructions, and other recommendations and requirements are found in the test methods manuals previously referenced in section IV.A.2 of this MRP.
2. The Discharger shall use a chronic IWC for applicable discharges of 100 percent effluent.
3. Effluent dilution water and control water should be prepared and used as specified in the test methods manual *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995). If the dilution water is different from test organism culture water, then a second control using culture water shall also be used.
4. If organisms are not cultured in-house, then concurrent testing with a reference toxicant shall be conducted. If organisms are cultured in-house, then monthly reference toxicant testing is sufficient. Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).

C. Toxicity Reduction Evaluation/ Toxicity Identification Evaluation (TRE/TIE) Process

1. If the chronic toxicity effluent limit is exceeded, then the Discharger shall conduct one additional toxicity test using the same species and test method. Sampling for this toxicity test shall be at the next qualifying storm event or the next discharge event after notification of the failing toxicity test results. If the additional toxicity test does not exceed the applicable toxicity effluent limitation, then the Discharger may return to the regular testing frequency.
2. If the additional toxicity test (in section IV.C.1) exceeds the applicable toxicity effluent limitation, then, within 30 days of receipt of this test result, the Discharger shall prepare and submit to the San Diego Water Board, a Detailed TRE Work Plan which shall include the following information: further actions undertaken by the Discharger to investigate, identify, and correct the causes of toxicity; actions the Discharger will take to mitigate the effects of the discharge and prevent the recurrence of toxicity; and a schedule for these actions. Further, the TRE Work Plan shall be consistent with EPA manual *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070, 1989). The San Diego Water Board may require the Discharger to implement revisions to the TRE Work Plan.
3. The Discharger shall conduct the TRE in accordance with the TRE Work Plan. Quarterly status reports shall be submitted to the San Diego Water Board until a final report on the findings of the completed TRE and necessary control measures are submitted. Quarterly status reports shall indicate current actions, anticipated actions, current findings, challenges to completing the TRE, and any revisions to the TRE implementation schedule.
4. The Discharger shall continue to conduct routine monitoring, in accordance with Tables E-1 through E-4 for the duration of the TRE. Additional TRE Work Plans and repeat sampling are not required once a TRE is begun.
5. The Discharger may initiate, or the San Diego Water Board may require the Discharger to initiate, a TIE as part of a TRE to identify the causes of toxicity using the same species and test method and, as guidance, USEPA manuals: *Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures* (EPA/600/6-91/005F, 1992); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996).
6. Within 1 year of the implementation of the TRE, the Discharger shall submit a final report on the findings of the TRE and include control measures to address the sources. If the TRE is not complete within 1 year of implementation or as otherwise

scheduled in the TRE Work Plan, the Discharger shall submit an update of the current status of the TRE and a revised TRE implementation schedule in the next quarterly report.

7. The control measures identified in the final TRE report shall be incorporated into the SWPPP as soon as possible. The Discharger shall re-evaluate and revise the control measures as necessary based on storm water discharge monitoring results.

D. Reporting of Toxicity Monitoring Results

1. The Discharger shall submit toxicity testing results as an attachment to the annual self-monitoring report (SMR) as specified in Table E-6 of this MRP. The report shall include:
 - a. A full laboratory report for each chronic toxicity test prepared according to the appropriate test methods manual chapter on Report Preparation, including:
 - i. The chronic toxicity test results for the t-test, reported as "Pass" or "Fail", and the "Percent Effect".
 - ii. The dates of sample collection and initiation of each toxicity test.
 - iii. Test species with biological endpoint values for each concentration tested and the control.
 - iv. Reference toxicant results.
 - v. Water quality measurements for each toxicity test (including pH, dissolved oxygen, temperature, conductivity, hardness, and salinity).
 - vi. TRE/TIE testing results
 - b. All results for parameters monitored concurrently with the toxicity test.
 - c. TIEs (Phases I, II, and III) that have been completed or are being conducted, by monitoring station.
 - d. The development, implementation, and results for each TRE Corrective Action Plan, beginning the year following the identification of each pollutant or pollutant class causing chronic toxicity.
2. The Discharger shall notify the San Diego Water Board in writing within 14 days of receipt of any test result with an exceedance of the toxicity effluent limitation. This notification shall describe actions the Discharger has taken or will take to investigate, identify, and correct the causes of toxicity; the status of actions required by this General Permit; and schedule for actions not yet completed; or reason(s) that no action has been taken.

V. RECEIVING WATER MONITORING REQUIREMENTS – SURFACE WATER

A. Category 1 Receiving Water and Sediment Monitoring

1. Category 1 Discharger Criteria.

Boatyards that discharge water from storms smaller than a 5-year, 24-hour storm are Category 1. The 5-year, 24-hour storm can be determined using the map at this website: <http://www.wrcc.dri.edu/pcpnfreq/sca5y24.gif>.

Receiving water and sediment monitoring shall be performed by all Category 1 Dischargers to assess compliance with receiving water limits. The monitoring may be performed either by individual Dischargers to assess compliance with receiving water limits, or through participation in a water body monitoring coalition or both as determined by the San Diego Water Board.

2. Category 1 Receiving Water and Sediment Monitoring Plan and Requirements

- a. **Monitoring Plan Submittal and Implementation.** Receiving water and sediment monitoring shall be performed to assess compliance with receiving water limits. A sediment and receiving water monitoring plan shall be submitted within 90 days of the effective date of this Order or issuance of a Notice of Enrollment. The monitoring plan shall be implemented within 1 year of the submittal of a monitoring plan.
- b. **Sediment Monitoring.** The sediment and receiving water monitoring plan shall satisfy the requirements of the State Water Board's Water Quality Control Plan for Enclosed Bays and Estuaries of California – Part 1 Sediment Quality (Sediment Quality Plan) effective August 25, 2009 for sediment. The monitoring program shall be designed as specified in section VII.D., Receiving Water Limits Monitoring Frequency and section VII.E, Sediment Monitoring of the State Water Board's Sediment Quality Plan.
- c. **Receiving Water Monitoring.** The sediment and receiving water monitoring plan shall include receiving water sampling as shown in Table E-5 below. Receiving water monitoring shall occur during a storm in the mixing zone approximately 1 foot below the surface immediately in front of a monitored discharge.

Table E-5. Minimum Receiving Water Monitoring Requirements

Parameter	Units	Sample Type	Minimum Sampling Frequency	Required Analytical Test Method
Priority Pollutants				
Cadmium, Total Recoverable	µg/L	Grab	Twice in the permit cycle	1
Copper, Total Recoverable	µg/L	Grab	Twice in the permit cycle	1,2
Mercury, Total Recoverable	µg/L	Grab	Twice in the permit cycle	1
Nickel, Total Recoverable	µg/L	Grab	Twice in the permit cycle	1
Zinc, Total Recoverable	µg/L	Grab	Twice in the permit cycle	1
Remaining CTR Priority Pollutants	µg/L	Grab	Once in the permit cycle	1
Non-Conventional Pollutants				
Temperature	°F	Grab	Twice in the permit cycle	1
Chronic Toxicity	Pass/Fail	Grab	Twice in the permit cycle	3

¹ As specified in 40 CFR 136.

² Samples shall be analyzed for copper according to method 1638 or 1640. The commonly used methods 6010B (Inorganics by ICP-Atomic Emission Spectroscopy) and 200.7 (Trace Elements-ICP) have been found to give inaccurate copper readings in saline-matrix samples due to interference with the sodium-argon complex, which has a molecular weight similar to copper. Method 1638 (ICP/MS) or 1640 (On-Line Chelation) will eliminate the sodium-argon complex before the sample is tested for copper. No inaccurate readings for other metals in a saline-matrix sample analyzed by methods 6010B or 200.7 are known.

³ As described in section IV. of this MRP.

d. Quality Assurance Project Plan (QAPP). The monitoring plan shall include a Quality Assurance Project Plan (QAPP) describing the project objectives and organization, functional activities, and quality assurance/quality control protocols for the water and sediment monitoring.

e. Monitoring Coalitions. The receiving water and sediment monitoring requirements may be satisfied by individual Dischargers, or through participation in a water body monitoring coalition meeting the criteria for a coalition as determined by the San Diego Water Board, or both.

f. Monitoring Reports. The monitoring plan shall include a schedule for completion of all sample collection and analysis activities and submission of Receiving Water and Sediment Monitoring Reports in year 2 and year 5 of the General Permit term. The Receiving Water and Sediment Monitoring Reports shall include the following information:

- i. Analysis. An evaluation, interpretation and tabulation of the water and sediment monitoring data including interpretations and conclusions as to whether applicable Receiving Water Limitations in this Order have been attained at each sample station; and

- ii. Sample Location Map. The locations, type, and number of samples shall be identified and shown on a site map.
- iii. Laboratory Reports. The reports from laboratories with the original analysis results including any quality assurance / quality control information.
- iv. *California Environmental Data Exchange Network*. A statement certifying that the monitoring data and results have been uploaded into the California Environmental Data Exchange Network (CEDEN) at <http://ceden.org/>.

B. Category 2 Receiving Water and Sediment Monitoring

1. Category 2 Discharger Criteria.

Boatyards that only discharge storm water to waters of the United States from a 5-year, 24-hour storm (<http://www.wrcc.dri.edu/pcpnfreq/sca5y24.gif>) or larger are classified as Category 2 under this Order. Category 2 Dischargers must submit a report certifying that the facility is engineered and constructed to only discharge storm water from a 5-year, 24-hour storm or larger to waters of the United States. The report shall be prepared and signed by a California licensed professional engineer qualified to prepare the report. A statement of qualifications of the responsible lead professional shall be included in the report submitted by the Discharger.

2. Category 2 Receiving Water and Sediment Monitoring Plan and Requirements

Receiving water and sediment monitoring by Category 2 Dischargers is not required unless otherwise determined by the San Diego Water Board based on the following considerations:

- a. Receiving water body characteristics including circulation, depth, assimilative capacity; CWA 303(d) listed impairments, and beneficial uses;
 - b. The frequency of storm water discharge events into the receiving water;
 - c. The compliance of the boatyard with provisions of this Order including SWPPP implementation;
 - d. Proximity of the boatyard to existing or proposed State Water Quality Protection Areas, inclusive of Areas of Special Biological Significance (ASBS) or other environmental sensitive receiving waters; or
 - e. Any other relevant water quality factors.
3. **Monitoring Coalition.** If monitoring is required, the monitoring may be performed by individual Dischargers to assess compliance with receiving water limits, or through participation in a water body monitoring coalition meeting the criteria for a coalition as determined by the San Diego Water Board, or both.

4. **Water and Sediment Monitoring Plan.** If monitoring is required, the Discharger or water body monitoring coalition shall prepare and submit a Water and Sediment Monitoring Plan to assess compliance with Receiving Water Limitations of this Order. The Water and Sediment Monitoring Plan shall be prepared and implemented in conformance with the requirements described in section V.A.2 of this Order.

VI. OTHER MONITORING REQUIREMENTS

A. Annual Compliance Certifications

1. The Discharger shall submit an annual certification statement to the San Diego Water Board certifying the following. The Discharger shall submit an explanation of any statements that are not certified.
 - a. The Discharger has complied with all conditions of this General Permit;
 - b. The Discharger has eliminated industrial process water discharges to waters of the United States in accordance with Discharge Prohibition III.C of this General Permit;
 - c. The Discharger has a storm water diversion system that will eliminate the discharge of the first-flush storm water runoff for each storm event, as defined in Attachment A, from its maintenance and repair area(s) to storm drains or surface water in accordance with Discharge Prohibition III. B of this General Permit.
 - d. The Discharger has implemented BMPs in accordance with its SWPPP, and that the SWPPP has been amended in accordance with the SWPPP requirements, Section X. and Attachment H, of this General Permit;
 - e. The Discharger has isolated its maintenance/repair areas in accordance with Storm Water Discharge Requirements X.A. and X.F. of this General Permit;
 - f. The Discharger has not discharged any liquids other than storm water pursuant to Discharge Prohibition III.C.
 - g. The Discharger has notified each owner/operator of each vessel at the Discharger's leasehold of their obligation to prevent the discharge of waste and to comply with Basin Plan prohibitions regarding the discharge of sewage from vessels as stated in section X.G of this General Permit. In addition, the Discharger shall briefly report on any corrective actions taken against any vessel owner/operator(s).

The certification statement shall be signed by an authorized person as required in section V.B Standard Provisions - Reporting of Attachment D, and shall be submitted annually to the San Diego Water Board in accordance with Table E-6 of this MRP.

B. Spill / Illicit Discharge Log

The Discharger shall log and report all spills and illicit discharges to surface water originating within and/or from its leasehold. The Spill/ Illicit Discharge Log shall be submitted annually in accordance with Table E-6 of this MRP. The spill/illicit discharge reports shall identify:

1. The time and date of the spill or illicit discharge;
2. The cause of the spill or illicit discharge;
3. The materials or wastes involved in the spill or illicit discharge;
4. The estimated volume of the spill or illicit discharge;
5. The specific location where the spill or illicit discharge originated;
6. The fate of the spill or illicit discharge (e.g., Mission Bay, hydrowash area, or other location(s) that the spill or illicit discharge was able to reach);
7. The physical extent or size of the problem area(s);
8. Whether the spill or illicit discharge contained pollutants;
9. The public agencies notified;
10. The corrective action taken; and
11. The actions taken to prevent or minimize future spills or illicit discharges.

C. Chemical Utilization Records

The Discharger shall maintain records of the hazardous materials used at its Facility over the previous 5-year period, and make these records available to the San Diego Water Board upon request. Acceptable records would include, but is not limited to, purchase receipts, delivery manifests, chemical use inventories, disposal manifests, and records and reports maintained for other state or local regulatory agencies (e.g. the Air Pollution Control District). The chemical usage records should, at a minimum, include the following information:

1. The name of the product and common trade name, if applicable;
2. The primary component/chemical contained in the product;
3. The quantity of the product purchased or disposed with a date; and
4. Any additional comments that may assist in characterizing a product or its use (e.g., chemical was/is only used during particular seasons, indoors only).

Material Safety Data Sheets (MSDS) should not be submitted to the San Diego Water Board. MSDS for all products used by the Discharger must be available for submittal to the San Diego Water Board upon request.

