

**REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**EXECUTIVE OFFICER SUMMARY REPORT**

**May 10, 2023**

**ITEM 4**

**SUBJECT**

NPDES Permit Reissuance: *General Waste Discharge Requirements for Discharges from Shipyards to San Diego Bay* (Tentative Order No. R9-2023-0012, NPDES Permit CAG039001). (*Vicente Rodriguez*)

**STAFF RECOMMENDATION**

Adoption of Revised Tentative Order No. R9-2023-0012 (Tentative Order; **Supporting Document No. 1**) is recommended.

**KEY ISSUES**

BAE Systems San Diego Ship Repair Incorporated (BAE), Continental Maritime of San Diego (Continental), and General Dynamic National Steel and Shipbuilding Company (NASSCO) are shipyards that are located adjacent to San Diego Bay. These shipyards construct, modify, repair, and maintain naval and other marine vessels. The discharges of industrial stormwater and industrial wastewater from these facilities to San Diego Bay are currently regulated through separate National Pollutant Discharge Elimination System (NPDES) permits. These permits have similar requirements because of their common operations and locations. Rather than requiring each shipyard operating adjacent to San Diego Bay to apply for a separate permit, the Tentative Order establishes a streamlined and consistent process for regulating all shipyards operating in San Diego Bay.

If adopted, the Tentative Order will regulate discharges of industrial stormwater and industrial wastewater from shipyard operations through effluent limitations, discharge prohibitions, receiving water limitations, and monitoring requirements to protect the beneficial uses of San Diego Bay.

**PRACTICAL VISION**

Consistent with the mission of the *San Diego Water Board Practical Vision* and the goals of Chapter 1, *Strategize for Healthy Waters*,<sup>1</sup> the Tentative Order integrates all applicable technology-based requirements, water quality-based effluent limitations, receiving water quality standards, and best management practices to protect the water quality and beneficial uses of San Diego Bay. Additionally, the Tentative Order has provisions allowing for participation in regional monitoring and assessment programs in keeping with San Diego Water Board Resolution R9-2012-0069, *Resolution in Support of a Regional Monitoring Framework*.<sup>2</sup>

---

<sup>1</sup> Practical Vision: [https://www.waterboards.ca.gov/sandiego/water\\_issues/programs/practical\\_vision/](https://www.waterboards.ca.gov/sandiego/water_issues/programs/practical_vision/)

<sup>2</sup> Resolution in Support of a Regional Monitoring Framework: [https://www.waterboards.ca.gov/sandiego/board\\_decisions/adopted\\_orders/2012/R9-2012-0069.pdf](https://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2012/R9-2012-0069.pdf)

## DISCUSSION

The Tentative Order is a general NPDES permit that will regulate discharges of industrial wastewater and industrial stormwater from shipyard operations to San Diego Bay. The discharges associated with shipyard operations include discharges of industrial stormwater; deflooding water from floating dry docks, graving docks, and building ways; ballast water; water used for cleaning floating booms; weight test water; and water from an ion exchange treatment system. If adopted, the Tentative Order will remain in effect for a five-year fixed term.

Shipyards must submit a Notice of Intent (NOI) application to obtain coverage under the Tentative Order. The NOI application will identify the type of operations that occur at each shipyard and the type of coverage needed for each shipyard based on those operations. Regulatory coverage for a shipyard will commence when the San Diego Water Board issues a Notice of Applicability (NOA) in response to the NOI.

A tentative NOA will be distributed for a 30-day public comment period prior to issuance. San Diego Water Board staff will consider comments received and revise the tentative NOA as appropriate prior to recommending issuance of the NOA. Individual NPDES permits that currently regulate Continental, BAE, and NASSCO will be rescinded on the effective date specified in their respective NOAs.

