



Port of
LONG BEACH
The Green Port

#53



September 19, 2013

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

Subject: Port of Long Beach Comments on the Final Draft National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Industrial Activities

Dear Ms. Townsend and Members of the Board:

The Port of Long Beach (Port) appreciates the opportunity to provide comments regarding the July 19, 2013 draft of the General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (Industrial General Permit or IGP). The Port also appreciates the efforts put forth by State Water Resources Control Board (SWRCB) staff to develop this greatly improved revised draft and to respond to its comments on the previous two drafts. The Port is committed to the protection and improvement of the harbor waters, as exemplified when the Port, working with the Port of Los Angeles, the Los Angeles Regional Water Quality Control Board, EPA, and other stakeholders adopted the Water Resources Action Plan (WRAP). This voluntary, proactive action, taken by both ports, reinforced existing programs and put in motion many additional programs, best management practices (BMPs), and measures that will be needed to meet many of the requirements of the re-issued IGP when adopted.

There are a variety of unique compliance and engineering challenges associated with industrial operations within a port complex, particularly related to the relative size and impervious nature of marine terminals. The Port currently manages the entire Port property under a single WDID Number, and includes tenants as participants in the Port's Industrial Stormwater Program. Our attached comments on the Final Draft IGP focus on the key issues that we believe will have significant impacts on the Port and our tenants.

It is critical that compliance with the re-issued IGP be technically, logistically, and economically feasible, and permit requirements should correlate directly to receiving water quality benefits. At this time the Inner and Outer Harbors at the Port of Long Beach are free of water column impairments, and accordingly the Port feels that expenditures of this

magnitude to comply with this Final Draft IGP as currently written would be excessive and unwarranted. In addition, the many economic impacts associated with this Draft IGP should be thoroughly analyzed and carefully considered, given the fragile economic status of the region and the State.

Again, the Port appreciates the opportunity to provide comments on the Final Draft IGP and we look forward to your response to these comments, as well as those submitted by other stakeholders.

Sincerely,



Heather A. Tomley
Acting Director of
Environmental Planning

JBV:s

Attachment: Comments on the Final Draft IGP

cc: Sam Unger, LARWQCB
Ivar Ridgeway, LARWQCB

**Comments on 2013 Draft Industrial Activities Storm Water General Permit
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Item No.	Identify Permit Element/Issue/Concern	Location in Draft IGP	Comments
1	Excessive Costs Associated with ERA Process and use of Benchmarks as NALs		<p>While the 2013 Draft IGP is a significant improvement over both the 2011 and 2012 drafts, the Port still has significant concerns related to the costs to implement the draft IGP at a large, complex site such as the Port of Long Beach. Application of Numeric Action Levels (NALs) that are not tied to Best Available Technology Economically Achievable/Best Conventional Pollutant Control Technology (BAT/BCT) is not appropriate and based on our analysis of potential impacts to our Port, we have found the following:</p> <ul style="list-style-type: none"> • Implementation of structural/treatment controls to meet artificially low NALs for metals could cost the Port as much as \$73,000,000 in initial capital costs. In addition, annual land use costs and operations/ maintenance are estimated to be approximately \$1,586,000 per year. • In our comment letter for the previous draft IGP (2012), the Port cited a “real-world” example of the potential costs to address benchmark/NAL exceedances at a shipping container terminal at the Port of Seattle. The original cost estimates ranged between \$6,000,000 and \$7,000,000 to construct a treatment system for storm water discharge from an 85-acre impervious site. Since submittal of our 2012 comment package, the Port of Seattle has performed additional cost analysis and found the actual costs to implement advanced treatment will likely be two to three times higher than the initial estimate. <p>Our concerns are particularly related to the use of inappropriate NALs that are not based on BAT/BCT, but will potentially have the effect of pushing the Port toward ERA Level 2 and the need to look at structural/treatment controls for storm water discharges.</p>

