



February 17, 2005

Arthur G. Baggett, Jr., Chair
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

RE: OPPOSITION - National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities (General Permit)

Dear Chairman Baggett:

The California Trucking Association (CTA) is a non-profit trade organization representing nearly 2,500 trucking companies and suppliers operating in and out of California. CTA is the second largest trucking organization in the world providing comprehensive policy, regulatory and legislative support to our member companies. Our members range from the one-truck operator to large international companies who serve the public through safe and efficient goods movement.

Not only do we represent hundreds of trucking terminals who fall under the General Permit, CTA manages one of the largest monitoring groups in the state, the California Trucking Association Monitoring Group (CTAMG) which has 240 trucking facilities enrolled.

We were disappointed to find that the SWRCB is attempting to regionalize group compliance and delegate its authority to Regional Water Quality Control Boards (RWQCB)s. Monitoring groups effectively aid dischargers in their compliance efforts. Having a source for trucking companies to get training, assistance and offer technical support is essential to meet the goals set by your agency. Companies with multiple terminals, under this proposed regionalized structure, would have a patchwork of conflicting regulations throughout the state. This provision simply makes no sense, is extremely costly and is not authority delegated to your agency to transfer onto RWQCBs.

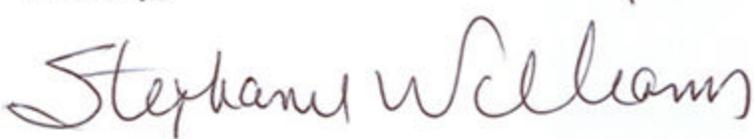
CTA does not understand the position of the SWRCB with regard to General Permit compliance. Pollution reduction from non-filers is a big problem. Rather than ratchet down the standards for terminals complying with the General Permit, why can't the SWRCB enforce the existing permit for all terminals? This approach is far more protective of the environment than the existing direction your agency is taking and is fair to the businesses located in California.

CTA submits our formal comments in opposition of specific portions of the General Permit. Our concerns follow:

1. **Section VIII.4.f.ii of the General Permit sets de facto numeric limits using the EPA benchmark levels, which are arbitrary, capricious, and not supported by relevant science.**
2. **Unnecessary changes to the General Permit create a cost-prohibitive and burdensome sampling schedule for compliant dischargers and discourage non-filers from complying.**
3. **The SWRCB has no authority to delegate state compliance responsibilities under the General Permit to individual Regional Water Quality Control Boards. This costly and confusing provision will create a patchwork of conflicting regulations for trucking companies with multiple terminals throughout California.**
4. **Deadlines for the Group Monitoring Plan and Group Evaluation Report should be changed to accommodate the revised Annual Report filing date**
5. **Several sections of the General Permit need specific clarifying language**

CTA appreciates your consideration in this matter. If you have any questions or would like to discuss our comments, please contact Staci Heaton, Director of Environmental Affairs and CTAMG Group Leader, at (916) 373-3553.

Sincerely,



Stephanie Williams
Senior Vice President

SRW: slh

CC: Peter S. Silva, State Water Resources Control Board Member
Richard Katz, State Water Resources Control Board Member
Gary Carlton, State Water Resources Control Board Member
Nancy Sutley, State Water Resources Control Board Member
Celeste Cantú, Executive Director, State Water Resources Control Board
Dr. Alan Lloyd, Secretary, California Environmental Protection Agency
Terry Tamminen, California Cabinet Secretary

Comments of the California Trucking Association on the National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activities (General Permit) , February 17, 2005

The California Trucking Association (CTA) is a non-profit trade organization representing nearly 2,500 trucking companies and suppliers operating in and out of California. CTA is the second largest trucking organization in the world providing comprehensive policy, regulatory and legislative support to our member companies. Our members range from the one-truck operator to large international companies who serve the public through safe and efficient goods movement. In addition to our many members who are covered under the Industrial General Permit and do their own monitoring, CTA manages one of the largest monitoring groups in the state, the California Trucking Association Monitoring Group (CTAMG). There are currently 240 trucking facilities enrolled in CTAMG.

With a few exceptions, CTA supports the proposed changes in the General Permit to the requirements for monitoring groups. While the changes will impose extra efforts on the part of group leaders, we know that these changes are necessary to preserve the integrity of the group monitoring program. CTA strongly believes in the effectiveness of monitoring groups in not only aiding dischargers in their compliance efforts, providing training and assistance, and offering technical support, but also in helping to identify non-filers to bring them into compliance. That being said, CTA submits the following comments in opposition to specific requirements contained in the General Permit:

1. Section VIII.4.f.ii of the General Permit sets de facto numeric limits using the EPA benchmark levels, which are arbitrary, capricious, and not based on science

In EPA's 2000 Report to Congress on the Phase I Stormwater Regulations, EPA stated, "Benchmark concentrations are not effluent limits, and EPA has instructed NPDES-authorized States that the benchmarks should not be interpreted or adopted as such."¹ Section VIII.4.f.ii of the draft General Permit establishes the EPA benchmark levels as de facto effluent limits by requiring dischargers to perform repeated samples until they no longer exceed the benchmarks. This is an arbitrary and capricious requirement for which SWRCB staff has provided no scientific basis, and which goes beyond the scope of SWRCB authority.

No scientific evidence has been cited in the General Permit that correlates BMP's to analytical results. No relevant connection between BMP's and exceedences of the benchmarks can be determined among our group members. Benchmark exceedences at trucking facilities are caused by multiple factors, including weather conditions preceding the sample, increased truck traffic on certain days, and run-on from adjacent non-compliant sites. These types of factors are not within the facility's control, and adding BMP's will not affect subsequent analytical results. Certainly, imposing the same effluent limits on a broad cross section of different industries would be illogical and is not supported by science.

