



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

OCT 22 2012

#91

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



Re: Draft Industrial Stormwater General Permit (Permit No. CAS000001)

Dear Ms. Townsend:

The following are EPA Region 9's comments on the draft NPDES general permit (permit No. CAS000001) for facilities which discharge stormwater associated with industrial activity in the State of California. On July 18, 2012, the State Water Board provided public notice that it was soliciting public comment on this draft permit. In letters to the State Board dated April 8, 2011 and May 24, 2012, Region 9 provided comments to the State Board on earlier versions of this draft permit. Following below are some additional comments on the latest draft permit for your consideration:

1 A. Total Maximum Daily Load (TMDL) Requirements

In our letters commenting on earlier versions of the draft permit, we consistently recommended clear, measurable and enforceable permit requirements to implement applicable TMDLs, including numeric effluent limits when feasible. In the January 2011 draft permit, it appeared the Board intended to eventually identify and incorporate all applicable wasteload allocations (WLAs) as numeric effluent limits. We supported this approach since it would be consistent with our goal of ensuring clear and measurable permit requirements. The latest draft, however, asks the Regional Boards to develop TMDL-specific conditions for each applicable TMDL by 2015, which would result in a significant delay in the implementation of these TMDLs. We recommend the Board adopt an approach similar to that used for the 2012 draft general permit for small MS4s, in which applicable WLAs are identified and included as numeric effluent limits in the permit, along with any other applicable requirements. Although the Regional Boards are invited to propose revisions to the requirements for the small MS4 permit within six months, it appears the bulk of the applicable requirements have already been included in the permit.

We recognize that development of appropriate requirements for the industrial general permit is a complex undertaking, given the large number of TMDLs and permittees covering multiple Regional Boards. However, the same could be said for the small MS4 permit, and we see no reason why the approach used for the small MS4 permit could not also be used for the industrial general permit.

2 B. Effluent Guidelines for Airports

On May 16, 2012 (77 FR 29168), EPA promulgated final effluent limitations guidelines (ELGs) for airport deicing operations (40 CFR Part 449). These ELGs need to be incorporated into the State's final general permit. The latest draft permit in Attachment E includes the August 2009 proposed ELGs, which need to be replaced by the final ELGs of May 2012.

3 C. Oil and Gas Construction Activity

We recommend that the Board clarify its permit expectations for construction activity at oil and gas exploration, production, processing, treatment and transmission facilities. The 2005 Energy Policy Act amended section 502 of the CWA to include construction as a routine activity at these oil and gas facilities needing permit coverage only in accordance with Clean Water Act (CWA) section 402(1)(2). The Board's response to comments for the 2011 proposed industrial permit indicates that construction at these sites would be permitted (when needed) under the Board's 2009 construction general permit. Finding 22 from the 2009 construction general permit also suggests (but it's not entirely clear) that construction at oil and gas sites is intended to be covered by the construction general permit. To further clarify this matter, we recommend Section B of the Findings for the 2012 industrial permit clarify that to the extent construction at an oil and gas site needs permit coverage, the discharger would need to seek coverage under the construction general permit.

D. Other Permit Comments

We are pleased to see the recommendations in our previous letters for clarifications and other edits have largely been incorporated into the latest draft permit. Following below are some additional comments on the latest draft for your consideration:

4 Section XI.E.1.b – it appears category 491 should be category 419.

5 Section XII.A.1.a – this section includes a footnote that refers to an undated EPA guidance manual for monitoring and reporting which we presume is the 1999 version which is referred to on page 10 of the fact sheet. We suggest you refer to the more recent 2009 version of this guide available at <http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>.

6 Section XII.E.3.b – it appears the Board intended to require all the listed elements of the Demonstration Technical Report. As such, the "and" at the end of section XII.E.3.b should be placed at the end of section XII.E.3.g.

E. Fact Sheet Comments

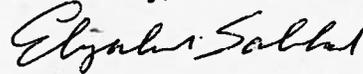
- 7 **Section II.K.4** – page 48 refers to 40 CFR 122.22 in relation to BAT/BCT requirements; 40 CFR 122.22 addresses signatory requirements and the Board may have intended a different citation.
- 8 **Section II.K.5** – we recommend the fact sheet mention low impact development (LID) options for additional controls such as rainwater harvesting, bioretention, green roofs and permeable pavement in addition to the treatment BMPs. LID controls would be particularly effective in reducing pollutant loadings and in achieving compliance with the NALs.

F. Findings Comment

- 9 **Finding 22** – this Finding notes that information concerning a Notice of Non-Applicability (NONA) and NONA Technical Report is available on the SMARTS website (which requires a user ID and password). We recommend this information be more readily available to the public (e.g., placed on the Board's website similar to the Board's annual report and monitoring documents) so the public can better understand how NONA decisions are made.

We appreciate the opportunity to provide our views on the draft permit. If you have any questions regarding this matter, please contact Eugene Bromley of the NPDES Permits Office at (415) 972-3510.

Sincerely,



for

David Smith, Manager
NPDES Permits Office (WTR-5)