

June 19, 2009
File # 0780-85-KY181


Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

**SUBJECT: COMMENTS ON THE NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PROPOSED DRAFT GENERAL
PERMIT FOR DISCHARGES OF STORM WATER ASSOCIATED WITH
CONSTRUCTION ACTIVITIES (DRAFT DATED APRIL 22, 2009)**

The City of Chula Vista appreciates the opportunity to provide comments on the Draft Order No. 2009-XX-DWQ (NPDES General Permit No. CAR000002). City staff has carefully reviewed the General Permit, and has specific comments that are presented in Attachment A to this letter.

We trust that the State Board will give full consideration to our comments and recommendations in order to facilitate continued compliance, and to improve the effectiveness of the Construction Permit Program.

Should you have any questions or if you need further information, please call me at (619) 397-6111. Thank you.


KHOSRO AMINPOUR
SENIOR CIVIL ENGINEER

Attachment

Cc: Rick Hopkins, Director of Public Works
Matt Little, Assistant Director of Public Works
Silvester Evetovich, Principal Civil Engineer

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ATTACHMENT A

Note: Texts in *italic* are quotes from the General Permit followed by City of Chula Vista's comments.

1. **Section I.A.13, Page 3**

"This General Permit also recognizes inactive construction as a category of construction site type."

Comment:

The General Permit requires inactive construction sites to be fully stabilized. Therefore, less stringent inspection, monitoring, and reporting should be required from inactive construction sites. It is recommended to delete the above sentence.

2. **Section I.C.31, Page 5**

"Landfill construction activity that is subject to the Industrial General Permit."

Comment:

It is recommended to change the sentence to "Landfill and mining construction activity that is subject to the Industrial General Permit"

3. **Section I.G.47, Page 8**

"Therefore, a Rain Event Action Plan (REAP) is necessary to ensure that active construction sites have adequate erosion and sediment controls implemented prior to the onset of a storm event, even if construction is planned only during the dry season."

Comment:

Please add the following sentence:

"This requirement does not provide a waiver for implementing adequate Best Management Practices throughout the year, as required by local jurisdictions."

4. **Attachment A, Section I.2.b.v.(3) and Section I.3.b.v.(3) Page 28**

"Additional LUP Type 2 Requirement: LUP Type 2 dischargers shall implement appropriate erosion control BMPs (runoff control and soil stabilization) in conjunction with sediment control BMPs for areas under active construction."

Comment:

While it is feasible to implement sediment control BMPs for areas under active construction, such as installing silt fences, berms, fiber rolls, etc. along the perimeter, it can not be envisioned how erosion control BMPs such as hydro-seeding, or installing straw mats can be accomplished on active areas of a construction site where such BMPs interfere with construction activities and require continuous maintenance. It is recommended to eliminate erosion control BMPs from this requirement.

5. Attachment A, Section I.2.b.v.(7) and Section I.3.b.v.(7) Page 29

"Additional LUP Type 2 Requirement: LUP Type 2 dischargers shall inspect on a daily basis all immediate access roads daily."

Comment:

Repeating the word "daily" is not necessary.

6. Attachment A, Section L.3.b.iv and v Page 44 & 45

"iv LUP Type 1 dischargers shall collect samples during the first two hours of discharge from rain events that occur during business hours and which generate runoff."

"v Samples shall be collected during the first two hours of discharge from rain events that occur during daylight hours and which generate runoff."

Comment:

Please use "business hours" and "daylight hours" consistently. As an alternative it is recommended to use "daylight business hours" throughout the General Permit.

7. Attachment A, Section L.4.b.i Page 47

"LUP Type 2 dischargers shall collect storm water grab samples from sampling locations characterizing discharges associated with construction activity from the entire LUP disturbed area beginning the first hour of any new discharge and during the first and last hour of every day of normal operations for the duration of the discharge event. At a minimum, 3 samples shall be collected per day of discharge."

Comment:

Since discharge may not continue for the duration of a normal business day, and its duration cannot be anticipated to schedule sampling as required, it is recommended to revise this language to require sampling during the first hour of any new discharge and at 4 hour intervals thereafter.

