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#67

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Clerk to the Board
State Water Resources Control Board
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Comment Letter – Draft Industrial General Permit

NEST Environmental Services has 200+ clients as industrial storm water permittees, including 150+ as vehicle dismantlers in a SWRCB approved Industrial GMP. NEST believe that qualifies it to make comments on the Draft Industrial General Permit.

1. Qualified SWPPP Developer. ¹ The list of registrations or certifications should include A Certified Professional in Storm Water Quality (CPSWQ) TM registered through Enviro Cert International, Inc. (or other qualifying entity) to be consistent with the Construction General Permit QSD requirement, and allow those of us who have engineering degrees but not registered and have significant work experience with SWPPPs and industrial facilities to continue to do this work.

2. Table 2 Additional Analytical Parameters; ² SIC 5015, Dismantling or Wrecking Yards. Recommend adding at least Copper and possibly Zinc to the Parameter list. NEST Environmental Services, an Industrial GMP leader has provided data in its Annual Group Evaluation Report on levels of Copper and Zinc present in runoff from vehicle dismantlers for over 13 years, and that data clearly demonstrates that Copper and Zinc should be a pollutant of concern since 40-60% of samples each year exceed the EPA Copper benchmark and 80-85% of samples exceed zinc EPA benchmark. I believe copper is also on the CTR list. But see following comment about zinc as a pollutant “not linked with industrial activity”.

3. Draft Fact Sheet, II.A.3.v Specifically exclude from the phrase “industrial activities” those structures typically found in dismantling and metal recycling facilities: sheet metal buildings, sheds and pole barns to include siding and roofs, sheet metal and chain link fencing. They generate zinc in runoff but are needed to provide protection from rain. Zinc in vehicle dismantlers’ samples, shows up on average in approx 85% of vehicle dismantlers’ samples in our GMP over the past 13 years. In many cases the source of that pollutant, based on sampling locations, is very likely to be runoff from a chain link or sheet metal fencing, sheet metal rooftops, gutters and downspouts, sheet metal roofs and siding of tractor pulled semi-trailers, shipping containers and vans used for parts storage, and steel racks used to store parts off the ground or paving. Industrial parks all over the State are full of buildings constructed of sheet metal roof and siding. Removing the industrial activity still leaves the buildings, fencing etc., generating pollutants in runoff. NEST ³ recommends that this paragraph of the Fact sheet use Zinc as a real world example of a pollutant that cannot always be linked to “industrial activities” at many industrial facilities.

4. Order, XV.A.2. ⁴ Eliminate NAL averaging and for Hardness Dependent Metals. I’ve explained averaging to several participants over the past two weeks –their eyes just glaze over. Just reword so that the sampling parameters either exceed benchmarks or they don’t. Remember that the permittees are not typically college graduates. How does requiring samplers to take a separate sample for water hardness reduce potential pollutants in their runoff? Is it really necessary to fine tune sample results for metals? Sounds to me like a requirement to satisfy lab folks and the environmental lawyers. How will dischargers that operate facilities that indirectly discharge to Waters of the U.S. impaired for metals know that they are required by the Regional Water Board to comply with adjusted NAL/NEL values? When is the Regional Board required to

5 make that timely announcement? Collecting hardness samples needs some more explanation. Many of the storm water discharges exit pipes are off limits to people, such as the wetlands in Hayward or fence controlled, concrete water channels in various cities. Most of the vehicle dismantler samplers discharge into dry storm drain inlets, dry ditches along roads or onto adjacent fields, pretty much indirectly to water of the U.S. To ask and expect at least vehicle dismantler operators to go down the road or street to find a source of clear running water such as a running stream to take a sample, or alternatively to pay a consultant to look online or call around to agencies does not sound realistic to me. The 3-10-employee small businesses don't have that depth of staff or training and will, in my estimation, sample water out of the faucet or rooftop/gutter runoff. If this requirement is absolutely needed for the big picture, I think that including a sentence in para. XV.A. 2 clarifying the targeted number/percent of expected hardness samplers would be useful for permittees who know they have to test for metals that are hardness dependent, and some example to illustrate the benefit.