D. Storm Water and Non-Storm Water Monitoring

1. BMP Inspections

- a. The Discharger shall conduct BMP Inspections of all work areas within its Facility for the proper implementation of BMPs and the presence of unauthorized non-storm water discharges to waters of the United States other than those to the sanitary sewer system. BMP Inspections shall be conducted on a weekly basis all year round. The BMP Inspections should include all work areas within the Discharger's leasehold that may drain to or have the potential to discharge through wind or other means to waters of the United States, including all piers, dock, float, or other areas where work may occur directly over or on the receiving water.
- b. BMP Inspections shall document the presence of any discolorations, stains, floating or suspended material, etc., as well as the source of any discharge (if known). The presence of any odors shall be documented at the time visual observations are documented. Records shall be maintained of the BMP Inspection dates, specific leasehold/facility locations observed, specific observations detailing what was or was not observed, and response(s) taken to eliminate unauthorized non-storm water discharges. The Discharger shall also respond by revising its SWPPP, as necessary, and implementing and reporting the appropriate changes in accordance with this General Permit. Dischargers shall summarize BMP Inspections with their Annual Storm Water Monitoring Report, as specified in Table E-6 of this MRP.

2. Storm Water Discharge Visual Observations

- a. The Discharger shall visually observe storm water discharges from the first qualifying storm event in each month of the wet season (October 1 through April 30). These visual observations shall occur at all discharge locations during the first hour of discharge. A summary of storm water visual observations shall be submitted with the Storm Water Annual Report as specified in section VI.D.8 of this MRP.
- b. A qualifying storm event is one that begins producing storm water discharge during daylight scheduled Facility operating hours, and is preceded by at least 7 days without a storm water discharge.
- c. The Discharger shall visually observe the discharge of stored or contained storm water at the time of discharge to surface waters during daylight scheduled Facility operating hours. Stored or contained storm water that will likely discharge to surface waters after daylight scheduled Facility operating hours due

to anticipated precipitation shall be observed prior to the discharge during scheduled Facility operating hours.

- d. The Discharger shall observe and document the presence or absence of floating and suspended materials, oil and grease, discoloration, turbidity, odors, and source of any observed pollutants.
- e. Monthly, the Discharger shall visually observe storm water storage and containment areas to detect leaks and ensure appropriate maintenance.
- f. The Discharger shall record all storm events that occur during daylight scheduled Facility operating hours that do not produce a discharge to surface water.
- g. The Discharger shall maintain records of all visual observations, personnel performing the observations, observation dates, observed locations, and corrective actions taken in response to the observations. The SWPPP shall be revised, as necessary.

3. Sampling and Analysis

- a. For grab samples, the Discharger shall collect storm water samples during the first four hours of discharge to waters of the United States or to storm water conveyance systems that discharge thereto. For composite samples, the Discharger shall collect flow-weighted composite storm water samples for the duration of the storm. If composite samples are collected, all parameters identified in Table E-3 with a sample type of grab or composite must be analyzed using composite samples. Storm water samples shall be collected from (1) the first qualifying storm event, and (2) at least one other qualifying storm event. All storm water discharge locations shall be sampled. Sampling of stored or contained storm water shall occur at the time the stored or contained storm water is discharged to waters of the United States or to storm water conveyance systems that discharge thereto.
- b. If a sample is not collected from the first qualifying storm event, the Discharger shall collect samples from two other qualifying storm events and shall explain in the Annual Storm Water Monitoring Report why the first qualifying storm event was not sampled.
- c. The results of the storm water sample laboratory analyses shall be reported in the Annual Storm Water Monitoring Report, and will be submitted with the accompanying visual observations. The samples shall be analyzed in accordance with section III.A.1, Table E-3 of this MRP.

4. Storm Water Discharge Sampling Location

Monitoring location(s) shall be specified in the SWPPP, depicted on a site map, and shall not be changed without notice to and the approval of the San Diego Water

Board. The installation of automatic or mechanical storm water samplers at the monitoring station(s) is recommended.

5. Storm Water Discharge Sampling Requirements

The Discharger is required to be prepared to collect samples and conduct visual observations at the beginning of the wet season (October 1) and throughout the wet season until minimum requirements of sections III.A.1 and VI.D. of this MRP are completed with the following exceptions:

The Discharger is not required to collect a sample or conduct visual observations in accordance with sections III.A.1 and VI.D of this MRP during dangerous weather conditions, such as flooding, electrical storm, etc. Non-storm water and storm water visual observations are only required during daylight scheduled facility operating hours. Dischargers that do not collect the required samples or visual observations during a wet season due to this exception shall include an explanation in the Storm Water Annual Report describing why the sampling or visual observations could not be conducted.

Preparedness to collect samples includes but is not limited to the following:

- a. On-site personnel with the knowledge of how, when and where to collect samples;
- b. The appropriate sampling equipment on-site (containers, coolers, access to ice, transportation, etc.); and
- c. On-site personnel awareness of what contracted laboratory to the sample(s) to and the applicable holding time for the sample.

The San Diego Water Board recommends that the Discharger contact a laboratory certified in accordance with General Monitoring Provision I.E of this MRP well in advance of the wet season to discuss the appropriate sampling techniques, equipment, holding time, etc., as necessary. It is the Discharger's responsibility to verify that the laboratory is capable of meeting all applicable analyses and reporting requirements.

6. Monitoring Methods

All sampling and sample preservation shall be in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater" (American Public Health Association). All monitoring instruments and equipment (including a Discharger's own field instruments for measuring pH) shall be calibrated and maintained in accordance with manufacturer's specifications to ensure accurate measurements. All laboratory analyses must be conducted according to test procedures pursuant to 40 CFR Part 136, unless other test procedures have been specified in this General Permit or by the San Diego Water Board. All metals shall be reported as total metals.

7. Records

In addition to the information required by Attachment D, Standard Provisions, section IV.B, records of storm water monitoring information shall include:

- a. The date, place and time of visual observations;
- b. The individual(s) who performed the visual observations;
- c. Volume estimates;
- d. Method detection limits used;
- e. Quality assurance/quality control records and results;
- f. Non-storm water discharge visual observation and storm water discharge visual observation records (see sections VI.D.1 and VI.D.2 of this MRP);
- g. Visual observation and sample collection exception records (see sections VI.D.3 and VI.D.5);
- h. All calibration and maintenance records of on-site instruments used; and
- i. The records of any corrective actions and follow-up activities that resulted from the visual observations.

8. Annual Storm Water Monitoring Report

- a. The Discharger shall submit an Annual Storm Water Monitoring Report by August 1st of each year to the San Diego Water Board. The report shall include:
 - i. A summary of visual observations and sampling and analysis results;
 - ii. An evaluation of the visual observation and sampling and analysis results;
 - iii. Laboratory reports with the original analysis results including any quality assurance / quality control information;
 - iv. An explanation of why the Discharger did not implement any activities required by this General Permit; and
 - v. Records specified in section VI.D.7 of this MRP.
- b. An authorized person in accordance with section V.B Standard Provisions - Reporting of Attachment D, shall sign the Annual Storm Water Monitoring Report.

Based on a review of the Discharger's SWPPP and the Annual Storm Water Monitoring Report, the San Diego Water Board may direct the Discharger to monitor at different and/or additional storm water discharge points.

E. Monitoring Requirements Specific to Marine Group Boat Works – National City**1. Floating Drydock Submergence/Emergence Water Discharge**

Marine Group Boat Works – National City shall provide written notification to the San Diego Water Board 48 hours prior to flooding of its floating drydock. If the drydock has to be flooded on a short notice and the 48 hour notification time cannot be met, the Discharger shall notify the San Diego Water Board as early as possible and include information on why the notification time could not be met.

The Discharger shall document the condition of its drydock prior to each flooding. The conditions will be digitally documented either by video or photographs. The video must be in DVD format or other computer file format compatible with MS Windows such as mpg (Moving Picture Experts Group), avi (Audio Video Interleave), or wmv (Windows Media Video), and the photographs must be digital photographs that show the correct date and time on each picture. Video or photographs shall document conditions at the initial flooding of the facilities. If flooding is to occur at night, video or photographs shall be taken during daylight hours as close to the flooding event as possible.

The Discharger shall submit documentation of the facility conditions annually to the San Diego Water Board in accordance with Table E-6 of this MRP.

If a floating drydock was not flooded during the year, the Discharger shall document in the annual effluent monitoring report that no flooding occurred during that period.

2. Floating Drydock Ballast Tank Certification

Marine Group Boat Works – National City shall submit US Navy and ASTM reports certifying the integrity of the floating drydock ballast tanks annually, in accordance with Table E-6.

VII. REPORTING REQUIREMENTS**A. General Monitoring and Reporting Requirements**

1. The Discharger shall comply with all Standard Provisions (Attachment D) related to monitoring, reporting, and recordkeeping.
2. The Discharger shall report all instances of noncompliance at the time monitoring reports are submitted.

B. Self-Monitoring Reports (SMRs)

1. At any time during the term of this General Permit, the State Water Board or San Diego Water Board may notify the Discharger to electronically submit Self-Monitoring Reports (SMRs) using the State Water Board's California Integrated

Water Quality System (CIWQS) Program Web site (<http://www.waterboards.ca.gov/ciwqs/index.html>). Until such notification is given, the Discharger shall submit hard copy SMRs. The CIWQS Web site will provide additional directions for SMR submittal in the event there will be service interruption for electronic submittal.

2. The Discharger shall report in the SMR the results for all monitoring specified in this MRP under sections III through VI of this Order. The Discharger shall submit quarterly SMRs including the results of all required monitoring using USEPA-approved test methods or other test methods specified in this General Permit. If the Discharger monitors any pollutant more frequently than required by this General Permit, the results of this monitoring shall be included in the calculations and reporting of the data submitted in the SMR.
3. Unless otherwise noted in the MRP, monitoring periods and reporting for all required monitoring shall be completed according to the following schedule:

Table E-6. Monitoring Periods and Reporting Schedule

Report	Report Frequency	Sample Frequency	Monitoring or Reporting Period	Report Due Date
Marine Group Boat Works – National City Drydock Sample Results	Quarterly	Quarterly	January 1 -March 31 April 1 - June 30 July 1- September 30 October 1 – December 31	May 1 August 1 November 1 February 1
Annual Compliance Certification	Annual	-	July 1 through June 30	August 1
Spill/ Illicit Discharge Log	Annual	-	July 1 through June 30	August 1
Annual Storm Water Report	Annual	2 qualifying storm events per year ³	July 1 through June 30	August 1
Marine Group Boat Works – National City Drydock Submergence Report and Ballast Tank Certification	Annual	-	July 1 through June 30	August 1
NEC Annual Recertification	Annual	-	July 1 through June 30	August 1

4. **Compliance Determination.** Compliance with effluent limitations for reportable pollutants shall be determined using sample reporting protocols defined in Attachment A and section XVI of this General Permit. For purposes of reporting and administrative enforcement by the San Diego and State Water Boards, the Discharger shall be deemed out of compliance with effluent limitations if the

concentration of the reportable pollutant in the monitoring sample is greater than the effluent limitation and greater than or equal to the reported ML.

5. The Discharger shall submit SMRs in accordance with the following requirements:

- a.** The Discharger shall arrange all reported data in a tabular format. The data shall be summarized to clearly illustrate whether the facility is operating in compliance with interim and/or final effluent limitations. The Discharger is not required to duplicate the submittal of data that is entered in a tabular format within CIWQS. When electronic submittal of data is required and CIWQS does not provide for entry into a tabular format within the system, the Discharger shall electronically submit the data in a tabular format as an attachment.
- b.** The Discharger shall attach a cover letter to the SMR. The information contained in the cover letter shall clearly identify violations of the waste discharge requirements; discuss corrective actions taken or planned; and the proposed time schedule for corrective actions. Identified violations must include a description of the requirement that was violated and a description of the violation.
- c.** SMRs must be submitted to the San Diego Water Board, signed and certified as required by the Standard Provisions (Attachment D, section V.B), to the address listed below:

California Regional Water Quality Control Board, San Diego Region

9174 Sky Park Court, Suite 100

San Diego, CA 92123-4340

or the new address if the office has moved

C. Discharge Monitoring Reports (DMRs) – Not Applicable

D. Other Reports

As specified in this Order, special reports or program components shall be submitted in accordance with the following reporting requirements.

Table E-7. Other Reporting Requirements

Document	Permit Section	Date
NAL Level 1 Exceedance Report	General Permit, section V.C.2.c	August 1 of the following reporting year
NAL Level 2 Exceedance Report	General Permit, section V.C.3.c	August 1 of the following reporting year
SWPPP consistent with Attachment H	General Permit, section X.B	90 Days from the Order effective date
Detailed TRE Workplan	Attachment E, section IV.C.2	30 Days from receipt of a second toxicity test which exceeds the limitation
TRE Findings Report	Attachment E, section IV.C.6	1 Year from implementation of the TRE

Document	Permit Section	Date
Notification of exceedance of the toxicity effluent limitation	Attachment E, section IV.D.2	14 Days from receipt of the test result
Receiving Water and Sediment Monitoring Plan	Attachment E section V.A.2	90 Days from the Order effective date or issuance of NOE

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ATTACHMENT F – FACT SHEET

As described in section II of this General Permit, this Fact Sheet includes the legal requirements and technical rationale that serve as the basis for the requirements of this General Permit.

I. DISCHARGE INFORMATION

A. Introduction

This General Permit covers existing discharges of storm water from boatyards and boat maintenance and repair facilities located adjacent to surface waters within the San Diego Region. In addition, this General Permit covers an existing discharge of ballast and flood water from a floating drydock located at Marine Group Boat Works – National City.

The federal Clean Water Act (CWA) requires that point source discharges of pollutants to waters of the United States be permitted in accordance with the National Pollutant Discharge Elimination System (NPDES). Title 40 Code of Federal Regulations (CFR) 122.28 provides for the issuance of general permits to regulate discharges of waste which result from the same or substantially similar operations, are the same type of waste, require similar permit conditions, and require similar monitoring. Nine known boatyards with similar operations and discharges are located within the San Diego Region. Currently, these nine Dischargers have been issued individual NPDES Permits with similar conditions. Due to the same or substantially similar operations at each of the facilities, and the similar regulatory and monitoring requirements previously established for these facilities, the San Diego Water Board has elected to issue a general permit for storm water discharges from boatyards and boat maintenance and repair facilities instead of issuing several individual permits.