8. **Attachment B, Section J.2.h – o Page 3**

"Site Map(s) includes:

a. ...

b. ...

c. ..."

Comment:

Areas of soil disturbance and locations of erosion and sediment control BMPs on a construction site change on a continuous basis. Staging areas and construction site configurations are not known at the time of PRD submittal due to the fact that the contractor finalizes these details shortly before the start of construction activities. Any submittals required as part of the PRD package will be unrealistic and subject to change. It is recommended that such information be included in the site SWPPP and updated as required during the course of construction activities.

9. **Attachment B, Section J. Last Paragraph Page 4**

"Each discharger will be mailed a receipt letter containing the WDID number. Please allow up to 30 days to receive your WDID number."

Comment:

Section E requires the submittal of PRDs at least 14 days before the start of construction activities, while it may take up to 30 days to receive a WDID number. Please clarify if construction can start before receiving a WDID number.

10. **Attachment C, Section D.2 Footnote 1 Page 5**

"Inactive areas of construction are areas of construction activity that have been disturbed and are not scheduled to be re-disturbed for at least 30 days."

Comment:

Please add "...or a shorter period that may be specified by the local jurisdiction"

11. **Attachment C, Section I.7.c Page 10**

"Risk Level 1 dischargers shall collect samples at all discharge locations that can be safely accessed."

Comment:

Please revise to: "Risk Level 1 dischargers shall collect samples at all discharge locations from the affected drainage areas that can be safely accessed."

12. **Attachment C, Section I.8 Page 11**

"Risk Level 1 dischargers utilizing a sediment basin and/or justifying an alternative project risk shall report a soil particle size analysis, using test method ASTM D-422 (Standard Test Method for Particle-Size Analysis of Soils), as revised, to determine the percentages of sand, very fine sand, silt, and clay on the site. The percentage of particles less than 0.02 mm in diameter must also be determined."

Comment:

On larger construction sites, soil characteristics may vary considerably with location and depth. It may be appropriate to provide explanation that for designing sedimentation basins, particle size analysis of the predominant exposed soil layers during each phase of grading and construction within drainage areas discharging to that sedimentation basin should be considered.

13. **Attachment D, Section A.1.b Page 1**

"Dischargers shall minimize or prevent pollutants in storm water discharges and authorized non-storm water discharges through the use of controls, structures, and management practices that achieve BAT for toxic and non-conventional pollutants and BCT for conventional pollutants."

Comment:

Please provide definitions for conventional and non-conventional pollutants.

14. **Attachment D, Section H.1 Page 7**

"Additional Risk Level 2 Requirement: Risk Level 2 dischargers shall develop a Rain Event Action Plan (REAP) 48 hours prior to any likely precipitation event. A likely precipitation event is any weather pattern that is forecast to have a 50% or greater chance of producing precipitation in the project area."

Comment:

On larger construction sites, protection of all exposed portions of the site requires extensive preparations and work, including the procurement of materials and equipment, as well as mobilization of erosion control companies on site. Normally, 48 hours does not provide sufficient time to fully stabilize the site. It is recommended to provide explanation that a Rain Event Action Plan is for the necessary repairs to existing BMPs and the implementation of minor additional BMPs before a predicted storm event.

15. **Attachment E, Section I.5.i Page 14**

"Downstream/down-gradient RW samples: Risk Level 3 dischargers shall obtain any required downstream/down-gradient receiving water samples from a representative and accessible location as close as possible and downstream from the effluent discharge point."

Comment:

On some construction sites, project runoff discharges to a Municipal Separate Storm Sewer System (MS4) and co-mingles with runoff from other areas before discharging to a Receiving Water. Since water quality at the discharge point to the receiving water is not a representative of the construction site discharge, it is recommended to provide explanation as to if downstream samples should be taken from downstream MS4 rather than Receiving Water.

16. **Appendix 7, Active Areas of Construction, Inactive Areas of Construction Page 1 & 4**

"Active Areas of Construction: All previously active areas are still considered active areas until final stabilization is complete."

"Inactive Areas of Construction: Areas of construction activity that are not active and those that have been active and are not scheduled to be re-disturbed for at least 14

Comment:

These two statements appear to be contradictory. Clarification is needed.