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			<p>Our detailed cost analysis was previously provided in our 2011 and 2012 comment packages and is incorporated by reference in this package.</p> <p>In addition, the Port has reviewed the cost analysis posted by the State Board on September 11, 2013, and believes the costs are significantly lower than what dischargers will face when forced through the complex Exceedance Response Action (ERA) process. While we cannot fully evaluate the cost analysis without additional information related to the basis for assumptions made by the State Board, we note that total cost estimates appear to be several orders of magnitude lower than estimates developed independently by the Port, particularly related to the costs to implement additional structural/treatment control BMPs once in ERA Level 2. We are concerned that the types of structural/treatment controls used in the cost analysis assumptions and the number of discharge points affected do not accurately represent large, complex industrial sites. Our detailed cost analysis can be found in our 2011 and 2012 comment packages and is incorporated by reference in this package.</p> <p>We also note that costs associated with preparation of a storm water pollution prevention plan (SWPPP), monitoring implementation plan (MIP), and Level 2 ERA Action Plan are not included in the cost analysis. Based on our estimates, the costs to complete the Level 1 ERA Report and Level 2 ERA Technical Reports are at least 5-6 times higher than included in the State Board's cost analysis.</p>
2	Regional Board Concurrence for Adequacy of Large Scale Capitol Improvements/ Treatment Systems		<p>The Port recommends a mechanism be written into the IGP allowing dischargers to obtain concurrence from their Regional Board staff before designing and constructing large scale capital improvements in response to NAL exceedances and development of the ERA Level 2 Action Plan.</p>

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3	Non-Industrial Source Pollutant Demonstration at Level 1	Order pg 11 I.M.66	<p>The Port recommends allowing a discharger to file a Non-Industrial Source Pollutant Demonstration as part of their Level 1 ERA Technical Report, if they choose to do so. While this is mentioned in the Level 2 ERA process steps, the option should be made clear in the Level 1 process.</p> <p>This would not relieve the discharger of the obligation to perform a Level 1 Evaluation and to adopt additional BMPs for industrial pollutants, if necessary. Conducting the analysis at Level 1 would potentially avoid unnecessary effort and expenditures to implement additional BMPs where the industrial activity is not the source of the pollutants.</p> <p><i>Recommended Language Changes</i></p> <p>Dischargers may submit a Non-Industrial Source Pollutant Demonstration as part of their Level <u>1 or 2</u> ERA Technical Report to demonstrate that the presence of a pollutant causing an NAL exceedance is attributable solely to pollutants originating from non-industrial pollutant sources.</p>
4	Total Maximum Daily Loads	Order pg 21 VII.B	<p>This section of the draft IGP sets a high bar for new dischargers in watersheds subject to TMDLs. This provision would effectively prevent new businesses from opening or require new businesses to implement a substantially higher level of BMPs to meet water quality standards if there is no remaining load available.</p> <p>At minimum the term ‘new discharger’ needs to be defined in the IGP for the purposes of this section. The definition of new discharger should not include renewing dischargers, existing facilities that were previously exempt (NEC facilities), or new owners of existing facilities.</p> <p>The Port strongly recommends that the State Board reconsider this language and develop a proposal that would allow for the equitable distribution of remaining</p>