The CWA prohibits certain discharges of storm water containing pollutants except in compliance with an NPDES permit (Title 33 United States Code (USC) §§ 1311 and 1342(p); CWA §§ 301 and 402(p)). The United States Environmental Protection Agency (USEPA) promulgates federal regulations to implement the CWA's mandate to control pollutants in storm water runoff discharges 40 CFR Parts 122, 123, and 124). Facilities that discharge storm water "associated with industrial activity" requiring a permit are listed by Standard Industrial Classification (SIC) code in 40 CFR 122.26(b)(14). USEPA issued a Multi-Sector General Permit (MSGP) in 2008. Ship and boat building or repairing yards (SIC Code 3732) are classified as Sector R—Ship and Boat Building and Repairing Yards in the MSGP. The MSGP provides coverage for industrial facilities that discharge storm water in areas not covered by an approved state NPDES program. On September 22, 1989, USEPA granted the State of California, through the State Water Resources Control Board (State Water Board) and the Regional Water Control Quality Control Boards (Regional Water Boards), authority to issue general permits pursuant to 40 CFR Parts 122 and 123.

On April 17, 2007, the State Water Board adopted Water Quality Order No. 97-03-DWQ, a general permit for discharges of storm water associated with industrial activities excluding construction activities (Statewide Industrial General Permit). The Statewide Industrial General Permit addressed the discharge of storm water discharges from industrial facilities, including ship and boat building or repair yards. However, the Statewide Industrial General Permit allows Regional Water Boards to determine that discharges from a facility or group of facilities, otherwise eligible for coverage under the Statewide Industrial General Permit may not be appropriately addressed by the Statewide Industrial General Permit, and require these facilities to seek coverage under an individual or a different general permit.

Certain pollutants potentially contained in discharges of storm water or drydock flood water from boatyards and boat maintenance and repair facilities threaten to cause or contribute to excursions above narrative and numeric water quality objectives contained in state and federal regulations. These types of discharges could pose a chronic or acute toxicity risk to saltwater aquatic animal and plant life. Pollutants of concern include, but are not limited to biochemical oxygen demand (BOD), copper, oil and grease, pH, tributyltin (TBT), total organic carbon (TOC), total suspended solids (TSS), and zinc. Due to the substantial threat to water quality of these water front boatyard and boat maintenance and repair operations, the materials used in the operations, and the wastes generated, the San Diego Water Board has elected to develop a general permit specific to boatyard operations.

Therefore, discharges from boatyards and boat maintenance and repair facilities and drydocks used for these same purposes are not regulated by the USEPA MSGP or Statewide Industrial General Permit. However, this General Permit for boatyards contains many of the same provisions as those in the MSGP and Statewide Industrial General Permit, as they apply to boatyards and boat maintenance and repair facilities.

Most boatyards discharge only storm water. One of the facilities to be covered under this General Permit (Marine Group Boat Works – National City) discharges ballast water and drydock floodwater to San Diego Bay. Typically general permits do not include specific requirements for individual facilities, however since the operations at Marine Group Boat Works – National City closely mirror the operations of other boatyards covered under this General Permit, the San Diego Water Board has included specific requirements for the discharge of drydock ballast water and drydock flooding water from Marine Group Boat Works – National City, so that the facility may also receive coverage under this General Permit. Requirements specific to Discharge Point No. BW-KAC-001 for drydock ballast water are applicable only to Marine Group Boat Works – National City, and are not applicable to other boatyards that receive coverage under this General Permit.

B. Background

On December 14, 2005, the San Diego Water Board adopted seven individual Waste Discharge Requirements (WDRs) for discharges of storm water to San Diego Bay from

boatyards and boat maintenance and repair facilities within the San Diego Region. The San Diego Water Board adopted an additional three individual WDRs for discharges of storm water to Dana Point Harbor, Oceanside Harbor, and Mission Bay from boatyards and boat maintenance and repair facilities within the San Diego Region on April 12, 2006. Each of the individual permits issued in 2005 and 2006 have similar effluent limitations and monitoring requirements, due to the similar operations that take place at these facilities. As a result, the San Diego Water Board has decided to issue a general permit for the discharges of storm water from boatyards and boat maintenance and repair facilities instead of issuing individual permits. Since 2005 and 2006, one boatyard has gone out of business. Initially a total of nine boatyards and boat maintenance and repair facilities will be eligible for enrollment under this General Permit. The San Diego Water Board may add additional enrollees at their discretion.

On March 16, 2010, Knight and Carver YachtCenter, Inc. submitted an application to add a 4,000-ton floating drydock (Diligence) to the facility covered under Order No. R9-2005-0149. On September 8, 2010, the San Diego Water Board adopted Order No. R9-2010-0096, an Order modifying the individual permit for Knight and Carver YachtCenter, Inc. to address the discharge of drydock ballast and flood water.

By letter dated April 3, 2013, Marine Group Boat Works, LLC informed the San Diego Water Board that Marine Group Boat Works, LLC acquired the assets of Knight and Carver Yachtcenter on March 29, 2013. The Marine Group Boat Works assumed responsibility for the Knight and Carver NPDES Permit including the drydock. The facility will be referred to as Marine Group Boat Works – National City. As discussed in section I.A of this Fact Sheet, this General Permit establishes individual requirements for the discharge of drydock ballast and flood water from the Marine Group Boat Works – National City. floating drydock (Diligence).

C. Discharge Description

Boatyards and boat maintenance and repair facilities conduct activities that include but are not limited to, exterior/interior surface coating application/removal (e.g., painting and sanding), wood work, metal work, fiberglass work, hydrowashing, hull cleaning, engine repair, general mechanical/fixture repair, and hazardous waste storage. These industrial activities along with material handling equipment or activities, raw materials, by-products, waste materials or industrial machinery, generate pollutants that have the potential to discharge to receiving waters when exposed to storm water. Potential pollutants often associated with boat maintenance and repair operations include: BOD, copper, oil and grease, pH, TOC, TSS, and zinc. These pollutants can be discharged with storm water, drydock flood water, or other non-storm water discharges. BMPs and a Storm Water Pollution Prevention Plan must be implemented to eliminate and minimize the discharge of pollutants.

TBT antifouling paint was a potential storm water pollutant in the past, but all TBT antifouling paint product registrations have been cancelled. Cancellation of the last such registration was effective in December 2005. The effective date is the last date the product can be sold by the registrant.

1. Driscoll Boat Works/Driscoll Custom Boats

The Facility has three travel lifts for removing boats from the water. The Facility is 35,000 square feet (approximately 0.8 acres) of impervious surface graded towards the center where water is directed to the Facility treatment system. A 1 ½ inch steel berm is installed across the waterfront to prevent discharges. The Facilities treatment system consists of an oil and water separator, clarifier, high-capacity 10-micro Hayward filter, and two 10,000 gallon holding tanks. Once the tanks are full, additional storm water is discharged to the receiving water. Effluent from the tanks is discharged to the sanitary sewer after the storm.

2. Marine Group Boat Works – National City (Formerly Knight & Carver YachtCenter Inc.)

The Facility has a travel lift as well as a floating drydock. All water from the land is directed to a 50,000 gallon tank and can also be detained in a low area containing approximately 120,000 gallons. From the tank, water goes through a small three-stage oil separation, clarification, filtration system before discharge to the sanitary sewer.

The Marine Group drydock is used to conduct repair and maintenance activity which cannot normally be conducted while a vessel is waterborne. These activities generally include exterior hull repair; abrasive blasting; hydroblasting; painting; the repair or replacement of shafts, propellers, and rudders; and the repair or replacement of valves and fittings below the waterline. Vessel launching and recovery is accomplished by means of integral ballast tanks, which take in seawater and discharge it to San Diego Bay to raise and lower the drydock. Ballast water is not in contact with any repair or maintenance materials. Potential pollutants in drydock ballast water include sediment and solids that may enter the drydock ballasts, and pollutants already present in the San Diego Bay water pumped into the ballasts.

The drydock is configured to prevent any waste including industrial process water, storm water, and wash water from entering the receiving water by directing the water to the onshore tanks. BMPs and a SWPPP are required to prevent the discharge of pollutants during the flooding of the drydock.

By letter dated April 4, 2013, the Marine Group Boat Works, LLC informed the San Diego Water Board that the Marine Group had acquired the assets of Knight and Carver Yachtcenter and assumed responsibility for the Knight and Carver NPDES Permit on March 29, 2013.

3. Koehler Kraft Company, Inc.

The Facility employs a winch-driven marine railway system for removing boats from the water and transporting them within the yard. A crane is also available for engine removal and the lifting of small craft from the water with slings. The Facility grounds

are approximately 28,000 square feet (approximately 0.64 acres) and comprised almost entirely of impervious surfaces. Storm water and hydrowash water is collected in the evaporation basin in the center of the Facility. Water can be pumped through a series of filters and sent to sprinklers to allow the water to run back over the concrete to increase evaporation. All water is evaporated so there is no discharge to the receiving water or the sanitary sewer.

4. Nielsen Beaumont Marine

The Facility has a travel lift. The Facility has been redesigned so there are no areas that directly drain to the receiving water. A treatment system with screening, settling, media filter, and ultraviolet light is used to recycle hydrowash water and treat storm water before it is discharged to the sanitary sewer. Storm water is stored in two tanks and by flooding the yard. After the storm, water can be discharged to the sanitary sewer. Mr. Nielsen reports that the facility can control a 4.5 inch storm event which is more than a 100 year storm.

5. Shelter Island Boatyard

The Facility grounds are approximately two acres and comprised entirely of impervious, paved surfaces with a travel lift. The Facility also includes three acres of docks and slips located on the receiving water. Storm water and process water are treated in three-stage clarifier units. During dry-weather, process water is discharged directly to the sanitary sewer. Storm water is further treated by 800-micron filtrations systems and stored in four 10,000 gallon storage tanks for a total of 40,000 gallons of storage. Portable Baker tanks are brought on-site to provide additional storage. Storm water is discharged to the sanitary sewer.

6. The Marine Group, LLC (Formerly South Bay Boat Yard)

The Facility grounds consist of approximately 400,000 square feet (approximately 9.18 acres) comprised entirely of impervious concrete and asphalt paved surfaces with three travel lifts. Storm water is collected in sumps which settle out solids, then pumped to six 10,000 gallon tanks for a total of 60,000 gallons of storage. Water from the tanks is discharged to the sanitary sewer.

7. Dana Point Shipyard

The Facility grounds are comprised of impervious surfaces of either concrete or asphalt with a travel lift. In the existing permit, Dana Point Shipyard had two discharge points: C-001 and C-002. All repair and construction activities take place in the area drained by Discharge Point C-001 which is approximately 43,560 square feet. The area drained by discharge point C-002 which was used strictly for boat storage has returned to the County of Orange on July 1, 2012, and is no longer under the control of Dana Point Shipyard.

A new storm water treatment system has been installed for Discharge Point C-001. The treatment system includes an existing clarifier and new facilities including a flocculent injection system, 2,500 gallon storage and settling tank, four bag filter vessel, and single media vessels with metal removing media. The system will have valves to select discharge to the sanitary sewer, recycling, or discharge to the harbor.

8. Driscoll Mission Bay, LLC

The Facility grounds are approximately 3.5 acres, of which approximately 1.5 acres are dedicated to boat repair and maintenance operations with two travel lifts. The remaining property consists of office space, parking, and some storage sheds and outbuildings. The work areas are comprised entirely of a mixture of impervious asphalt and concrete surfaces. Storm water and process water from each hydrowash unit is run through a coarse filter and two-stage clarifier, and then pumped through another filter to remove additional particulate material 0.0625 inches or larger. After that final filter, effluent continues into the first of three above-ground interconnected 12,000 gallon settling and storage tanks for a total of 36,000 gallons of storage. Water from the last tank is discharged to the sanitary sewer.

9. Oceanside Marine Centre, Inc.

The Facility retains the first-flush (0.1 inch) and provides a primary level of treatment for the remainder of the captured storm water before discharging it directly to the receiving water (Oceanside Harbor). The Facility grounds are approximately 20,550 square feet in size with two drainage areas comprised of paved and unpaved surfaces with a travel lift. There are two storm water treatment systems, one for the Northern Drainage Area and one for the Southern Drainage Area. Water from the Northern Drainage Area first enters a retaining pond area with about 8,000 gallons capacity with a large-diameter standpipe that can be rotated and sealed to contain water around a clarification unit. Water from the Northern Drainage area then flows into the standpipe to a collection trap for large particles, followed by a below-ground three-stage clarification system to remove finer particles and discharges to Oceanside Harbor via Discharge Point SW-OMC-02. This is the stated method by which the Discharger holds the first-flush (0.1 inch) of storm water for treatment and recycling; before a rain, a plug is inserted and the pipe rotated so water is collected and not directly discharged. Treatment for the Southern Drainage Area consists of the settling of particles through the use of an above-ground three-stage clarifier followed by a secondary containment tank that is then used for an irrigation system. Any effluent beyond the capacity of the secondary tank is discharged to Oceanside Harbor via Discharge Point SW-OMC-01.

D. Summary of Existing Requirements

A summary of the existing requirements for the nine boatyards is provided below:

1. The individual permits for each of the nine boatyards and boat maintenance and repair facilities have the same effluent limitation for acute toxicity:
 - a. The acute toxicity of storm water runoff to surface waters or to storm drains shall not be less than seventy (70) percent survival as determined by a 96-hour bioassay based on a grab sample.
2. The individual permits for each of the nine boatyards and boat maintenance and repair facilities have the following discharge prohibitions in common:
 - a. The discharge of industrial process water is prohibited;
 - b. The discharge of first-flush (0.1 inch) storm water runoff from the Discharger's maintenance and repair areas is prohibited;
 - c. Discharges of wastes in a manner or to a location which have not been specifically authorized are prohibited;
 - d. Odors, vectors, and other nuisances of waste origin, beyond the limits of the property; and
 - e. If the Discharge intends to reuse or recycle stored or contained storm water for use in processing activities (e.g., hydrowashing vessels, general wash down), then the reused/recycled water will be considered industrial process water and is prohibited from discharge to waters of the United States.
3. Four of the 9 individual permits for the 9 boatyards and boat maintenance and repair facilities also have a discharge prohibition prohibiting hydrowashing and sand blasting operations during a storm event with the potential to discharge storm water runoff to receiving water.
4. Each of the individual permits for the boatyards and boat maintenance and repair facilities required Dischargers to develop and implement a Best Management Practices (BMP) Plan and a Storm Water Pollution Prevention Plan (SWPPP). The BMP Plan identifies Facility personnel responsible for the proper implementation of the BMP and includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the offsite discharge of generated pollutants from year-round industrial activities. The SWPPP requires the Discharger to conduct a regular assessment of the potential for various sources to contribute pollutants to storm water discharges and that storm water pollution prevention practices are effectively removing pollutants from storm water discharges during the wet season. This General Permit requires Dischargers to maintain updated SWPPPs and to continue to implement the plan during the permit term. The requirements of the BMP Plans have been included as part of the SWPPP.

