

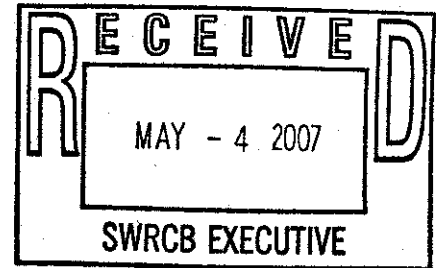


County of San Diego

DEPARTMENT OF PUBLIC WORKS

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JOHN L. SNYDER
DIRECTOR



May 4, 2007

Song Her
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Sent via facsimile and US Mail

Dear Ms. Her:

The County of San Diego (County) has reviewed the Draft National Pollution Discharge Elimination System General Permit No. CAR000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (Permit) and has concerns with some of the requirements. We have compiled our concerns on the enclosed table.

There are several requirements in the Permit that deter the ability of the County to construct and inspect projects. These sections are as follows:

Section IX. Project Implementation Requirements

The Permit considers discharges that exceed Numeric Effluent Limitations (NEL) to be noncompliant. There is no explanation as to the source of the exceedance. This implies that flows entering the construction project that exceed the NEL would result in a noncompliance for the project. In addition, there is no discussion on how to remedy the noncompliance.

Please consider revising this section to differentiate between run-on from surrounding areas and the construction site runoff.

Section IX.G. Active Treatment Systems (ATS)

The Permit requires projects that contain soils with 10% particle size smaller than 0.02 mm to deploy an Active Treatment System (ATS). The 10% value is low enough that this requirement could potentially apply to a large portion of the construction projects in the region. Thereby, the cost of the construction projects could significantly increase as a result of implementing ATS measures. The County is concerned that the ATS requirement would force construction projects to severely limit active areas because the required ATS

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capture system must treat 1.5 times the volume of water generated by a 10 year, 24 hour storm. This storage volume is significantly large when considering the average annual rainfall. The County is also concerned with the chemical additives that can be used to meet the ATS. These chemicals may impact downstream organisms if used in excessive amounts. It will be difficult to limit the amount of chemicals applied given the dynamic nature of construction projects and the number of potential discharge points for runoff.

Please consider reducing the sizing requirements for the capture system and limiting the use of chemical additives to only those that can be proven to be safe for downstream organisms. The capture system could be sized to the average rain event with a 50% factor of safety.

Section IX.K. New Development and Re-development Storm Water Performance Standards

The Permit addresses hydromodification through the construction and post-construction phase. However, the Permit's approach to hydromodification does not take into account factors such as the current condition of the channel, the soil type, and amount of urbanization. In addition, some municipalities are already subject to other hydromodification requirements established in other NPDES permits.

Please consider eliminating this section from the Permit. Though the County understands the concerns regarding hydromodification, it should be handled through other NPDES permits.

The County is in agreement that a revision to the current General NPDES Permit for Construction Activities is needed. However, the revisions should not hamper nor prevent our ability to construct projects. Thank you for allowing us the opportunity to provide comments on this Draft Permit.

If you have any questions, please contact me at (858) 694-3672 or email at Cid.Tesoro@sdcounty.ca.gov.

Sincerely,



CID TESORO, Manager
Department of Public Works

cc: Rich Crompton – Department of Public Works

Enclosure

Order No. 2007-XX-DWQ
 National Pollutant Discharge Elimination System General Permit No. CAR000002
 Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity
 Comments from the County of San Diego

Permit Section	Permit Language	County of San Diego Comments
IV.1.	Storm water discharges and authorized non-storm water discharges regulated by this General Permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 CFR Part 117 and/or CFR Part 302.	Include 40 CFR Part 117 and/or CFR Part 302 in the appendix.
IV.4.	<p>NELs for discharges from an ATS:</p> <p>a. Acute toxicity of ATS discharges shall have no significant difference, at the 95% confidence level, between the control discharge and 100 percent effluent (a t-test), applied as a monthly median of pass-fail tests.</p> <p>b. Chronic toxicity of ATS discharges shall be equal to 1.0 TU where TU = 100/NOEC.</p> <p>c. The pH of ATS discharges shall at all times be within the ranges of 6.5-8.5 pH Units.</p> <p>d. Turbidity of all ATS discharges shall be less than 10 NTU.</p>	This will require additional sampling from a project site which could affect the project cost.
VI.3	Storm water discharges and authorized non-storm water discharges shall not cause foam at discharge locations.	Foam can be result of turbulence as the water impacts an energy dissipater. Also, how much foam is acceptable?
VI.4	Storm water discharges and authorized non-storm water discharges shall not cause deleterious physical impacts to directly connected receiving waters (for example, excessive channel bed and/or bank erosion).	There are other factors that may influence bed and bank erosion. Some elements could be attributed to hydromodification that is occurring elsewhere. The construction project should not be held responsible for the actions of others beyond the project limit. Consider placing hydromodification requirements in other NPDES permits other than this one.