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			load capacity for new businesses within impaired watersheds so as to not unfairly restrict business development.
5	Numeric Action Levels and Sample Analysis Reporting	Order pg 47 (Also related to Order pg 39)	<p>The Port recommends the use of geometric mean for determination of annual average. Due to the variability in storm water runoff quality from highly variable qualified storm events, an arithmetic mean of analytical results for any single parameter can be unduly distorted by a single result from an atypical storm event or by atypical site conditions. Consequently, the arithmetic mean may not be representative of the average or typical effluent quality. A geometric mean for all constituents except pH would be a more appropriate method to characterize storm water quality during a reporting period. This method was recently adopted by the Santa Ana Regional Water Quality Control Board in the Scrap Metal Sector Industrial Permit (Order R8-2012-0012).</p> <p>The following example illustrates the distortion one data point can have on a data set using arithmetic mean.</p> <p style="padding-left: 40px;">Data Set (9 samples) for Total Suspended Solids (in mg/L): 90, 80, 410, 55, 75, 20, 80, 60, and 40</p> <p style="padding-left: 40px;">Arithmetic Mean for Data Set = 101 mg/L (Exceedance of Average NAL proposed in the draft IGP)</p> <p style="padding-left: 40px;">Geometric Mean for Data Set = 71 mg/L</p> <p>As shown above, a single outlier can significantly impact a storm water data set and unnecessarily force a discharger to exceed an NAL and move through the ERA Process.</p>

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6	NAL Exceedances	Order pg 46 XII.A.2	<p>The language in this section should be revised to state that the two exceedances of the NALs triggering action must be from the same discharge location. The conditions in two separate locations may be entirely different, such that the significance of (and information that can be gleaned from) two exceedances may well be no greater than one.</p> <p><i>Recommended language changes</i></p> <p>Instantaneous maximum NAL exceedance: The Discharger shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NAL values in Table 2. An instantaneous maximum NAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter <u>from a distinct sample location</u> within a reporting year exceed the instantaneous maximum NAL value (for TSS and O&G) or are outside of the instantaneous maximum NAL range for pH.</p>
7	Compliance Groups	Order pg 65 XIV.A and B	<p>The Port recommends that the State Board provide some flexibility as to how a Group Leader is defined. Currently, the language appears to require that it be a single individual, who is a QISP. It would be helpful to include the possibility of a Leadership Team that includes a QISP. This would be particularly useful for larger groups or agencies, where there is an administrative group leader – who coordinates the activities of the group and is supported by a QISP that serves in a technical support role. For reference, the 2011 permit language for a group was "(i). an industry association or trade group; (ii.) an engineering or environmental science consulting company; (iii.) a coalition of public agencies and/or private companies; or (iv.) any combination of the above." Similar language could be used in the new IGP.</p>

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8	Requirement to Collect Samples for Subsequent QSE's When a Discharge Does not Occur	XI.B.4	<p>The Port has significant concerns regarding the requirement for a Discharger failing to collect a sample at one or more sampling locations not producing a discharge from a storm event, to remobilize and collect additional samples from those "non-discharging" outfalls during subsequent events.</p> <p>The Port expends significant effort and expense on the implementation of an extensive storm water sampling program, including mobilizing sampling crews on boats to access discharge points to the receiving water during qualifying storm events and installation and operation of expensive automated samplers at other locations. The requirement to re-mobilize sampling crews to collect samples from discharge points that infrequently discharge is impractical and cost prohibitive. The Port asserts that valuable information is still garnered from documentation of "no discharge" during events that meet the "qualifying storm event" criteria. Tributary areas that do not discharge during typical rain events are often less impervious and promote on-site retention or infiltration. For a facility such as the Port, with a significant number of outfalls designated for sampling, this provision creates a significant disincentive for implementing BMPs to promote onsite retention of runoff and could potentially require multiple expensive mobilizations, resulting in no additional samples collected.</p>

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9	Receiving Water Language	Order pg 21 VI.A-C, and pg 65 XXB.	<p>The Receiving Water Limits should include a presumption that they will be satisfied by following the BMP selection process, and triggered actions now in a "corrective action" provision should be integrated with the Receiving Water Limits section. Use of a process to select and evaluate BMPs is appropriate to satisfy both technology-based and water quality-based effluent limit requirements. Complying with detailed measures should clearly comply with the IGP, satisfying the Clean Water Act mandates for both technology-based and water quality-based effluent limits. The Port concurs with the recommended language proposed by CASQA in their 2013 draft IGP Comments.</p>