5. The Monitoring and Reporting Program (MRP) included in the individual permits for the 9 boatyards and boat maintenance and repair facilities requires the Discharger to report quarterly storm water and non-storm water visual observations. The quarterly and annual monitoring data required in each of the individual permits for submittal to the San Diego Water Board for review include:
 - a. Compliance Certifications that the Discharger has eliminated the discharge of the first-flush storm water runoff for each storm event and industrial process water discharges.
 - b. Spill/Illicit Discharge Log listing all spills and illicit discharges from the Facility.
 - c. Chemical Utilization Audit Forms describing hazardous materials used at the Facility which may be discharged to the bay, surface waters, or conveyance systems.
 - d. Tributyltin Log of work done on tributyltin (TBT) painted vessels within its leasehold.
 - e. Waste Hauling Log including final copies of all Uniform Hazardous Waste Manifest forms, or a log, documenting the volume, type, disposition, and date of disposal of hazardous waste and recycled wastes, which meet the hazardous waste criteria specified in Title 22 of the California Code of Regulations.
 - f. Storm Water and Non-Storm Water Monitoring describing visual observations conducted by the Discharger of all storm water discharges from its Facility during one storm event per month during the wet season (October 1 through May 31). The Discharger conducts quarterly visual observations of all drainage areas within the Facility for the presence of unauthorized non-storm water discharges to waters of the United States other than those to the sanitary sewer system.
 - g. Sampling and Analysis of storm water samples collected by the Discharger during the first hour of discharge to the receiving water or to the storm water conveyance system.
 - h. Annual Vessel Owner Compliance Certification submitted in the annual monitoring report to document compliance with the Basin Plan prohibitions regarding discharges from vessels.
 - i. Sediment Chemistry Monitoring of surficial sediment samples conducted by the Dischargers at specified stations within each leasehold and at designated reference stations.
6. In addition to storm water requirements, Order No. R9-2010-0096 for Knight and Carver Yachtcenter, Inc. establishes prohibitions, effluent limitations, and monitoring requirements specific to floating drydock ballast water.

- a. Order No. R9-2010-0096 prohibits the discharge of the first-flush (0.1 inch) of storm water runoff from the drydock.
- b. Final effluent limitations established in Order No. R9-2010-0096 include:

Table F-1. Historic Effluent Limitations for Knight and Carver YachtCenter Drydock (now Marine Group Boat Works – National City)

Parameter	Units	Effluent Limitations		
		Average Monthly	Weekly Average	Instantaneous Maximum
Oil and Grease	mg/L	25	40	75
Settleable Solids	ml/L	1.0	1.5	3.0
Turbidity	NTU	75	100	225
pH	Standard Units	--	--	1
Temperature	°F	--	--	2
Acute Toxicity	--	--	--	3
Chronic Toxicity	Pass/Fail	--	--	1 ⁴

¹ Discharges shall be between 7.0 and 9.0 at all times.

² Discharges shall not be greater than 20 °F over the natural temperature of the receiving water at any time.

³ The acute toxicity shall not be less than 70 percent survival as determined by a 96-hour bioassay.

⁴ Discharges shall achieve a rating of 1 TUc for chronic toxicity.

- c. Order No. R9-2010-0149 required the implementation and maintenance of a BMP Plan to prevent the discharge of any ship repair or other pollutants generated on the floating drydock, as well as BMPs for floating drydock ballast water discharges.
- d. Order No. R9-2010-0149 established quarterly and annual monitoring for pollutants of concern and monitoring for priority pollutants twice during the permit term.
- e. Unique monitoring requirements contained within Order No. R9-2010-0149 for discharges associated with the drydock included:
 - i. Floating Drydock Submergence/Emergency Water Discharge:
 - (a) The Discharger was required to provide written notification to the San Diego Water Board 48 hours (or as early as possible if 48 hours is not possible) prior to flooding of its floating drydock.
 - (b) The Discharger was required to document the condition of its drydock prior to each flooding either by digital photographs or video.
 - ii. Floating Drydock Ballast Tank:
 - (a) The Discharger was required to submit US Navy and ASTM reports certifying the integrity of the floating drydock ballast tanks annually.

E. Boatyard Compliance Summary

All the boatyards, with the exception of Oceanside Marine Centre, Inc., have had no discharges of storm water from their facilities during the last permit period.

During an inspection of Driscoll Custom Boats on May 11, 2011, the primary on-site Facility representative stated that no discharges to the receiving water had occurred during the life of the permit (since January 1, 2006).

During an inspection of Knight & Carver YachtCenter Inc. on May 11, 2011, the primary on-site Facility representative stated that no storm or process water had been discharged to the receiving water (San Diego Bay) from the Facility during the life of the permit (January 1, 2006). Marginally maintained BMPs (i.e., wattles and filter bags) were observed in several breaks between a concrete curb or berm that separated an industrial process area of the Facility and a parking area containing a storm drain that discharges directly to the receiving water.

During an inspection of Koehler Kraft Company, Inc. on April 29, 2011, the primary on-site Facility representative stated that no storm or process water had been discharged to the receiving water (San Diego Bay) from the Facility during the life of the permit (January 1, 2006).

During an inspection of Nielsen Beaumont Marine on May 9, 2011, the primary on-site Facility representative stated that the Facility had not discharged to the receiving water during the life of the permit (since January 1, 2006). Sawdust, paint chips, and metal filings were observed on the marine railway in a location that discharges directly to the receiving water. During an inspection on November 7, 2012, the facility had no visible waste and the marine railway has been removed.

During an inspection of Shelter Island Boatyard on May 11, 2011, the primary on-site Facility representative stated that no discharges of untreated or treated storm water or process water had been made to the receiving water (Shelter Island Yacht Basin, San Diego Bay) during the life of the permit (since January 1, 2006).

During an inspection of The Marine Group, LLC (Formerly South Bay Boat Yard) on May 10, 2011, the primary on-site Facility representative stated that no discharges to the receiving water had occurred during the life of the permit (since January 1, 2006).

During an inspection of Dana Point Shipyard on April 26, 2011, a Facility representative stated that Discharge Point No. C-001 has been sealed, that no discharges to the receiving water (Dana Point Harbor) have occurred, and that all effluent is directed to the sanitary sewer system.

During an inspection of Driscoll Mission Bay, LLC on April 29, 2011, the Facility representative stated that by their own internal policy, no effluent discharges to the receiving water of either process or storm water are ever made, and that no discharges had occurred during the time period of the current permit. Large amounts of sawdust,

paint chips, metal filings and other debris were observed on the ground throughout in the Facility's Back Yard area. Some materials and stockpiles were placed on pallets; however, many materials were also observed directly on the ground. Several storm water drains were observed to be clogged, and the potential exists for several other storm water drains in the Back Yard that lead to the Facility's treatment system to clog due to the amount of debris observed. Large portions of the perimeter of the Back Yard lacks containment (i.e., berms), and if a storm drain was clogged, storm water containing pollutants could easily run to offsite areas, including the nearby receiving water, Mission Bay. The amounts of debris present and condition of the storm drains observed indicates that the SWPPP and BMP Plan are not being implemented and maintained. This Major Finding was also noted in the previous inspection report.

Oceanside Marine Centre, Inc. has frequent storm water discharges. Sampling is required for two storms per year for volume, pH, TSS, TPH, copper, zinc, and TBT. Since 2006, seven storms have been sampled for these parameters. For the storms sampled, volume and TBT were never reported and only some storms have results for TPH, TSS, and pH. Toxicity sampling is required on 1 storm per year, but only 3 storms have been sampled for toxicity since 2006. The samples exceeded the benchmarks for Order R9-2006-0021 and Numeric Action Levels (NALs) for TSS, copper, and zinc in 83%, 80%, and 30% of the samples respectively. The toxicity effluent limitation from Order R9-2006-0021 was exceeded 1 time out of 6 samples. Lead was below the NAL for all samples.

Table F-2. Oceanside Marine Centre Sample Results

Date	Outfall	TPH (mg/L)	TSS (mg/L)	pH	Copper (mg/L)	Zinc (mg/L)	TBT (mg/L)	Toxicity % Survival	Lead (mg/L)
2/28/2012	South	--	250	7	4.6	1.2	--	--	0.17
2/28/2012	North	--	23	6.7	0.23	0.077	--	--	nd
2/15/2012	North	810	--	8	0.037	0.024	--	100%	nd
2/15/2012	South	820	--	8	0.036	0.026	--	95%	nd
11/26/2008	North	--	--	7.5	1.4	0.21	--	--	--
11/26/2008	South	--	--	7.5	1.8	0.26	--	--	--
12/20/2008	North	--	--	--	--	--	--	30%	--
12/20/2008	South	--	--	--	--	--	--	90%	--
4/20/2007	North	--	370	--	4.1	0.8	--	--	0.18
4/20/2007	South	--	160	--	3.6	0.98	--	--	0.15
2/22/2007	North	nd	1100	--	0.029	0.087	--	--	0.028
2/22/2007	South	nd	820	--	0.087	0.11	--	--	nd
12/9/2006	North	--	--	--	--	--	--	95%	--
12/9/2006	South	--	--	--	--	--	--	100%	--
Limits/ Benchmarks from previous permits									
		n/a	100	6-9	0.0636	0.117	n/a	70%	n/a
NALs in this General Permit		n/a	100	6-9	0.0332	0.26	n/a	n/a	0.262

- Analysis was not performed for this parameter in this sample.
- nd The sample result was "Not Detected" for this parameter
- n/a There is not an effluent limitation, benchmark, or NAL for this constituent.

During a storm from January 17 to 22, 2010, industrial process water and industrial storm water was discharged from Oceanside Marine Centre, Inc. due to upstream flooding from a development on Camp Pendleton.

II. PERMIT INFORMATION

This General Permit supersedes the individual NPDES permits identified in Table F-3 for the discharge of storm water (and floating drydock ballast water) within the San Diego Region. The Dischargers identified in Table F-3 will be automatically enrolled under this General Permit unless the San Diego Water Board receives written request from the Discharger to be covered under an individual NPDES permit.

A. Eligibility Criteria

Discharges covered by this General Permit are limited to industrial storm water from boatyard and boat maintenance and repair facilities in the San Diego Region adjacent to surface water, and drydock ballast water from Marine Group Boat Works – National City's floating drydock. Boatyards eligible for coverage under this General Permit are summarized in Table F-3.

Table F-3. Eligible Boatyards in the San Diego Region

Discharger Name	NPDES Number
Driscoll Custom Boats	CA0109061
The Marine Group Boat Works, LLC (Formerly Knight and Carver YachtCenter)	CA0109088
Koehler Kraft Company, Inc.	CA0109096
Nielsen and Beaumont Marine	CA0109100
Shelter Island Boatyard	CA0109118
The Marine Group Boat Works, LLC (Formerly, Southbay Boat Yard)	CA0109126
Dana Point Shipyard	CA0109312
Driscoll Mission Bay, LLC	CA0109291
Oceanside Marine Centre Inc.	CA0109304

Other boatyards and boat maintenance and repair facilities located within the San Diego Region may be enrolled under this Order subject to the eligibility criteria described in section I.A. of this Order after submission of a Notice of Intent or No Exposure Certification (NEC) registration documents subject to the discretion of the San Diego Water Board.

B. Notice of Intent Application

Enrollment under this General Permit is initially limited to those discharges described in section II.A of this Fact Sheet. Report of waste discharges submitted for the renewal of

each facility's individual Order have been used to determine eligibility and enrollment under this General Permit.

Any person proposing to discharge pollutants in storm water runoff from a boatyard or a boat maintenance and repair facility not identified in Table F-3 above shall file a Notice of Intent (NOI)(Attachment C) with filing fee and obtain authorization from the San Diego Water Board prior to initiating the discharge.

C. No Exposure Certification (NEC) Coverage

In 1999, USEPA adopted additional storm water regulations, known as Phase II. (64 Fed. Reg. 68722.) The Phase II regulations provide for, among other things, exclusions from NPDES permits for industrial activities that have no exposure to storm water. This General Permit applies USEPA's Phase II rules regarding a conditional exclusion for facilities where there is no exposure of industrial activities and materials to storm water. This General Permit meets USEPA rules allowing any type of industry to claim the conditional exclusion. In this General Permit, the NEC requires enrollment for coverage but conditionally excludes Dischargers from a majority of the requirements.

This Order requires Dischargers who seek the NEC conditional exclusion to obtain coverage in accordance with section XI of this Order. Dischargers seeking NEC coverage are required to file the applicable permit registration documents: NEC Form, NEC Report, site map, and annual fee. NEC coverage becomes effective when the San Diego Water Board issues the Discharger a NEC approval letter. Annual inspections, re-certifications, and fees are required in subsequent years. Failure to comply with the Conditional Exclusion conditions listed in this Order will lead to enforcement for discharging without a permit pursuant to sections 13385 and 13399 of the Water Code. A Discharger that anticipates a change (or changes) in circumstances that would lead to exposure should register for permit coverage prior to the anticipated changes.

Dischargers that certify their facility has no exposure of industrial activities or materials to storm water in accordance with section XI are not required to implement a SWPPP or comply with the monitoring requirements of this General Permit except a SWPPP is required if secondary containment is used to satisfy NEC requirements. If the entire facility is protected by secondary containment to prevent a discharge of storm water, a SWPPP and BMPs are required to prevent an airborne or accidental discharge to surface waters. Dischargers are required to conduct an annual facility compliance evaluation as described in section XI.F of this Order, pay an annual fee, and annually certify that their facilities continue to satisfy the NEC requirements.