5. No Discharge / No Exposure Certifications. These incentives along with annual recertifications are good.

6. ACSCE (Annual Comprehensive Site Compliance Evaluation) and ACFCE. 6 The Fact Sheet and Order refer to the current form (ACSCE Form 5) and also to an ACFCE, which is think is just a replacement of the word "Site" with "Facility" in the title. The Fact Sheet and Order just need consistency with the term and an explanation early on in the Fact Sheet to introduce the change from ACSCE and ACFCE, if that is going to happen. If I have overlooked that in my reading, disregard this comment.

7. Table 3, Draft Fact Sheet, Storm Water Sample Collection and Analysis. See column 5, Frequency, of this table. It shows "Twice Annually (October-May)" and needs to be corrected to reflect the proposed change of one time per quarter.

8 Lots of operators in various areas in the State do 8 experience rainfall and qualifying rain events in the July-September and April-June quarters. Somewhere, the GP and Fact sheet needs to address what the operator is directed to do if there is no rainfall in the July-September quarter – take an additional sample in the October-December quarter if there are two qualifying rain events? - and if no qualifying rain event in the April-June quarter, report that on the Annual Report, and a statement saying that the facility's rainfall records indicate no qualifying rain event for the period?

8. Definition of Quarter timeframes. The Draft GP and Fact Sheet change the existing monitoring quarter definitions after a dozen years in use to a calendar quarter system. Some permittees were confused and some still are. What is proposed will again confuse some more of those permittees, esp. for whom English is a second language. The 1st quarter of the rainy season is July-September, and the 2nd, 3rd and 4th quarters follow. There is no need to change to the proposed 9 calendar quarter system and confuse everyone once again. If the SWWRCB insists on doing that then the Fact Sheet and Order need to state that the rainy season starts with 3rd and 4th calendar quarters of one year and is followed by the 1st and 2nd calendar quarters of the next year.

9. "Strict" Compliance. I think the word "strict" has legal implicat 10 for permittees. I only hear lawyers using the word, and to their advantage when talking about compliance. Explain in the permit the difference between "compliance" and "strict" compliance or leave out the word "strict".

11 While I agree with the need for permittees to sample more to prove that their BMPs as implemented are effective at achieving the NALs/NELs, and then get an exception for sampling if benchmarks are consistently met over a specified time period, I believe that all the added permit requirements - to include the added costs of quarterly sampling, and cost of corrective level 2 & 3 sampling, minimum mandatory fines, the cost of buying a water gauge and recording readings to identify the first 1/4 of rainfall to trigger an sample during business hours, buying, using and recalibrating a pH and specific conductance handheld device, QSP training, and cost of hiring additional admin staff / consultant to upload sampling data within 30 days, track NAL triggers to corrective actions and write reports - is likely to drive many small business vehicle dismantlers out of business. Those scrap vehicles they would have conscientiously processed for

hazardous waste, reusable parts and scrap metal are likely to arrive at scrappers operating “below the radar”, not permitted and in many cases not licensed, and that situation will increase pollutants to our surface waters, ground waters and air.

Approximately 600 vehicle dismantlers in California or 6.3% out of the 9,500+ businesses permitted (Fact Sheet, page 27) are permitted under the SWRCB’s General Permit. They handle thousands of scrap vehicles and thousands of gallons of waste fluids, and provide consistent jobs to a multi-ethnic work force, and tax dollars to our economy, and for many of them English is their 2nd or 3rd language. We need to keep them!

12 I suggest that the SWRCB develop a plan or Regional Water Board approved exception / extension to phase in the new requirements over a few years so this industry can adapt to the changes, not get overwhelmed, stay in business and keep the vehicle/equipment pollutants out of the surface waters and ground. As for phasing in requirements, over the past few years NEST has introduced a new requirement each year to its Group participants and met little resistance or confusion. There are some 200 clients out there who will continue to depend on NEST to help them implement these changes, but we can’t do it all in 90 days!

Sincerely,
Don Reh (signed)
V.P. Client Services.