



April 29, 2011

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

SUBJECT: Comment Letter – Draft Industrial General Permit

The Port of San Francisco (Port) appreciates the tremendous amount of work done by the State Water Resources Control Board (State Water Board) in updating its industrial general permit requirements. The Port is grateful for the opportunity to provide comments on the January 28, 2011 Draft Industrial General Permit Order (Draft Permit). We have the following comments and recommendations on the Draft Permit.

Resource Impacts and Compliance Uncertainty

The Draft Permit provisions will result in significant increases in program administration (including the Port's responsibility to enforce provisions of the Clean Water Act for tenant activities) and sampling and analysis costs. Given current economic constraints of the permittees, and significantly reduced public sector resources, has the State Water Board considered ways to mitigate these costs, or assist with funding of these costs or stagger implementation of these costs? Would the State Water Resources Board be willing to consider a later implementation date of some of the program?

The Port notes that data presented during the California Stormwater Quality Association (CASQA) meeting/webcast on March 10, 2011 indicated that even with stormwater treatment, compliance with the NALs¹ is still uncertain, and the ability to meet NALs for total suspended solids and metals is of particular concern. Moreover, analysis of the Industrial General Permit from the state of Washington indicates that NALs are not achievable in urban settings. These data suggest that resources expended on evaluating additional operational source controls and installing treatment controls (required corrective actions) and additional sampling and analysis efforts required for Corrective Action Level 2 and 3 may be wasted because such activities will not result in permit compliance.

¹ NAL = Numeric Action Level

Further, we are concerned that NALs/NELs² in the Draft Permit are not consistent with the BAT/BCT³ performance standard, because the NALs/NELs cannot be consistently achieved even with state-of-the-practice stormwater treatment controls. Due to the challenges in achieving the NALs, NALs and NELs are identical.

Compliance with the current NALs/NELs is likely not the most effective use of permittee resources to control pollutants in stormwater runoff. Unless the NALs/NELs can be revised to reflect what industrial dischargers can realistically achieve, a better alternative would be for the State Water Board to expand the "Minimum BMPs"⁴ in the Draft Permit to specify all best management practices that shall be implemented to achieve the BAT/BCT. The Port would welcome the State Water Board's further guidance in this area. Expansion of Minimum BMPs" would eliminate the challenges that arise when permittees subjectively interpret the performance standard.

Group Monitoring Program

The Port has managed a Group Monitoring Program (GMP) since 1993, which includes the Port's facilities covered under the Industrial General Permit and some of the Port's industrial tenants. The benefits of the GMP are that that the program allows the Port to provide oversight on data quality, to obtain comparable data among the facilities (i.e., facilities are sampled during the same "qualifying events"), to obtain data representative of industrial activities (by selecting appropriate sampling locations), to evaluate the effectiveness of best management practices through an inspection program, and to identify potential constituents of concern that become the focus of outreach and education efforts to tenants. In addition, the Port's GMP includes an expanded constituent suite (such as metals) beyond the required constituents in the Industrial General Permit, which are based on the facility SIC⁵ code. The Port has enforcement responsibility for its tenants with respect to compliance with surface water quality regulations, and the GMP provides an effective means to conduct oversight of tenant industrial activities. Such activities, which result in improved compliance with the goals of the Industrial General Permit, offset the reduced facility monitoring frequency permitted by the GMP.

The Port encourages the State Water Board to continue to include provisions for implementation of a GMP because of the benefits stated above. Data collected under a GMP are likely some of the best data available for evaluating the effectiveness of best management practices for industrial facilities. However, we acknowledge that the GMP structure may need to be revised to be consistent with the State Water Board's goal of using analytical data as a means to evaluate compliance with the Industrial General Permit performance standard (BAT/BCT). The Port would be happy to discuss this further with State Water Board staff if that would be helpful.

² NEL = Numeric Effluent Limitation

³ BAT/BCT = best available technology economically achievable (BAT) for toxic and non-conventional pollutants and best practicable control technology currently achievable (BCT) for conventional pollutants

⁴ BMPs = Best management practices

⁵ SIC = Standard Industrial Classification.

Compliance Storm Event

The 10-year, 24-hour storm event should not be used as the design storm for designing stormwater treatment controls for new facilities. We believe a design storm such as the 2-year storm, is more appropriate for water quality protection. The costs for installing, operating and maintaining treatment systems designed for the 10-year storm (in addition to the increased land area requirements) would be significant and cannot be justified based on benefits to water quality treatment. For example, data presented during the CASQA meeting/webcast on March 10, 2011 indicate that the incremental treatment benefit of designing a media filter for the 10-year storm compared to the 95th percentile storm event is 6 percent while the incremental increase in cost is 80 percent. The Port respectfully requests the State Water Board to consider a 2-year storm as an appropriate design standard.

QSD/QSP⁶ Requirements

The Port also is concerned with the requirement for each facility to have personnel with QSP/QSD qualifications, similar to the Construction General Permit. Many of our tenants do not have staff with the registrations required to become a QSD. We question the benefits of the QSP/QSD certification for our industrial tenants considering the resources that would need to be expended by each facility to train personnel. Has the State Water Board studied whether the QSP/QSD certification would result in an increase in compliance with the permit conditions, or an improvement in the quality of stormwater runoff and if so, would the State Water Board be willing to share such data? In the interim, the Port recommends that the QSP/QSD roles be fulfilled by the Port for those facilities participating in the GMP.

Thank you very much for your efforts to continue to protect our natural resources and water quality. We appreciate that updating the Industrial General Permit Order is a large and complex undertaking and we commend State Water Board staff for their work and contributions. We thank you for the opportunity to comment on the Draft Permit and to work collaboratively with the State Water Board staff.

Should you have any questions regarding the Port's comments, please do not hesitate to call me at 415/274-0276.

Sincerely,



Richard H. Berman – Regulatory Specialist
Port of San Francisco

⁶ QSP/QDP = Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer/Qualified SWPPP Practitioner