Dischargers must file for NEC coverage by submitting the following items to the San Diego Water Board:

1. No Exposure Certification Form with Signed Certification Statement (Attachment J)
2. No Exposure Certification Report (see section XI.E.2 of this Order)

3. Current Site Map Consistent with Requirements in section XI.E.2.c of this Order included in the NEC Report
4. Annual Fee (Pursuant to Water Code section 2200.5) for new dischargers. Existing dischargers will be invoiced appropriately.

D. Coverage

Coverage will be effective for the boatyards identified in Table F-3 above upon the effective date of this Order. Coverage for boatyards or boat maintenance and repair facilities not identified in Table F-3 will be effective when the San Diego Water Board issues the Discharger a Notice of Enrollment (NOE) which may include additional or increased monitoring or other facility specific requirements due to site specific circumstances of the discharge or facility. The effective enrollment date will be specified in the NOE and the Discharger is authorized to discharge starting on the date specified in the NOE.

E. Termination of Discharges

Dischargers shall submit a written request referred to as a "Notice of Termination (NOT)" to the San Diego Water Board when coverage under this General Permit is no longer required. Discharger eligibility for termination can be established under the following conditions:

1. A new owner or operator has taken over responsibility for the facility; or
2. The Discharger has ceased operations at the facility, there are not or no longer will be discharges of storm water associated with boatyard and boat maintenance and repair operations from the facility; or
3. The Discharger has obtained coverage under an individual or alternative general permit for all discharges required to be covered by an NPDES permit.

The NOT letter constitutes a notice that the Discharger (and his/her agent) at the site has ceased the discharge of storm water under this General Permit. The NOT should include "Notice of Termination" In the subject line, the Waste Discharge Identification Number (WDID No.) assigned to the Discharger by the San Diego Water Board when enrolled under the General Permit, the name and address of the boatyard or boat maintenance and repair facility, and be signed and dated in accordance with the signatory requirements of the General Permit. The Discharger shall continue to comply with the requirements of this General Permit until the San Diego Water Board approves the NOT. Submittal of a NOT letter does not guarantee termination. Approval of the NOT does not relieve the Dischargers responsibility for paying any applicable outstanding invoices of annual fees or submitting any outstanding required reports as a result of enrollment under this General Permit.

F. Transferring Ownership

Enrollment under the Order is not transferable. The enrolled Discharger must submit an NOI to the San Diego Water Board in the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the enrolled Discharger. The new succeeding owner or operator must submit an NOI for application of enrollment under this General Permit and obtain authorization from the San Diego Water Board.

G. Discharge Points and Receiving Waters

Under wet weather conditions the potential exists for storm water discharges to surface waters, enclosed bays, harbors, lagoons, estuaries, and/or the ocean. Discharge point(s) are specific to each facility and are summarized in Table 3 of the General Permit.

III. APPLICABLE PLANS, POLICIES, AND REGULATIONS

The requirements contained in the General Permit are based on the requirements and authorities described in this section.

A. Legal Authorities

This General Permit is issued pursuant to section 402 of the CWA and implementing regulations adopted by the USEPA and chapter 5.5, division 7 of the Water Code (commencing with section 13370). It shall serve as a NPDES permit for point source discharges from the facilities summarized in Table F-3 to surface waters. This General Permit also serves as WDRs pursuant to article 4, chapter 4, division 7 of the Water Code (commencing with section 13260).

States may request authority to issue general NPDES permits pursuant to 40 CFR section 122.28. On June 8, 1989, the State Water Board submitted an application to the USEPA requesting revisions to its NPDES Program in accordance with 40 CFR 122.28, 123.62, and 403.10. The application included a request to add WDR authority to its approved NPDES Program. On September 22, 1989, the USEPA, Region 9, approved the State Water Board's request and granted authorization for the State to issue general NPDES permits.

Federal regulations set forth at 40 CFR 122.28 provides for issuance of general permits to regulate a category of point sources if the sources involve the same or substantially similar types of operations; discharge the same type of waste; require the same type of effluent limitations or operating conditions; require similar monitoring; and are more appropriately regulated under a General Permit rather than individual orders.

A general permit for discharges of storm water from boatyards and boat maintenance and repair facilities is an appropriate permitting approach for the following reasons:

1. A general permit is an efficient method to establish the essential regulatory requirements for multiple Dischargers with similar operations.
2. A general permit is consistent with USEPA's four-tier permitting strategy, the purpose of which is to use the flexibility provided to the CWA in designing a workable and efficient permitting system.
3. A general permit is designed to provide coverage for a group of related facilities or operations of a specific industry type or group of industries. It is appropriate when the discharge characteristics are sufficiently similar, and a standard set of permit requirements can effectively provide environmental protection and comply with water quality standards for discharges. In most cases, the general permit will provide sufficient and appropriate management requirements to protect the quality of receiving waters from discharges of storm water from boatyards and boat maintenance and repair facilities.

There may be instances where a general permit is not appropriate for a specific discharge. The San Diego Water Board may require a Discharger otherwise covered under the General Permit to apply for an individual permit or apply for coverage under a more specific General Permit if the San Diego Water Board determines that this General Permit does not provide adequate assurance that water quality will be protected, or that there is a site-specific reason why an individual permit should be required.

B. California Environmental Quality Act (CEQA)

Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of CEQA, Public Resources Code sections 21100 through 21177.

C. State and Federal Regulations, Policies, and Plans

1. **Water Quality Control Plans.** The San Diego Water Board adopted a *Water Quality Control Plan for the San Diego Basin* (hereinafter Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives. The Basin Plan was subsequently approved by the State Water Resources Control Board (State Water Board) on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Board. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan.

In addition, State Water Board Resolution No. 88-63 requires that, with certain exceptions, the San Diego Water Board assigns the municipal and domestic supply use to water bodies that do not have beneficial uses listed in the Basin plans. Because of marine influence in the potential receiving waters, total dissolved solids levels exceed 3,000 milligrams per liter (mg/L) and thereby meet an exception to

State Water Board Resolution No. 88-63. The municipal and domestic supply designation, therefore does not apply to potential receiving waters of entities permitted under this General Permit.

The Basin Plan identifies the following beneficial uses of coastal surface waters in the San Diego Region to be protected (not all surface waters have all of the beneficial uses listed below):

- Industrial service and process supply;
- Navigation;
- Contact water recreation;
- Non-contact water recreation;
- Commercial and sport fishing;
- Preservation of areas of special biological significance;
- Estuarine Habitat
- Wildlife habitat;
- Preservation of rare, threatened or endangered species;
- Marine habitat;
- Aquaculture;
- Migration of aquatic organisms;
- Spawning, reproduction, and/or early development; and
- Shellfish harvesting.

In order to protect these beneficial uses, the Basin Plan establishes water quality objectives (for bacterial, physical, chemical, and biological characteristics, and for radioactivity), general requirements for management of waste discharge to the bays/harbors, quality requirements for waste discharges (effluent water quality requirements), discharge prohibitions, and general provisions.

Requirements of this General Permit implement the Basin Plan.

- 2. California Ocean Plan.** The State Water Board adopted the *Water Quality Control Plan for Ocean Waters of California, California Ocean Plan* (Ocean Plan) in 1972 and amended it in 1978, 1983, 1988, 1990, 1997, 2000, 2005, and 2009. The State Water Board adopted the latest amendment on April 21, 2005 and it became effective on February 14, 2006. The Ocean Plan is applicable, in its entirety, to point source discharges to the ocean. The Ocean Plan identifies beneficial uses of ocean waters of the State to be protected as summarized below:

- Industrial water supply;
- Aesthetic enjoyment;
- Non-contact water recreation;
- Preservation and enhancement of Areas of Special Biological Significance (ASBS);
- Fish migration;
- Fish spawning;
- Navigation;
- Water contact recreation;
- Ocean commercial and sport fishing;
- Preservation and enhancement of rare and endangered species
- Marine habitat;
- Shellfish harvesting;
- Mariculture.

Because boatyards are located in enclosed bays, the Ocean Plan is not directly applicable to the discharges eligible for coverage under this General Permit. However, Table A of the Ocean Plan has historically been used to develop appropriate technology-based effluent limitations for discharges to San Diego Bay by the San Diego Water Board. This Order carries over technology-based effluent limitations for Marine Group Boat Works – National City's (formerly Knight and Carver YachtCenter's) floating drydock based on Table A of the Ocean Plan. Further, since the receiving waters for the facilities eligible for coverage under this General Permit share strong hydraulic connections with the Ocean, and share many of the same characteristics of the Ocean, requirements and water quality objectives have been established as necessary to protect the beneficial uses of the ocean.

- 3. Thermal Plan.** The State Water Board adopted a Water Quality Control Plan for Control Temperature in the Coastal and Interstate Water and Enclosed Bays and Estuaries of California (Thermal Plan) on May 18, 1972, and amended this plan on September 18, 1975. This plan contains temperature objectives for coastal and interstate waters and enclosed bays and estuaries.

4. National Toxics Rule (NTR) and California Toxics Rule (CTR)

USEPA adopted the NTR on December 22, 1992, and later amended it on May 4, 1995 and November 9, 1999. About 40 priority pollutant criteria in the NTR applied in California. On May 18, 2000, USEPA adopted the CTR. The CTR promulgated new priority pollutant criteria for California and, in addition, incorporated the previously adopted NTR criteria that were applicable in the state. The CTR was amended on February 13, 2001. These rules contain water quality criteria for priority pollutants which are discharged to inland surface waters, bays, and estuaries.

5. State Implementation Policy (SIP)

On March 2, 2000 the State Water Board, in Resolution No. 2000-15, adopted a Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Policy or SIP). The Implementation Policy establishes:

- a. implementation provisions for priority pollutant criteria promulgated by the USEPA through the NTR and the CTR, and for priority pollutant objectives established in the Basin Plan;
- b. monitoring requirements for 2,3,7,8-TCDD (tetrachlorodibenzo-p-dioxin) equivalents; and
- c. chronic toxicity control provisions.

The CTR regulations and the SIP are applicable to discharges of ballast and flood water described in this General Permit. It is the Dischargers responsibility to provide

all data and other information requested by the San Diego Water Board for use in determining whether the proposed discharge may cause, have a reasonable potential to cause, or contribute to an excursion above any applicable priority pollutant criterion or objective. A reasonable potential analysis of the submitted data is required to determine which priority pollutants require effluent limitations.

The procedures established in the SIP are not applicable to the discharge of storm water runoff. For this General Permit, the SIP procedures are applicable to the discharge of ballast water from the Marine Group Boat Works – National City floating drydock. Because there is no data on the discharge, a reasonable potential analysis could not be performed and the SIP procedures could not be used.

6. **Alaska Rule.** On March 30, 2000, USEPA revised its regulation that specifies when new and revised state and tribal water quality standards (WQS) become effective for CWA purposes (40 CFR 131.21, 65 Fed. Reg. 24641 (April 27, 2000)). Under the revised regulation (also known as the Alaska Rule), new and revised standards submitted to USEPA after May 30, 2000, must be approved by USEPA before being used for CWA purposes. The final rule also provides that standards already in effect and submitted to USEPA by May 30, 2000, may be used for CWA purposes, whether or not approved by USEPA.
7. **Antidegradation Policy.** Federal regulations set forth at 40 CFR 131.12 require that the State water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing water quality be maintained unless degradation is justified based on specific findings. The San Diego Water Board's Basin Plan implements, and incorporates by reference, both the State and federal antidegradation policies. The permitted discharge must be consistent with the antidegradation provision of 40 CFR 131.12 and State Water Board Resolution No. 68-16. This General Permit meets the requirements of the federal and State antidegradation policies.
8. **Anti-Backsliding Requirements.** Sections 402(o)(2) and 303(d)(4) of the CWA and 40 CFR 122.44(l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require that effluent limitations in a reissued permit must be as stringent as those in the previous permit, with some exceptions in which limitations may be relaxed. This General Permit meets the anti-backsliding requirements.
9. **Monitoring and Reporting Requirements.** Federal regulations at 40 CFR 122.48 require that all NPDES permits specify requirements for recording and reporting monitoring results. Sections 13267 and 13383 of the Water Code authorize the Regional Water Boards to require technical and monitoring reports. The MRP establishes monitoring and reporting requirements to implement federal and State requirements. This MRP is provided as Attachment E.

10. Vessel General Permit. USEPA signed the 2008 Vessel General Permit (VGP) on December 18, 2008. The VGP became effective on February 6, 2009. The VGP regulates discharges incidental to the normal operation of vessels operating in a capacity as a means of transportation. Vessels in a dry dock are not operating in a capacity as a means of transportation and are not covered by the VGP. Floating dry docks have been determined to be operating as a means of transportation when it is docking or undocking a vessel inclusive of the transition from that operation. Discharges from vessels at the Facility which are not operating as a means of transportation are regulated by this Order. Discharges at the Facility that are regulated by the VGP are not regulated by this Order. Since the drydock was added to the Knight and Carver YachtCenter permit in 2010, all ballast water discharges have been reported to be regulated by the VGP.

D. Impaired Water Bodies on CWA 303(d) List

The CWA requires States to identify and make a list of surface water bodies that are polluted. These water bodies, referred to in law as "water quality limited segments," do not meet water quality standards even after discharges of wastes from point sources have been treated by the minimum required levels of pollution control technology. Wastewater treatment plants, a city's storm drain system, or a boatyard, are a few examples of point sources that discharge wastes to surface waters. States are required to compile the water bodies into a list, referred to as the "Clean Water Act Section 303(d) List of Water Quality Limited Segments" (303(d) List). States must also prioritize the water bodies on the list and develop actions plans, called total maximum daily loads (TMDLs) to improve water quality.

On November 12, 2010, USEPA gave final approval to California's 2010 section 303(d) List of Water Quality Limited Segments, as it pertains to the San Diego Region. Surface waters listed on the 303(d) list that require a TMDL and receive discharges from existing boatyards and boat maintenance and repair facilities are: (1) Dana Point Harbor listed for copper, toxicity, and zinc; (2) Oceanside Harbor listed for copper; (3) Mission Bay Quivera Basin listed for copper; (4) San Diego Bay listed for polychlorinated biphenyl's; and (5) San Diego Bay, America's Cup Harbor, listed for copper.