The adoption of benchmark values as de facto numeric limits accomplishes only one thing: paving the way for environmental lawsuits against those companies trying to

¹ Report to Congress on the Phase I Stormwater Regulations, Evaluation of Program for Industrial Activities, pg. 5-17. United States Environmental Protection Agency, 2/01/00

comply with state law. Some of the cleanest facilities with the most extensive BMP's can exceed the benchmark levels due to such inane things as routine tire wear. Making trucking terminals easy legal targets as filers under the draft General Permit is bad public policy and certainly anti-business. CTA asks that the de facto numeric limits set in Section VIII.4.f.ii be removed from the Permit until such time as a cause and effect can be demonstrated by basic scientific principles.

Recommendation 1: Remove the de facto numeric limits and corresponding sampling requirements in Section VIII.4.f.ii.

2. The changes to the General Permit create a cost-prohibitive and burdensome sampling schedule for compliant dischargers and discourage non-filers from complying

The trucking industry is competitive, and California's truckers are already at a disadvantage due to regulatory burdens. Expensive engine upgrades and the high cost of diesel fuel in California directly result from regulatory requirements by agencies under CalEPA. Now, with NAFTA and the pending arrival of more international trucks, California's trucking industry is threatened and will have a difficult time competing. The de facto numeric limits established in the General Permit will increase costs for dischargers without decreasing pollution.

The new sampling requirements are also unclear and excessive. It appears that a facility would be required to continue sampling every single storm event until two consecutive samples were below all benchmark levels. With the addition of de facto numeric limits, there is even less incentive for noncompliant facilities to comply with the law and the SWRCB is missing the largest pollution reductions—non-compliers. CTA asks that a cost/benefit analysis be performed and considered by the Board in conjunction with the next draft of the General Permit to account for unnecessary additional sampling requirements.

Recommendation 2: Provide a cost/benefit analysis covering additional sampling requirements in the General Permit.

3. The SWRCB has no authority to delegate state compliance responsibilities under the General Permit to individual Regional Water Quality Control Boards. This costly and confusing provision will create a patchwork of conflicting regulations for trucking companies with multiple terminals throughout California.

The Section IX.2.c.i requires monitoring groups to submit their group monitoring plan to each affected RWQCB for approval. By default, this allows RWQCB's to reject group plans and eliminate monitoring group participation in the region. Certain RWQCB staff are opposed to group monitoring, the term staff should be qualified as they are not elected or appointed and should not be delegated this authority.

The draft General Permit provides that a RWQCB can reject group monitoring and all proposed group monitoring plans. SWRCB must remove the provision delegating RWQCB authority to approve GMP's or set guidelines. It is the responsibility of the

state and abdication of this responsibility in a way that would create mass confusion is unacceptable to the trucking industry.

The authority delegated to the SWRCB from the federal EPA is inconsistent with the patchwork direction this provision of the draft General Permit would implement. CTA finds this provision irresponsible and is strongly opposed to eliminating groups and regionalizing discharge compliance. The SWRCB would need legislative authority to conduct this provision as it is outside the scope of this rulemaking. CTA would oppose any such legislation.

Recommendation 3: Remove RWQCB authority to negate or modify statewide group monitoring plans and approve group plans at the state level.

4. Deadlines for the GMP and Group Evaluation Report (GER) do not correspond to the revised Annual Report filing date

Currently, there is a 30 day time period between the due date for facility Annual Reports and the due date for the GMP and GER. Section V.10 changes the current Annual Report filing date from July 1 to July 15, thus shortening the time between the due dates to 15 days. The data and analysis contained in the GMP and GER is collected from group member Annual Reports, and the collection and analysis process is time consuming. Since these are comprehensive documents relating to each group's monitoring activities for the year, the filing deadlines for the GMP and GER should be changed to August 15 to allow the same 30 days provided in the current permit for data collection and analysis, in order to correspond with the Annual Report filing deadline.

Recommendation 4: Change the filing date for the GMP and GER to August 15.

5. Several sections of the General Permit need specific clarifying language

Finally, the following sections of the General Permit need clarifying language to simplify the permit for individual dischargers that aren't members of monitoring groups and thus do not have access to training or consulting assistance:

- Page XXII, Fact Sheet Figure 3, Rows 7 and 9: What is the difference between a storm event as described in Row 7 and an "eligible" storm event as described in Row 9?
- Page 3, Number 21: Does the statement, "The Section VIII.8 monitoring requirements may be modified based on a proposal..." allow the SWRCB authority to modify the permit at any time?
- Section III.1: Please define the term "nuisance".
- Section III.2: Since Regional Basin Plans vary, how will dischargers know if they are out of compliance?

- Section V.7.c.v: By what method is a discharger required to ensure that an exceedance doesn't occur? Does a written certification open the discharger to lawsuits and enforcement actions should they exceed a benchmark in the future?
- Section VII.3.b.iii: Please define the term, "procedures to identify alternate individuals or positions."
- Section VII.6: Does the "narrative description" exclude the use of matrices or grids to simplify the SWPPP?
- Section VII.6.c: What methods would a discharger use to estimate the quantity of dust that may be deposited within the facility's boundaries?
- Section VII.7.a.ii: What is meant by "the degree pollutants associated with those materials are exposed to and mobilized by contact with storm water?" Please clarify.
- Section VII.8.i(3): Please clarify the term "cleaned".
- Section VIII.6.b: If a discharger is already sampling for one or more of the metals included in the Pollutant Scan, do they need to include them again as part of their regular sample for that year?
- Section VIII.9.b: How are samples handled that are taken on Fridays? Please clarify.

Recommendation 5: Include clarifying language for each of the sections mentioned above.