VII.1.b.	Existing dischargers (those who were subject to State Water Board Order No. 99-08-DWQ) shall electronically file all PRDs no later than 90 days after the adoption date [insert adoption date of permit] of this General Permit. If the project acreage subject to the annual fee has changed, dischargers shall mail a revised annual fee no less than seven days after electronically submitting all PRDs or lose permit coverage.	Projects are substantially complete would have to reapply even if they are complete by day 91. This would be an unfair requirement to some projects. Consider adding language that allows current projects, which will be completed within 180 days of permit adoption, are exempt from filing a PRD.
VII.3.	Existing dischargers shall make and implement necessary revisions to their SWPPP and Monitoring Program to reflect the changes in this General Permit in accordance with Section IX., Storm Water Pollution Prevention Plan, and Attachment E, Monitoring Program and Reporting Requirements in a timely manner but no later than 90 days after [insert adoption date of permit]. Dischargers shall continue to implement their existing SWPPP and Monitoring Program in compliance with State Water Board Order No. 99-08-DWQ until the necessary revisions are completed according to the schedule above.	See comments above for sec. VII.1.b.
VII.8.d.i	Authorized non-storm water discharges may include those from potable sources such as: fire hydrant flushing, irrigation of vegetative erosion control measures, pipe flushing and testing, water to control dust, and uncontaminated ground water dewatering. Discharges of non-storm water are authorized only if discharges: d. Have BMPs specifically included in the SWPPP and properly implemented to: i. prevent or reduce the contact of non-storm water discharges with construction materials or equipment, and	Requirement VII.8.d.i does not relate to non-stormwater discharges for construction activities.
IX.A.1	If the monitoring result is greater than the NEL, then the discharger is out of compliance.	This requirement needs to define which parameter applies. If all parameters must be exceeded or is it just one.

IX.B	<p>Whenever effluent monitoring indicates that an AL listed in Table 2 is exceeded, the discharger shall immediately implement corrective actions if appropriate; conduct a construction site evaluation to determine whether pollutant source(s) associated with construction activity may have caused or contributed to the AL exceedance; and electronically enter monitoring results into SWARM within 48 hours of receiving the results. In the case of a turbidity exceedance, this evaluation shall include an estimation of the turbidity expected to occur under the actual rainfall conditions at the time of the exceedance, if the site were naturally vegetated, using the method presented in Attachment E. In addition, high risk sites shall immediately conduct receiving water monitoring as specified in Attachment E, and include such monitoring results in their SWARM submittal.</p>	<p>A definition for immediate should be provided. Also, there should be an opportunity to allow for the ability to procure the material needed for corrective action. Our suggestion is to allow for at least a 24 hour period.</p>
IX.B.2.	<p>However, unless required to comply with receiving water objectives, no additional on-site activities or revision of the SWPPP with respect to sediment control will be required if the turbidity in the release was equal to or less than 1.2 times the turbidity estimated to occur under the actual rainfall conditions at the time of the exceedance, if the site were naturally vegetated, using the method presented in Attachment E, OR if the turbidity in the release was equal to or less than 1.2 times the actual turbidity measured in the receiving water upstream of the storm water discharge from the site.</p>	<p>How was the criterion to use 1.2 times the turbidity developed? There is no information regarding this in the Fact Sheet.</p>
IX.C.2.	<p>At a minimum, the discharger shall stabilize all active 11 disturbed areas regardless of time of year from all erosive forces, including rainfall, non-storm water runoff, and wind.</p>	<p>This requirement conflicts with the definition of Active Areas. In addition, there is no specified time frame when stabilization is to take place. Is an Active Area stabilized weekly or monthly?</p>
IX.C.4.	<p>The discharger shall stabilize all finished slopes, open space, utility backfill, and lots as soon as they have been completed.</p>	<p>In most cases it is infeasible to stabilize finished slopes as soon as they have been completed unless the equipment and material are standing by. This would be a significant cost for construction projects. Consider allowing some time to comply. For example allow for up to one week during the rainy season.</p>
IX.E.6.	<p>At all times during the year, the discharger shall appropriately protect and maintain all storm drain inlets and perimeter controls, runoff control BMPs, and stabilized entrances/exits.</p>	<p>Some inlets could be within a construction zone but receive no construction runoff and the project is substantially complete. Therefore, protection of the storm drain inlet is not necessary. Consider revising as follows. At all times during the year, the discharger shall appropriately protect and maintain all storm drain inlets that receive construction runoff and perimeter controls, runoff control BMPs, and stabilized entrances/exits.</p>