The Tentative Order was noticed for a public hearing and released for public review and comment for a 30-day period starting on March 8, 2023. The public comment period closed on April 7, 2023. The San Diego Water Board received 4 comment letters regarding the Tentative Order during the comment period (**Supporting Documents No. 2-5**). The San Diego Water Board received 1 comment letter, from BAE, on April 9, 2023, after the close of the public comment period (**Supporting Document No. 6**). The San Diego Water Board Chair accepted the late comment letter. The comment letters have been provided to the San Diego Water Board Members for consideration and are available for review by interested persons upon request. The Response to Comments Report (**Supporting Document No. 7**) contains the San Diego Water Board responses to all the comments received and, if applicable, describes actions taken to revise the Tentative Order in response to the comments received.

The following is a summary of the most significant comments received and the associated responses:

### ***Comment***

Continental Maritime requested the Tentative Order be modified to limit the scope of comments regarding the draft NOAs during the public comment period and clarify how the San Diego Water Board will address public comments received regarding the draft NOAs. The Port of San Diego commented in support of providing the public with an opportunity to comment on draft NOAs.

### **Response**

The purpose of the public comment period is to provide transparency during the enrollment process and notify the public of the type of coverage requested by each discharger. The public comment period also provides an opportunity for

dischargers to verify enrollment information and review the requirements of the tentative NOA. The tentative NOA will outline the discharger's coverage and monitoring and reporting requirements, and will be based on the requirements in Attachment E of the Tentative Order. Public comments considered by the Board will be limited to those related to the requirements in the NOA. The San Diego Water Board will review each comment to determine if additional information is needed or if the tentative NOA requires revision. Any additional information received will be used to determine the appropriateness of the requirements included in the NOA. No changes were made to the Tentative Order in response to these comments.

***Comment***

Continental Maritime and BAE requested the San Diego Water Board modify the Tentative Order to explain how the PFAS data will be used and identify that these compounds are new/emerging constituents of concern in sediment and receiving water quality monitoring programs, and as such will be evaluated with these considerations in mind.

**Response**

The San Diego Water Board is responsible for the protection of the beneficial uses of water in California. PFAS is mobile, persistent, bioaccumulative, and has the potential to enter the waste stream from many different sources. San Diego Water Board will use the PFAS monitoring data to further understand PFAS exposures and toxicities, and human health and ecological effects, to make informed and judicious decisions in implementing future regulatory actions. No changes were made to the Tentative Order as a result of this comment.

***Comment***

Continental Maritime and BAE commented that while they recognize the importance of climate change, the requirement to develop a Climate Change Action Plan (CCAP) is duplicative of other existing regulatory programs and should not be included in the Tentative Order. The Port of San Diego commented that the proposed CCAP requirements are overly broad and that the permit should focus on climate adaptation and coastal resilience, since other State of California (State) and local agencies are focused on emissions reductions. San Diego Coastkeeper supported the inclusion of a requirement for permittees to develop a CCAP but requested that the permit be modified to require submission of the CCAP in two years instead of three, require that the CCAP include an assessment of whether the permittee's current stormwater storage/retention capacity is sufficient to manage future precipitation events, and require implementation of any changes the CCAP identifies as necessary as a condition of continued permit coverage.

**Response**

Changing climate conditions may fundamentally alter the way facilities are designed and operated. Changes to the design and operation of a facility may be necessary to ensure the facility is more resilient against climate change affects

(e.g., sea level rise, erratic and intense weather patterns). Changes to water temperature and pH may also affect how the receiving water reacts to the discharges. Title 40 of the Code of Federal Regulations (CFR) section 122.41, subdivision (e), requires dischargers to properly operate and maintain their facilities and systems of treatment and control. The CCAP is required to ensure that the facility will be properly operated and maintained given the effects of climate change. The CCAP is intended to discuss the proactive efforts each discharger is taking to address the effects of climate change on their facilities and minimize or avoid water quality-related impacts on the environment (i.e., being prepared for more frequent and more severe flooding and changes to receiving waters react the discharges).

Three years is a reasonable amount of time to develop a comprehensive CCAP. The San Diego Water Board may consider modifying future permit conditions, including the need to implement changes identified in the CCAP based on the facility's compliance history and findings of the CCAP. Dischargers may rely on existing climate-change-related plans to comply with this requirement. The Tentative Order was modified to focus the requirements on climate adaptation and coastal resilience.