On February 9, 2005, the San Diego Water Board adopted a Basin Plan amendment incorporating the *Dissolved Copper Shelter Island Yacht Basin, San Diego Bay TMDL (Resolution R9-2005-0019)*. The TMDL was subsequently approved by the State Water Board on September 22, 2005, by the Office of Administrative Law on December 2, 2005, and by USEPA on February 8, 2006. The Shelter Island Boatyard is the only boatyard maintenance and repair facility eligible for coverage under General Permit that may discharge to the Shelter Island Yacht Basin. The TMDL does not assign a WLA to the Shelter Island Boatyard or to industrial storm water discharges, but neither does it explicitly exclude such discharges.

The Shelter Island Boatyard operates on-site storage tanks and BMPs to retain storm water on-site and is approved to discharge limited volumes of storm water to the

municipal sanitary sewer. According to the report of waste discharge submitted by the Shelter Island Boatyard on December 8, 2010, the boatyard has not discharged storm water to surface waters in approximately 22 years.

The NALs described in section V.A and C of this Order are more stringent than the benchmarks contained in the previous individual NPDES permit issued to the Shelter Island Boatyard (R9-2005-0152). In addition, a chronic toxicity effluent limitation is established for storm water discharges in this General Order. It is anticipated that the NALs and chronic toxicity effluent limitation will further incentivize the Shelter Island Boatyard to continue to avoid discharge to the Shelter Island Yacht Basin. Further, it is noted that the TMDL establishes a 17-year implementation plan terminating on February 8, 2023. Therefore, the need for additional measures to be consistent with the TMDL, if any, may be assessed during future permitting cycles and implementation measures.

E. Conditional Exclusion - No Exposure Certification (NEC) Requirements

This Order's conditional exclusion requirements are substantially similar to those provided in 40 C.F.R. section 122.26(g)(3). Some minor modifications were added to clarify the types of "storm resistant shelters" and the periods when "temporary shelters" may be used in order to avert regulatory confusion. The Discharger must certify and submit complete NECs in accordance with section I.C and XI. of this Order to the San Diego Water Board.

NECs shall be annually reviewed by a California licensed professional engineer and re-certified and submitted by the Discharger to the San Diego Water Board. Based on its regulatory experience, the State Water Board and San Diego Water Board have determined that a five-year maximum NEC re-certification period is inadequate. A significant percentage of facilities may revise, expand, or relocate their operations in any given year. Furthermore, a significant percentage of facilities experience turnover of staff knowledgeable of the NEC requirements and limitations. Accordingly, the State Water Board and San Diego Water Board believe that annual NEC evaluation and re-certification requirements are appropriate to continually assure adequate program compliance.

IV. RATIONALE FOR EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS

The CWA requires point source Dischargers to control the amount of conventional, non-conventional, and toxic pollutants that are discharged into the waters of the United States. The control of pollutants discharged is established through effluent limitations and other requirements in NPDES permits. There are two principal bases for effluent limitations in the CFR: 40 CFR 122.44(a) requires that permits include applicable technology-based limitations and standards; and 40 CFR 122.44(d) requires that permits include water quality-based effluent limitations (WQBELs) to attain and maintain applicable numeric and narrative water quality criteria to protect the beneficial uses of the receiving water.

Shortly after the passage of the CWA, the USEPA promulgated regulations exempting most storm water discharges from the NPDES permit requirements. (40 CFR 125.4 (1975); see also *Natural Resources Defense Council v. Costle* (D.C. Cir. 1977) 568 F.2d 1369, 1372 (Costle); *Defenders of Wildlife v. Browner* (9th Cir. 1999) 191 F.3d 1159, 1163 (Defenders of Wildlife).) When environmental groups challenged this exemption in federal court, the District of Columbia Court of Appeals invalidated the regulation, holding that the USEPA “does not have authority to exempt categories of point sources from the permit requirements of [CWA] § 402.” (Costle, 568 F.2d at 1377.) The Costle court rejected the USEPA’s argument that effluent-based storm sewer regulation was administratively infeasible because of the variable nature of storm water pollution and the number of affected storm sewers throughout the country. (Id. at 1377-82.) Although the court acknowledged the practical problems relating to storm sewer regulation, the court found the USEPA had the flexibility under the CWA to design regulations that would overcome these problems. (Id. at 1379-83.) In particular, the court pointed to general permits and permits based on requiring BMPs.

During the next 15 years, the USEPA made numerous attempts to reconcile the statutory requirement of point source regulation with the practical problem of regulating possibly millions of diverse point source discharges of storm water. (See *Defenders of Wildlife*, 191 F.3d at 1163; see also Gallagher, *Clean Water Act in Environmental Law Handbook* (Sullivan, edit., 2003) p. 300 (Environmental Law Handbook); Eisen, *Toward a Sustainable Urbanism: Lessons from Federal Regulation of Urban Storm Water Runoff* (1995) 48 Wash. U.J. Urb. & Contemp. L.1, 40-41 [Regulation of Urban Storm Water Runoff].)

In 1987, Congress amended the CWA to require NPDES permits for storm water discharges. (See CWA § 402(p), 33 U.S.C. § 1342(p); 191 F.3d at 1163; *Defenders of Wildlife*, *Natural Resources Defense Council v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1296.) In these amendments, enacted as part of the Water Quality Act of 1987, Congress distinguished between industrial and municipal storm water discharges. With respect to industrial storm water discharges, Congress provided that NPDES permits “shall meet all applicable provisions of this section and section 1311 [requiring the USEPA to establish effluent limitations under specific timetables].” (CWA § 402(p)(3)(A), 33 U.S.C. § 1342(p)(3)(A); see also *Defenders of Wildlife*, 191 F.3d at 1163-64.)

In 1990, USEPA adopted regulations specifying what activities were considered “industrial” and thus required discharges of storm water associated with those activities to obtain coverage under NPDES permits. (55 Fed. Reg. 47,990 (1990); 40 CFR 122.26(b)(14).) Ship and boat building and repair activities, deemed a subset of the industrial activities category, must be regulated by an NPDES permit. (40 CFR 122.26(b)(14)).

The CWA and the USEPA’s regulations provide states with the discretion to formulate permit terms, including specifying BMPs, to achieve strict compliance with federal technology-based and water quality-based standards. (*Natural Resources Defense Council v. USEPA* (9th Cir. 1992) 966 F.2d 1292, 1308.) Accordingly, this General Permit establishes a toxicity effluent limitation for storm water and specific BMPs as well as numeric action levels (NALs) in order to achieve these minimum federal standards. In

addition, the General Permit requires a SWPPP to be developed and implemented consistent with Attachment H.

A. Discharge Prohibitions

Discharge prohibitions contained in this General Permit are a combination of discharge prohibitions included in the individual permits for the boatyards and boat maintenance and repair facilities that are eligible for enrollment under this General Permit. These discharge prohibitions are necessary to ensure compliance with applicable water quality objectives, conditions of applicable water quality plans, and ensure proper implementation of BMPs.

1. Discharge Prohibitions III.A, III.C, III.H prohibit the discharge of specific industrial discharges not authorized under this General Permit and is consistent with the requirements of the Enclosed Bays and Estuaries Policy.
2. Discharge Prohibition III.B prohibits the discharge of the first flush (first 0.25 inch of rainfall from each storm) from industrial portions of the facilities. Waste discharges from vessel repair and maintenance activities can cause high concentrations of copper, zinc, other metals, oil and grease, and solids within storm water runoff that can have toxic or negative effects on aquatic life. This discharge prohibition is consistent with NPDES permit requirements for Naval Base San Diego and Naval Base Coronado and the Navy Public Works Graving Dock, and is representative of the technology-based requirements of the CWA (BAT/BCT) at the eligible facilities.
3. Discharge Prohibitions III.D, III.F, III.G, implement requirements of the Basin Plan and Ocean Plan.
4. Discharge Prohibition III.E is consistent with requirements of previous individual NPDES permits for the eligible facilities and is based on 40 CFR 122.21(a), duty to apply, and Water Code section 13260, which requires filing an application and Report of Waste Discharge before discharges can occur. Discharges not described in the permit application and Report of Waste Discharge, and subsequently not considered for coverage under this General Permit, are prohibited.
5. Discharge Prohibition III.I is based on 40 CFR 122.21(a), duty to apply, and Water Code section 13260, which requires filing an application and Report of Waste Discharge before discharges can occur. Discharges not described in the permit application and Report of Waste Discharge, and subsequently not considered for coverage under this General Permit, are prohibited.
6. Discharge Prohibition III.J is based on requirements in Order No. R9-2010-0096, which prohibited the discharge of anything other than San Diego Bay water from the ballast tanks of the floating drydock located at Knight and Carver YachtCenter, Inc. (Diligence) including sediment, chlorine, biocides, or other maintenance byproducts. The prohibition has been modified to reflect that the drydock is now located at Marine Group Boat Works – National City.

B. Technology-Based Effluent Limitations

1. Scope and Authority

Section 301(b) of the CWA and implementing USEPA permit regulations at 40 CFR 122.44 require that permits include conditions meeting applicable technology-based requirements at a minimum, and any more stringent effluent limitations necessary to meet applicable water quality standards. The discharge authorized by this General Permit must meet minimum federal technology-based requirements based on Best Professional Judgment (BPJ) in accordance with 40 CFR 125.3. The CWA requires that technology-based effluent limitations be established based on several levels of controls:

- a. Best practicable treatment control technology (BPT) represents the average of the best performance by plants within an industrial category or subcategory. BPT standards apply to toxic, conventional, and non-conventional pollutants.
- b. Best available technology economically achievable (BAT) represents the best existing performance of treatment technologies that are economically achievable within an industrial point source category. BAT standards apply to toxic and non-conventional pollutants.
- c. Best conventional pollutant control technology (BCT) represents the control from existing industrial point sources of conventional pollutants including BOD, TSS, fecal coliform, pH, and oil and grease. The BCT standard is established after considering the "cost reasonableness" of the relationship between the cost of attaining a reduction in effluent discharge and the benefits that would result, and also the cost effectiveness of additional industrial treatment beyond BPT.
- d. New source performance standards (NSPS) represent the best available demonstrated control technology standards. The intent of NSPS guidelines is to set limitations that represent state-of-the-art treatment technology for new sources.

The CWA requires USEPA to develop ELGs representing the application of BPT, BAT, BCT, and NSPS. Section 402(a)(1) of the CWA and 40 CFR 125.3 authorize the use of BPJ to derive technology-based effluent limitations on a case-by-case basis where ELGs are not available for certain industrial categories and/or pollutants of concern. Where BPJ is used, the permit writer must consider specific factors outlined in 40 CFR 125.3.

Further, Table A of the Ocean Plan establishes technology-based requirements for conventional pollutants (suspended and settleable solids, oil and grease, turbidity, and pH) for industrial Dischargers for which effluent limitations guidelines have not been established. Order No. R9-2010-0096 established effluent limitations for oil and grease, settleable solids, turbidity, and pH for the discharge of ballast water

from the Knight and Carver YachtCenter's floating drydock based on these Ocean Plan Table A requirements.

2. Applicable Technology-Based Effluent Limitations

The San Diego Water Board has determined that storm water discharges are most appropriately controlled by BMPs. The inclusion of BMPs as requirements in NPDES permits is authorized by CWA Section 304(e); and in accordance with NPDES regulations at 40 CFR 122.44(k). BMPs employed by the eligible Dischargers shall be defined in a SWPPP. To assure proper implementation of BMPs, this General Permit establishes Numeric Action Levels (NALs), with a tiered compliance strategy, consistent with the direction of the State Water Board. Compliance with appropriate implementation of BMPs (and implementation of BAT/BCT) is determined based on NALs.

Pollutants of concern associated with storm water discharges from boatyards and boat repair and maintenance facilities includes BOD, copper, pH, total suspended solids, oil and grease, TOC, and zinc. The San Diego Water Board has determined that these pollutants represent a set of indicator parameters sufficient to determine the proper implementation of BMPs. As such, this General Permit establishes NALs for BOD, copper, pH, total suspended solids, oil and grease, TOC, and zinc.

Consistent with the draft Statewide Storm Water General Permit (dated January 28, 2011), this permit has established NALs based on USEPA benchmarks listed in its industrial Multi-Sector General Permit for storm water. The San Diego Water Board finds that the USEPA benchmarks serve as an appropriate set of technology-based effluent limitations that demonstrate compliance with BAT/BCT.

Consistent with the direction of the State Water Board in Statewide Construction Storm Water General Permit (Order No. 2009-0009, as amended by 2010-0014; adopted September 2, 2009, as modified on November 16, 2010), this General Permit requires all treatment BMPs to be designed for no less than a 5-year, 24-hour storm event.

Because pollutants contained within storm water may negatively impact the receiving water if not properly controlled, and NALs are technology-based and not necessarily protective of water quality, corrective actions for receiving water limitation violations have also been included within the Order.

Technology-based effluent limitations for the Knight and Carver floating drydock were established in Order No. R9-2010-0096 for oil and grease, settleable solids, turbidity, and pH, based on Table A of the Ocean Plan. On March 29, 2013, Marine Group Boat Works, LLC assumed responsibility for the drydock. These effluent limitations have been established in this General Permit for discharges of ballast water from the Marine Group Boat Works – National City floating drydock based on Order No. R9-2010-0096 and are summarized below. In addition, Table A of the

Ocean Plan has a limit of total suspended solids which has been added in this General Permit and is shown below.

Table F-4. Technology-based Effluent Limitations for the Discharge of Ballast Water from the Marine Group Boat Works – National City Floating Drydock

Parameter	Units	Effluent Limitations		
		Average Monthly	Weekly Average	Instantaneous Maximum
Oil and Grease	mg/L	25	40	75
Settleable Solids	ml/L	1.0	1.5	3.0
Total Suspended Solids	mg/L	60	--	--
Turbidity	NTU	75	100	225
pH	Standard Units	--	--	1

Discharges shall be between 7.0 and 9.0 at all times.