IX.G.1	If the soils to be exposed contain more than 10% (by weight) particle sizes smaller than 0.02 mm (medium silt), the discharger shall either deploy an ATS or comply with source control procedures described in Section VIII.G.	The 10% particle sizes smaller than 0.02 mm could apply to large majority of the soils in the San Diego region. Thereby requiring ATS for a large portion of the projects
IX.G.2.c.ii	Other sizing criteria may be used that are site specific or treatment specific, but the system shall be capable of capturing and treating, within 48 hours, at least the runoff generated by the range of storms up to 1.5 times the volume of water generated by the local 10 year, 24 hour design storm event.	The 1.5 times the volume for a 10 year event will create a large treatment system. Using a 2-5 year storm event might suffice considering the probability of a 10 year storm event relative to the life of a construction project
IX.G.3.	If a chemical additive is used, the discharger shall provide information in the supplemental report demonstrating that all additives will be removed prior to discharge of flow from the ATS, or that the discharge of chemical additives from the ATS in expected concentrations will not affect the survival of aquatic life in receiving waters or violate the NELs described in Section IV.3. Acceptable sampling, analysis and reporting methods are described in Attachment E.	There could be potential impacts to aquatic organisms if chemical additives are released in sufficient quantities or concentration. For example, a break in the detention basin during a large storm event.
IX.G.5.c.	The discharger shall direct all ATS discharges through a physical filter such as a vegetated swale and provide outlet protection to prevent erosion and scour of the embankment and channel.	This requirement creates an unnecessary secondary treatment system. The ATS is required to have a high sediment removal rate. Therefore, there may not be sediment left to filter.
IX.H.1.b	Limit the areas of active construction to five acres at any one time.	Limiting the active work area will greatly impact the project cost without a valid justification.
IX.H.1.e	Provide vegetated buffer strips between the active construction area and any water bodies.	Will non-native plants be acceptable for use as a buffer strip?
IX.I.1.b.	Covering and berming loose stockpiled construction materials (i.e. soil, spoils, aggregate, fly-ash, stucco, hydrated lime, etc.).	This needs a qualifier stating that covering and berming will be required when the stockpile is not actively used.
IX.I.4.a.	Covering and berming stockpiled materials such as mulches and topsoil.	This needs a qualifier stating that covering and berming will be required when the stockpile is not actively used.
IX.I.4.c.	Applying landscape material at quantities and applications rates according to manufacture recommendations or based on knowledgeable and experienced field personnel.	This requirement is difficult to impose. Furthermore, it directs the work of the landscaper.
IX.J.2.	The discharger shall wash vehicles and streets in designated areas to prevent non-storm water discharges.	This requirement is confusing.
IX.K.	New Development and Re-development Storm Water Performance Standards	Hydromodification requirements can vary from region to region. Requiring measures to curtail water for construction activities could result in increased cost and delays. Areas within the State that have Hydromodification requirements as part of separate Water Quality permit

X.A.1.h.	Effective two years after the adoption date of this General Permit, shall have attended a State Water Board-sponsored or approved Qualified SWPPP Developer training course.	should be exempt from this requirement. The requirements for Section X.A.1 are already stringent. Would the State Water Board-sponsored or approved training have additional requirements?
XI.1.	The discharger shall develop and implement a Rain Event Action Plan (REAP) designed to protect all exposed portions of the site within 48 hours prior to any likely precipitation event. A likely precipitation event is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area.	The 30% probability appears to be low. This may require projects to over implement the REAP. Thereby increasing the cost. Consider using a 50% factor instead.
XI.6.	All projects shall ensure that the amount of soil exposed during an event does not exceed what can be adequately protected by deploying standby erosion control and sediment control measures prior to the event.	This will be difficult to impose since it is up to the interpretation of the project proponent and the inspector. Consider a fixed percentage as an alternative.
Attachment D		
9.b.ii.	The frequency, time(s) of day, or conditions when the BMP is scheduled for implementation.	BMPs such as covering and berming of materials can be placed and removed on multiple occasions per day. This requirement can create a substantial amount of paperwork. Please consider eliminating this requirement.
11 c.	The SWPPP shall include all appropriate plans, calculations, design details, and narrative description necessary to demonstrate the project has met the General Permit's storm water treatment and hydromodification requirements (Section IX.K).	There are other factors involved in addressing hydromodification that is not included in this Permit. Consider eliminating the hydromodification requirements from this Permit and placing it on other NPDES permits.
Attachment E		
F.1.	The discharger shall perform sampling of storm water discharges from all drainage areas associated with construction activity. The storm water discharge collected and observed shall represent the worst quality storm water discharge in each drainage area based on visual observation of the water and upstream conditions. For example, if there has been concrete work recently in an area, or drywall scrap is exposed to the rain, a pH sample shall be taken of drainage from the relevant work area. Similarly, if muddy water is flowing through some parts of a silt fence, samples shall be taken of the muddy water even if most water flowing through the fence is clear.	It is unclear why sampling should occur at a BMP that appears to be functioning properly.
Attachment H		
	Sediment basins shall, at a minimum, be designed for a 90% reduction of suspended soil particles having a diameter of 0.02 mm or larger. The following equations are used to determine the appropriate surface area and length to width ratio to achieve the target 90% reduction.	Obtaining a 90% reduction rate will require significantly large detention systems or force the use of ATS even if the project does not meet the ATS criteria. Consider using an 80% reduction rate instead.