**Comment**

The Port of San Diego supports the adoption of a general permit to regulate industrial stormwater and wastewater discharges from shipyards. This approach ensures consistency among the shipyards in their use of best management practices, standardizes expectations for monitoring and reporting, and encourages collaboration on regional efforts, as well as serves to protect the Bay's beneficial uses.

**Response**

The comment is noted.

**SIGNIFICANT CHANGES**

The following are the significant differences between the Tentative Order and the individual NPDES permits:

1. The Tentative Order requires all shipyards to retain at least the first inch of rainfall from storm events, whereas the individual NPDES permits require the following stormwater retention volumes:
  - a. BAE Systems San Diego Ship Repair Inc. shall capture the first inch of rainfall;
  - b. Continental Maritime of San Diego shall capture the first 2.3 inches of rainfall; and
  - c. General Dynamics National Steel and Shipbuilding Company (NASSCO) shall capture the first 3.5 inches of rainfall.

The individual NPDES permits specify different volumes based on the amount of rainfall each shipyard can retain. However, all of the individual permits prohibit the discharge of the first flush of rainfall from storm events and the stormwater retention volume of 1 inch was included in the Tentative Order to be consistent with that discharge prohibition. The shipyards shall continue to retain the first flush of rainfall. All discharges of stormwater are still required to comply with the effluent limitation for chronic toxicity.

2. The Tentative Order includes effluent limitations for all metals, whereas NASSCO's individual NPDES permit only included effluent limitations for copper and zinc. The limitations for all metals will account for potential pollutants from new shipyards. Shipyards must provide representative monitoring data to demonstrate whether an effluent limitation for a metal will be applicable at their facility. The individual NOAs will include applicable effluent limitations and related Anti-backsliding and antidegradation discussions, consistent with NPDES rules and regulations.
3. The Tentative Order provides coverage for water used for weight testing. This is for shipyards that use water from San Diego Bay to conduct weight testing on shipboard cranes and riggings.
4. The Tentative Order increases the chronic toxicity monitoring frequency for an ion exchange treatment system from semiannually (as required in the existing individual NPDES permit for NASSCO) to quarterly to better assess compliance with the effluent limitation.
5. The Tentative Order reduces the minimum reporting frequency from monthly, in the individual permits, to quarterly. However, the shipyards shall notify the San Diego Water Board by telephone within 24 hours of having any knowledge of noncompliance with this Tentative Order.
6. The Tentative Order updated the sediment quality objectives and related monitoring and reporting requirements to be consistent with the current *Water Quality Control Plan for Enclosed Bays and Estuaries of California – Sediment Quality Provisions*, as amended on June 5, 2018.
7. The Tentative Order requires Dischargers to develop a CCAP to identify steps being taken or planned to address flooding and sea level rise risks; volatile rain period impacts (both dry and wet weather); impacts on quality of the discharge; the potential need to adjust permit conditions and the Discharger's pollution control program; the financing needed to pay for planned actions; schedules to update the CCAP as more information on climate change and its effect become available; and any other factors as appropriate.

## **PUBLIC NOTICE**

Tentative Order No. R9-2023-0012 was noticed and released for public review and comment on March 8, 2023, with comments due by April 7, 2023. The Notice of Public Hearing and Opportunity to Comment (Notice; **Supporting Document No. 8**) was posted on the San Diego Water Board website for the duration of the comment period and sent to all existing Dischargers and all interested parties. The Notice announced a

public hearing on May 10, 2023, the availability of the Tentative Order for review, a public workshop that was held on March 22, 2023, and provided instructions for submittal of written comments. Notice of the public hearing on the Tentative Order was also provided in the Meeting Notice and Agenda for the May 10, 2023, San Diego Water Board meeting, which was posted on the San Diego Water Board website.

**SUPPORTING DOCUMENTS**

1. Revised Tentative Order R9-2023-0012
2. Comment Letters from Continental Maritime San Diego, LLC
3. Comment Letters from Anchor QEA
4. Comment Letters from the San Diego Unified Port District
5. Comment Letters from San Diego Coast Keeper
6. Comment Letters from BAE Systems San Diego Report Inc.
7. Response to Comments Report
8. Public Notice