C. Water Quality-Based Effluent Limitations (WQBELs)

WQBELs have been derived to implement WQOs that protect beneficial uses. Both the beneficial uses and the WQOs have been approved pursuant to federal law. USEPA also approved the SIP procedures for calculating individual WQBELs for discharges to inland surface waters (including enclosed bays and estuaries) prior to May 1, 2001. USEPA approved the Basin Plan provisions for calculating WQBELs on May 29, 2000. Most beneficial uses and Basin Plan WQOs were approved under State law and submitted to and approved by USEPA prior to May 30, 2000. Any WQOs and beneficial uses submitted to USEPA prior to May 30, 2000, but not approved by USEPA before that date, are nonetheless "applicable water quality standards for purposes of the [Clean Water] Act" pursuant to 40 CFR 131.21(c)(1). Collectively, this General Permit's restrictions on individual pollutants are no more stringent than those required by CWA water quality standards.

1. Scope and Authority

As specified in 40 CFR section 122.44(d)(1)(i), permits are required to include WQBELs for pollutants (including toxicity) that are or may be discharged at levels that cause, have reasonable potential to cause, or contribute to an excursion above any state water quality standard. The process for determining reasonable potential and calculating WQBELs when necessary is intended to protect the designated uses of the receiving water as specified in the Basin Plan, achieve applicable water quality objectives and criteria contained in state plans and policies, and meet water quality criteria in the CTR and NTR.

The procedures contained within the SIP for determining reasonable potential and calculating WQBELs are not applicable to the discharge of industrial storm water, but are applicable to the ballast and flood water discharges.

2. Applicable Beneficial Uses and Water Quality Criteria and Objectives

The Basin Plan, Ocean Plan, and Thermal Plan designate beneficial uses, establish water quality objectives, and contain implementation programs and policies to achieve those objectives for all waters.

- a. **Basin Plan.** The designated beneficial uses of surface waters throughout the State are summarized in section III.C.1 of this Fact Sheet. The Basin Plan establishes water quality objectives for conventional, non-conventional, and toxic pollutants based on these designated beneficial uses.
- b. **Ocean Plan.** The beneficial uses of the Pacific Ocean are summarized in section III.C.2 of this Fact Sheet.
- c. **Thermal Plan.** The Thermal Plan establishes water quality objectives for inland and coastal waters throughout the State.
- d. **State Implementation Plan (SIP).** The SIP specifies procedures for the implementation of CTR/NTR water quality criteria for the discharge of non-storm water discharges to inland surface waters and enclosed bays and estuaries. The procedures specified in the SIP are not applicable to the discharge of storm water from boatyards and boat maintenance and repair facilities. At the time of drafting this General Permit, no discharges regulated under an NPDES Permit have occurred from the Knight and Carver YachtCenter, Inc. floating drydock. Thus, representative effluent data for the discharge of ballast water from the Knight and Carver YachtCenter, Inc. floating drydock were not available to conduct an RPA. Monitoring requirements have been established for future permitting efforts. Further, a chronic effluent limitation has been established to evaluate compliance with water quality objectives over the term of this General Permit.

3. Determining the need for WQBELs

- a. The Basin Plan establishes a narrative water quality objective for toxicity. Materials and operations on-site at boatyards and boat maintenance and repair facilities may contribute to toxicity within storm water runoff. Further, previous individual NPDES permits for boatyards and boat maintenance and repair facilities eligible for coverage under this General Permit included effluent limitations for acute toxicity to assure compliance with water quality standards. As discussed in section IV.C.5 of this Fact Sheet, effluent limitations for whole effluent toxicity have been established in this General Permit for the discharge of storm water.

Order No. R9-2010-0096 established an effluent limitation for chronic toxicity for the discharge of ballast water from the Knight and Carver YachtCenter floating drydock. On March 29, 2013, Marine Group Boat Works, LLC assumed responsibility for the drydock. This General Permit carries over the reasonable

potential for chronic toxicity for the discharge of ballast water from the Marine Group Boat Works – National City floating drydock. However, the previous chronic effluent limitation was based on the water quality objectives contained in the Ocean Plan. The chronic toxicity effluent limitation established in this General Permit has been established based on the narrative water quality objectives of the Basin Plan, which are directly applicable to this discharge and consistent with the effluent limitation established for storm water discharges. The revised chronic toxicity effluent limitation is considered at least as stringent as the previous chronic toxicity effluent limitation for the Knight and Carver YachtCenter, Inc. floating drydock, and is thus consistent with State and federal anti-backsliding regulations.

- b. This General Permit establishes effluent limitations for the discharge of ballast water from the Marine Group Boat Works – National City floating drydock based on the requirements of the Thermal Plan based on specific water quality objectives, section 4.B.(1) and is consistent with effluent limitations previously established for the floating drydock.

4. WQBEL Calculations

WQBEL calculations are not applicable for storm water discharges and no data is available for the ballast water discharge. Chronic toxicity effluent limitations for ballast water are expected to protect beneficial uses until data is available.

5. Whole Effluent Toxicity (WET)

The Basin Plan defines toxicity as the adverse response of organisms to chemicals or physical agents. Further, the Basin Plan establishes a narrative water quality objective for toxicity:

"All waters shall be maintained free of toxic substances in concentrations that are toxic, or that produce detrimental physiological responses in human, plant, animal, or aquatic life."

Previous individual orders issued to the 9 eligible boatyards established an acute toxicity performance goal in 1995. In 2000, the performance goal was changed to an effluent limitation based on reasonable potential.

Most of the boatyards have installed systems to retain all storm water and have not had a discharge during the current permit cycle and so have not collected samples. Oceanside Marine Centre has discharged and collected samples. Of six samples collected at Oceanside Marine Centre and analyzed for acute toxicity, one sample failed the toxicity test with a survival rate of 30%. Naval Base San Diego, Naval Base Point Loma, and Naval Base Coronado have ship repair operations and collect storm water samples for acute toxicity analysis. In the 2011-12 wet season, 166 samples were collected at the naval bases and 50 of the samples failed the toxicity test. Boatyard storm water and similar storm water discharges have shown acute

toxicity in the past and have a reasonable potential to be toxic in the future. A toxicity effluent limitation is being established because of the reasonable potential for toxicity in storm water.

The application of chronic toxicity monitoring and effluent limitations for storm water runoff are more desirable than acute toxicity because chronic toxicity is more conservative and provides a better indicator of chronic effects to organisms in the receiving water, other than percent survival. Chronic effects, such as detrimental physiological responses (affecting fertilization, growth, reproduction) may be present, even when acute effects such as the death of an organism are not apparent. The use of chronic toxicity allows for a more accurate determination of the narrative water quality objective, which specifies "*detrimental physiological responses*". Many detrimental physiological responses are not addressed when the test is limited to simply percent survival (i.e. acute toxicity).

Because chronic toxicity is considered to be a more conservative indicator of toxicity, and the monitoring of all storm water and industrial wastewater sample locations for both acute and chronic toxicity would be costly and redundant, the monitoring requirements and effluent limitations for acute toxicity have been removed based on the application of the more conservative chronic toxicity requirements. If the Discharger complies with effluent limitations for chronic toxicity, the Discharger will achieve water quality greater than that necessary to achieve compliance with acute toxicity effluent limitations.

Compliance with the Basin Plan's narrative water quality objective for toxicity shall be determined based on the Test of Significant Toxicity (TST) t-test specified in National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document (USEPA/883-R-10-003, 2010) and the percent effect. A Maximum Daily Effluent Limitation for chronic toxicity is established in this General Order and is exceeded when a toxicity test results in a "fail," and the percent effect is greater than or equal to 0.50 for chronic toxicity tests in accordance with Compliance Determination section XVI.I of this General Permit.

Pass

A test result that rejects the null hypothesis (H_0) below is reported as "Pass" in accordance with the TST approach:

H_0 : Mean response (100 percent effluent) $\leq 0.75 \times$ Control mean response

Fail

A test result that does not reject the null hypothesis (H_0) above is reported as "Fail" in accordance with the TST approach.

If a test result is reported as "Fail" with a percent effect greater than or equal to 0.50, then the Discharger shall follow section IV.C. (Toxicity Reduction Evaluation/

Toxicity Identification Evaluation (TRE/TIE) Process) of the monitoring and reporting program in Attachment E.

The TST was designed to statistically compare a test species response to the in-stream waste concentration (IWC) and a control. Data is analyzed using Welch's t-test and quantal data is appropriately transformed prior to doing so. If the calculated t-value is less than the critical t-value (or table t-value), a sample is declared "toxic" and the test result is a "fail." A sample is deemed "not toxic" and the test result is a "pass" if the calculated t-value is greater than that of the critical t-value.

The biological effect levels (b values) incorporated into the TST define unacceptable risks to aquatic organisms and substantially decrease the uncertainties associated with the applicability of results obtained from the NOEC and LOEC endpoints. Furthermore, the TST reduces the need for multiple test concentrations which, in turn, will reduce laboratory costs for Dischargers while concurrently improving data interpretation. The most significant improvement the TST offers over that of traditional hypothesis testing, however, is the inclusion of an acceptable false negative rate. While calculating a range of percent minimum significant differences (PMSDs) provides an indirect measure of power for traditional hypothesis tests, setting an appropriate β level (or α level using the TST method) establishes explicit test power and provides motivation to decrease within-test variability which will significantly reduce the risk of unreported toxic events (USEPA 2010¹). In addition to its benefits over traditional hypothesis test methods, the TST is simpler to use than point estimate methods as it is less computationally intensive and not model-fit dependent (Grothe et al. 1995²).

The decision to conduct a TIE is based upon consideration of multiple factors such as the magnitude and persistence of toxicity. The magnitude of toxicity present in the storm water is an important consideration because a moderate to high level of toxicity typically yield more successful results. Usually, TIEs can be successfully conducted on samples producing at least a 50 percent effect (e.g., >50% mortality or reduction in reproduction), and this value is recommended for general use in selecting samples for TIEs. However, effective TIEs can also be conducted with less toxic samples (e.g., >25% effect), but there is a greater chance of the TIE being inconclusive due to changes in toxicity with storage or variability in response (Norberg-King et al. 2005). A percent effect of 0.50 has been incorporated into the Maximum Daily Effluent Limitation to facilitate a successful TIE.

The instream waste concentration (IWC) for these discharges are established at 100% effluent. Allowances for dilution and a different IWC may be made at the discretion of the San Diego Water Board. Because the San Diego Water Board has

¹ U.S. Environmental Protection Agency. 2002a. Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (5th Edition). EPA 821-R-02-012. Washington, DC: Office of Water.

² Grothe DR, Dickson KL, Reed-Judkins DK. 1996. Whole Effluent Toxicity Testing: an Evaluation of Methods and Prediction of Receiving System Impacts. SETAC Pellston Workshop on Whole Effluent Toxicity; 1995 Sept 16-25; Pellston, MI. Pensacola FL: SETAC Pr.

no documentation to support a different IWC, the IWC is defined as 100 percent effluent (undiluted). This definition of IWC is consistent with other San Diego Water Board's NPDES permitted discharges to San Diego Bay which do not allow dilution.

Taken together, these refinements of using chronic toxicity instead of acute toxicity and using the TST approach clarifies the requirements for toxicity analyses, provide Dischargers with the positive incentive to generate high quality data, and afford greater protection to aquatic life.

D. Final Effluent Limitations

1. Satisfaction of Anti-Backsliding Requirements

The effluent limitations and prohibitions contained within this General Permit are at least as stringent as those contained in the previous Orders for the individual Dischargers eligible for coverage under this General Permit. This General Permit complies with all applicable federal and State anti-backsliding regulations.

2. Satisfaction of Antidegradation Policy

The requirements of this General Permit conform with federal and State antidegradation policies provided at 40 CFR 131.12 and in State Water Board Resolution No. 68-16. Discharges in conformance with the requirements of this General permit will not result in a lowering of water quality and therefore conform to antidegradation requirements specified in Resolution No. 68-16, which incorporates the federal antidegradation policy at 40 CFR 131.12 where, as here, it is applicable.

3. Stringency of Requirements

Both the beneficial uses and the water quality objectives have been approved pursuant to federal law and are the applicable federal water quality standards. All beneficial uses and water quality objectives contained in the Basin Plan were approved under state law and submitted to and approved by USEPA prior to May 30, 2000. Any water quality objectives and beneficial uses submitted to USEPA prior to May 30, 2000, but not approved by USEPA before that date, are nonetheless "applicable water quality standards for purposes of the CWA" pursuant to section 131.21(c)(1). Collectively, this General Permit's restrictions on individual pollutants are no more stringent than required to implement the requirements of the CWA.

4. Final Effluent Limitations

Final effluent limitations are summarized below:

a. Storm water

Discharges of industrial storm water to waters of the United States shall maintain compliance with the Maximum Daily Effluent Limitation for chronic toxicity. The

MDEL is based on the outcome of the Test of Significant Toxicity (TST) approach and the resulting percent effect at the Instream Waste Concentration (IWC). The MDEL is exceeded when a toxicity test results in a "fail," and the percent effect is greater than or equal to 0.50 for chronic toxicity tests in accordance with Compliance Determination section XVI. of this General Permit.

b. Ballast Water from the Marine Group Boat Works – National City Floating Drydock

Table F-5. Marine Group Boat Works – National City Ballast Water Effluent Limitations

Parameter	Units	Effluent Limitations		
		Average Monthly	Weekly Average	Instantaneous Maximum
Oil and Grease	mg/L	25	40	75
Settleable Solids	ml/L	1.0	1.5	3.0
Total Suspended Solids	mg/L	60	--	--
Turbidity	NTU	75	100	225
pH	Standard Units	--	--	¹
Temperature	°F	--	--	²
Chronic Toxicity	Pass/Fail & % Effect	--	--	³

¹ Discharges shall be between 7.0 and 9.0 at all times.

² Discharges shall not be greater than 20°F over the natural temperature of the receiving water at any time.

³ Discharges shall maintain compliance with the Maximum Daily Effluent Limitation for chronic toxicity. The MDEL is based on the outcome of the Test of Significant Toxicity (TST) approach and the resulting percent effect at the Instream Waste Concentration (IWC). The MDEL is exceeded when a toxicity test results in a "fail," and the percent effect is greater than or equal to 0.50 for chronic toxicity tests in accordance with Compliance Determination section XVI.1 of this General Permit.

c. Numeric Action Levels (NAL)

In addition to toxicity effluent limitations for storm water, NALs have been established and are summarized below.

Table F-6. Numeric Action Levels

Parameter	Test Method	Detection Limit [*]	Reporting Units	Daily NAL Value (2.5X Annual NAL)	Annual NAL Value
pH ¹	Field Test with Calibrated Portable Instrument		s.u.	5.5-9.5	6.0-9.0
Total Suspended Solids (TSS) ¹	EPA 160.2 SM2540-D	1	mg/L	250	100
Total Oil & Grease (TOG) ¹	EPA 413.2 or EPA 1664	1	mg/L	37.5	15
Zinc, Total Recoverable	EPA 200.8	0.0005	mg/L	0.65**	0.26**
Copper, Total Recoverable	EPA 200.8	0.0005	mg/L	0.083**	0.0332**

Parameter	Test Method	Detection Limit	Reporting Units	Daily NAL Value (2.5X Annual NAL)	Annual NAL Value
Lead, Total Recoverable	EPA 200.8	0.0005	mg/L	0.655**	0.262**
Chemical Oxygen Demand	SM 5220C	1	mg/L	300	120
Biochemical Oxygen Demand	SM 5210B	3	mg/L	75	30

SM – Standard Methods for the Examination of Water and Wastewater, 18th edition

EPA – EPA test methods

*Test methods with lower detection limits may be necessary when discharging to impaired water bodies.

**The NAL is the highest value used by USEPA based on their hardness table in the 2008 Multi Sector General Permit.

V. RATIONALE FOR RECEIVING WATER LIMITATIONS

Receiving water limitations of this General Permit are derived from the water quality objectives for enclosed bays and estuaries established by the Basin Plan, Sediment Quality Plan, and other applicable water quality control plans and policies.

Typical boatyard operations are in close proximity to receiving waters and create the potential for discharge to surface waters via waterborne runoff from impervious surfaces, airborne transport of particulates, and via accidental/illicit pollutant releases from spills or otherwise. Some work at boatyards is also conducted on vessels that remain in, or are returned to the receiving water. This topside or interior work may also result in discharges of wastes or pollutants such as particulates from abrasive blasting, sanding, or spilled paints/solvents to receiving waters.

BMPs implemented by the boatyard industry in San Diego prior to the 1990s were deficient in many respects and led to excessive discharges of waste to San Diego Bay which lead to cleanup and abatement orders for metals in the sediment. BMPs have improved much since the 1990s, but inadequate implementation of BMPs could lead to polluted sediment. This potential for discharge and past elevated sediment concentrations demonstrates that there is reasonable potential to cause or contribute to an exceedance of the sediment quality objectives which have been included as receiving water limitations.

VI. RATIONALE FOR MONITORING AND REPORTING REQUIREMENTS

40 CFR 122.48 requires that all NPDES permits specify requirements for recording and reporting monitoring results. Water Code sections 13267 and 13383 authorize the San Diego Water Board to require technical and monitoring reports. The MRP (Attachment E) of this General Permit establishes monitoring and reporting requirements to implement federal and State requirements. The following provides the rationale for the monitoring and reporting requirements contained in the MRP for this Facility.

A. Effluent Monitoring

Dischargers are required to conduct monitoring of the permitted discharge in order to determine compliance with permit conditions. Monitoring requirements are given in the Monitoring and Reporting Program (Attachment E) of this General Permit. This provision requires compliance with the monitoring and reporting program, and is based on 40 CFR 122.44(i), 122.62, 122.63 and 124.5. A MRP is a standard requirement in almost all NPDES permits (including the proposed Order) issued by the San Diego Water Board. In addition to containing definitions of terms, it specifies general sampling/analytical protocols and the requirements of reporting of spills, violations, and routine monitoring data in accordance with NPDES regulations, the Water Code, and San Diego Water Board's policies. Pollutants to be monitored include all pollutants for which effluent limitations or NALs are specified or that may otherwise be necessary to characterize effluents and determine impacts to the receiving water.

Further, this General Permit establishes monitoring twice during the permit term for all CTR priority pollutants for the discharge of ballast water from the Marine Group Boat Works – National City floating drydock as necessary to determine reasonable potential as specified within the SIP.

B. Whole Effluent Toxicity Testing Requirements

As described in section IV.C.5. of this Fact Sheet, annual WET testing is required by this General Permit to determine compliance with the effluent limitation for chronic toxicity.

C. Receiving Water Monitoring

1. Receiving Water and Sediment Monitoring

The State Water Board's Water Quality Control Plan for Enclosed Bays and Estuaries of California – Part 1 Sediment Quality (Sediment Quality Plan) became effective on August 25, 2009. This plan establishes sediment quality objectives, beneficial uses that these objectives are intended to protect, and a program of implementation including monitoring and analysis requirements. This General Permit establishes monitoring and analysis requirements consistent with the Sediment Quality Plan.

This General Permit requires Dischargers in Category 1 to conduct receiving water and sediment monitoring individually, or by participating in a monitoring coalition with a group of boatyards or other existing monitoring coalition. Boatyards that discharge water from storms smaller than a 5-year, 24-hour storm (<http://www.wrcc.dri.edu/pcpnfreq/sca5y24.gif>) are Category 1. The 5-year, 24-hour storm requirement is consistent with State Water Board in Statewide Construction Storm Water General Permit (Order No. 2009-0009, as amended by 2010-0014; adopted September 2, 2009, as modified on November 16, 2010). This Construction General Permit requires all treatment BMPs to be designed for no less than a 5-

year, 24-hour storm event. In addition, the two categories of monitoring is consistent with the San Diego Region's General Fireworks Permit, Order No. R902011-0022 (General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Firework Pollutant Waste Discharges to Waters of the United States in the San Diego Region from the Public Display of Fireworks)

Category 2 monitoring is required for boatyards that only discharge water from a 5-year, 24-hour storm (<http://www.wrcc.dri.edu/pcpnfreq/sca5y24.gif>) or larger. Receiving water and sediment monitoring is not required by Category 2 Dischargers unless otherwise determined by the San Diego Water Board based on the following considerations:

- a. Receiving water body characteristics including circulation, depth, assimilative capacity; CWA 303(d) listed impairments, and beneficial uses;
- b. The frequency of storm water discharge events into the receiving water;
- c. The compliance of the boatyard with provisions of this order including SWPPP implementation;
- d. Proximity of the boatyard to existing or proposed State Water Quality Protection Areas, inclusive of Areas of Special Biological Significance (ASBS) or other environmental sensitive receiving waters; or
- e. Any other relevant water quality factors

D. Other Monitoring Requirements

1. Compliance Certifications

This General Permit requires Dischargers to submit annual and quarterly certifications indicating compliance with applicable discharge prohibitions and provisions of this General Permit. This requirement is consistent with requirements contained in previous individual NPDES permits for the eligible Dischargers and is necessary to evaluate compliance with the conditions of this General Permit.

2. Spill / Illicit Discharge Log

Section X of this General Permit requires the implementation of a SWPPP. Further, this General Permit contains prohibitions for certain discharges associated with industrial activity within boatyards. Dischargers are required to maintain and submit a Spill/Illicit Discharge Log to assist in determining compliance with the requirements of this General Permit. This requirement is consistent with requirements contained in previous individual NPDES permits for the eligible Dischargers and is necessary to evaluate compliance with the conditions of this General Permit.

3. Chemical Utilization Records

This General Permit requires the Dischargers to maintain records of all the hazardous material used at the facility over the previous 5-year period. Records

must be available to the San Diego Water Board upon request or during an inspection of the facility.

4. Storm Water and Non-storm Water Monitoring

Section X of this General Permit requires the implementation of a SWPPP. Further, this General Permit establishes NALs. Storm water and non-storm water monitoring is necessary to evaluate the effective implementation of the Dischargers' SWPPP and determine compliance with NALs.

5. Marine Group Boat Works – National City Floating Drydock Requirements

Section X of this General Permit requires the implementation of a SWPPP which are both applicable to activities occurring on the Marine Group Boat Works – National City floating drydock. These reporting requirements are necessary to determine compliance with the implementation of these plans. These requirements are consistent with the requirements established in their previous NPDES permit.

E. Reporting Requirements

1. Self-Monitoring Reports and California Integrated Water Quality System (CIWQS)

At any time during the term of this permit, the State Water Board or San Diego Water Board may notify the Discharger to electronically submit Self-Monitoring Reports (SMRs) using the State Water Board's California Integrated Water Quality System (CIWQS) Program Web site (<http://www.waterboards.ca.gov/ciwqs/index.html>). Until such notification is given, the Discharger shall submit an electronic copy of the SMR on a CD to the San Diego Water Board Office.

CIWQS is one of the Water Boards' primary regulatory information tracking systems. It is a web-based relational database for core regulatory data for use by staff, management, and the public, and it allows the regulated community to submit certain types of information to the Water Boards in compliance with adopted orders.

2. Discharge Monitoring Reports (DMRs)

Currently, only major Dischargers are required to submit discharge monitoring reports (DMRs), in addition to self-monitoring reports. The facilities regulated by this Order have been classified by USEPA and the San Diego Water Board as a minor discharge and therefore is currently not required to submit DMRs. However, DMRs can be required from any Discharger regardless of the major/minor designation. USEPA may be requiring DMRs from all Dischargers in electronic or paper form in the future.

VII. RATIONALE FOR PROVISIONS

A. Standard Provisions

Standard Provisions, which apply to all NPDES permits in accordance with 40 CFR 122.41, and additional conditions applicable to specified categories of permits in accordance with 40 CFR 122.42, are provided in Attachment D to the Order.

40 CFR 122.41(a)(1) and (b) through (n) establish conditions that apply to all State-issued NPDES permits. These conditions must be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to the regulations must be included in the Order. 40 CFR 123.25(a)(12) allows the State to omit or modify conditions to impose more stringent requirements. In accordance with 40 CFR 123.25, this General Permit omits federal conditions that address enforcement authority specified in 40 CFR 122.41(j)(5) and (k)(2) because the enforcement authority under the Water Code is more stringent. In lieu of these conditions, this General Permit incorporates by reference Water Code section 13387(e).

B. Special Provisions

1. Reopener Provisions

This General Permit may be re-opened and modified, revoked, and reissued or terminated in accordance with the provisions of 40 CFR Parts 122, 123, 124, and 125. Similarly, coverage under this General Permit may be revoked or modified. The San Diego Water Board may reopen the permit to modify permit conditions and requirements. Causes for modifications to this General Permit or coverage under this General Permit include the promulgation of new regulations, modification in sludge use or disposal practices, or adoption of new regulations by the State Water Board or San Diego Water Board, including revisions to the Basin Plan.

2. Storm Water Discharge Requirements

Storm water discharge requirements are based on 40 CFR 122(k)(4), which states that BMPs may be required to control or abate the discharge of pollutants when the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA. These requirements are similar to the storm water discharge requirements contained in the previous individual NPDES permits for Dischargers eligible for coverage under this General Permit.

This Order requires the Dischargers to continue to implement and regularly update a SWPPP as specified in Attachment H.

3. Special Studies, Technical Reports and Additional Monitoring Requirements

a. Toxicity Reduction Requirements

The Basin Plan contains a narrative toxicity objective that states, "All waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." (Basin Plan at page 3-29.) This provision requires the Discharger to develop an Initial Investigative TRE Workplan in accordance with USEPA guidance which shall include steps the Discharger intends to follow if toxicity is measured above the effluent limitation for toxicity. This provision also includes requirements to initiate the TRE/TIE process if the results of toxicity testing exceed the effluent limitation for chronic toxicity.

4. Other Special Provisions – Not Applicable

VIII. PUBLIC PARTICIPATION

As a step in the adoption process of this General Permit, the San Diego Water Board has developed Tentative Order No. R9-2013-0026. The San Diego Water Board has taken the following steps to encourage public participation in the San Diego Water Board's proceedings to consider adoption of the Tentative Order.

A. Notification of Interested Parties

The San Diego Water Board has notified the Dischargers and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharges covered under this General Permit and provided them with an opportunity to submit their written comments and recommendations. Notification was published in the San Diego Union Tribune and the Orange County Register on February 8, 2013 and posted on the San Diego Water Board web site on February 8, 2013.

On February 8, 2013, a public hearing notice and the Tentative Order were emailed to all known interested persons and posted on the San Diego Water Board's website.

B. Written Comments

Interested persons wishing to submit written comments on the Tentative Order must submit them so that they are received no later than 5:00 p.m. on March 11, 2013. Written comments received after this date will not be provided to the San Diego Water Board members prior to the hearing. Written comments must be mailed, faxed, or delivered to the San Diego Water Board's office at 9174 Sky Park Court, Suite 100, San Diego, CA 92123, FAX: (858) 571-6972. Timely submitted electronic written comments are acceptable and should be submitted via e-mail to the attention of Kristin Schwall at kschwall@waterboards.ca.gov. Please indicate in the subject line of all written comments "Comment - Tentative Order No. R9-2013-0026, Place ID: 785854.

If the submitted written comments exceed five pages in length or contain foldouts, color graphics, or maps, 15 hard copies must be submitted for distribution to the San Diego Water Board members and staff.

The submission of written comments is the opportunity for interested persons to raise and comment on issues pertaining to the terms and conditions of the Tentative Order. Consistent with State Water Board regulations that apply to this proceeding, written comments received after the close of the comment period will not be accepted and will not be incorporated into the administrative record if doing so would prejudice any party. Written comments received by the close of the comment period will be provided to the San Diego Water Board members for their review in advance of a public hearing to consider adoption of the Tentative Order. All timely written comments will also be posted as they are received on the San Diego Water Board website

C. Public Hearing

Tentative Order No. R9-2013-0026 will be considered by the San Diego Water Board for adoption in a public hearing during its regular Board meeting as follows:

Date: Wednesday, May 8, 2013
Time: 9:00 AM
Location: San Diego Regional Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Interested persons are invited to attend the hearing. At the public hearing, the San Diego Water Board will hear testimony, if any, pertinent to the Tentative Order. Participants in the public hearing will have an opportunity to address the San Diego Water Board members at the hearing subject to reasonable limitations prior to the Board taking action on the Tentative Order.

Please be aware that dates and venues may change. The San Diego Water Board Web address is <http://www.StateWaterBoard.ca.gov/rwqcb9> where you can access the current agenda for changes in dates and locations.

D. Waste Discharge Requirements Petitions

Any aggrieved person may petition the State Water Resources Control Board to review the decision of the San Diego Water Board regarding the final WDRs. The petition must be submitted within 30 days of the San Diego Water Board's action to the following address:

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100, 1001 I Street
Sacramento, CA 95812-0100