

**REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**EXECUTIVE OFFICER SUMMARY REPORT  
OCTOBER 9, 2019**

**ITEM 6**

**SUBJECT**

General NPDES Permit Reissuance: *General Waste Discharge Requirements for Discharges from Boatyards and Boat Maintenance and Repair Facilities Adjacent to Surface Waters within the San Diego Region* (Tentative Order No. R9-2019-0008). (Vicente Rodriguez and Keith Yaeger)

**STAFF RECOMMENDATION**

Adoption of Revised Tentative Order No. R9-2019-0008 (Tentative Order, **Supporting Document No. 1**) is recommended.

**KEY ISSUES**

1. The Tentative Order requires enrolled boatyard and boat maintenance and repair facilities (collectively referred to as Boatyards) to monitor industrial storm water discharges at designated locations. The monitoring of industrial storm water discharges is required during one Qualifying Storm Event (QSE)<sup>1</sup> per year for the priority toxic pollutants listed in Attachment E, Table E-3 of the Tentative Order. General NPDES Permit Order No. R9-2013-0026 (Current Order) does not require a priority pollutant scan for industrial storm water discharges. This monitoring data will be used to identify the presence and concentration of toxic pollutants in storm water discharges, compare results with receiving water monitoring results, and if necessary, to conduct a reasonable potential analysis to determine what pollutants require water quality-based effluent limitations in future permits.
2. The Tentative Order requires monitoring and sampling of industrial storm water discharges at any time of day when conditions are safe to monitor. The Current Order requires industrial storm water discharge monitoring and sampling only during business hours. The requirement to sample discharges at any time of day could include discharges and storm events occurring after normal business hours. The requirement to sample at any time of day is triggered when there is a discharge of industrial storm water to the receiving waters. This monitoring requirement will provide data on the water quality of the discharged industrial storm water. Industrial storm water from most storm events is typically captured and retained on-site or diverted to the sewer system by the Boatyards and therefore most storm events do not result in a discharge to receiving waters. Accordingly, this requirement is not viewed by the San Diego Water Board as overly burdensome for the Boatyards. Moreover, this requirement is necessary because the discharge of pollutants can occur after business hours.

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<sup>1</sup> As defined in the Tentative Order, a qualifying storm event (QSE) occurs when sufficient precipitation generates runoff from the boatyard facility that is discharged into the receiving water and is preceded by at least 48 hours with no discharge from any drainage area. For example, a storm that discharges on a Wednesday is a QSE if there were no discharges on the preceding Monday and Tuesday.

## **PRACTICAL VISION**

Consistent with the mission of the *Strategy for Healthy Waters* chapter of the Practical Vision, the Tentative Order integrates all applicable technology-based requirements, water quality-based effluent limitations, and receiving water standards in order to optimize protection of water quality and beneficial uses. Additionally, the Tentative Order has provisions allowing for participation in regional monitoring and assessment programs in keeping with the San Diego Water Board Resolution No. R9-2012-0069, *Resolution in Support of a Regional Monitoring Framework*.

## **DISCUSSION**

The Tentative Order is a General NPDES Permit that proposes to continue the regulation of discharges from Boatyards located on the waterfront and adjacent to surface waters in the San Diego Region. The Boatyards are currently regulated under the Current Order which will be superseded on the effective date of the Tentative Order. If adopted, the Tentative Order will remain in effect for a five-year fixed term.

The Tentative Order will continue to provide permit coverage for discharges from nine existing Boatyards: 1) Driscoll Custom Boats, 2) Marine Group Boat Works – National City, 3) Koehler Kraft Company, Inc., 4) Nielsen and Beaumont Marine, 5) Shelter Island Boatyard, 6) Marine Group Boat Works – Chula Vista, 7) Dana Point Shipyard, 8) Driscoll Mission Bay, and 9) Oceanside Marine Centre as shown in **Supporting Document No. 2**. The Tentative Order also provides for the future enrollment and coverage of other new Boatyards or as yet unregulated existing Boatyards that will be effective when and if the San Diego Water Board issues a Notice of Applicability (NOA), which may include additional or increased monitoring or other facility-specific requirements.

The San Diego Water Board posted notice of and provided 45 days for public comment on the Tentative Order. The San Diego Water Board received five comment letters on the Tentative Order during the comment period (**Supporting Document Nos. 3a-3e**). The comment letters have been provided to San Diego Water Board Members for consideration and are available for review by interested persons upon request. The Response to Comments Report (**Supporting Document No. 4**) contains the San Diego Water Board responses to all of the comments received and describes actions taken to revise the Tentative Order in response to the comments received.

The following is a summary of the most significant comment and the San Diego Water Board response.

*Several Boatyards requested that the Tentative Order's Storm Water Monitoring Requirements be modified to require monitoring/sampling "during business hours" as stated in the Current Order rather than "anytime of the day" as stated in the Tentative Order.*

This issue is summarized and responded to in Comment No. 2 of the Response to Comments Report. The San Diego Water Board does not agree with the request to remove the Tentative Order's requirement for monitoring and sampling of a discharge that occurs at any time of day. Attachment E section V.D.5 of the Tentative Order requires Boatyards to sample industrial storm water resulting from a storm event at any time of the day if the discharge reaches receiving waters. The Tentative Order specifies the minimum frequency of sampling in Attachment E section III.A.1, Table E-3 as one or two QSEs per

year based on the type of pollutant being sampled. Sampling the industrial storm water discharge at any time of the day will provide data to assess the quality of the discharge, and for a reasonable potential analysis<sup>2</sup> in future permit cycles. The data will also enable the Boatyards and San Diego Water Board to evaluate the effectiveness of Best Management Practices (BMPs) at reducing pollutants in the industrial storm water discharge. This requirement is not overly burdensome since most of the Boatyards can capture rainfall from storm events greater than or equal to a 5-year, 24-hour frequency storm event, without discharging to receiving waters. For the Boatyards unable to capture industrial storm water from storms greater than a 5-year, 24-hour frequency, an analysis of precipitation levels at Lindbergh Field in San Diego suggests that these Boatyards would have been required to sample industrial storm water discharges from only three rain events during the term of the Current Order between the years 2013 to 2019. Under the Current Order's requirements, only one facility sampled one qualifying storm event during the permit term, even though rainfall data indicates the occurrence of additional rain events that were greater than a 5-year, 24-hour storm frequency which could have resulted in discharges at other facilities. Ecosystem beneficial uses exist in perpetuity and would still receive storm water discharges outside of a Boatyard's business hours that could contribute to an excursion of water quality objectives. Therefore, monitoring should include all discharges with a potential to contribute pollutants that may impact beneficial uses.

The Revised Tentative Order (**Supporting Document No. 1**) displays the changes made after the July 15, 2019 public release in red-underline for added text and ~~red-strikeout~~ for deleted text.

### **SIGNIFICANT CHANGES**

Following are the significant differences between the Tentative Order and the Current Order.

1. The Tentative Order proposes to require a priority pollutant scan from one QSE per year to identify potential pollutants in the storm water discharge. The Current Order does not require a priority pollutant scan for industrial storm water discharges. A priority pollutant scan provides data that is needed to identify operational problems and evaluate the effectiveness of BMPs.
2. The Current Order requires industrial storm water discharge monitoring and sampling during business hours. The Tentative Order requires monitoring and sampling of industrial storm water discharges at any time of day when conditions are safe to conduct monitoring. The requirement to sample at any time of day will allow the Boatyards to collect more data on the quality of discharged industrial storm water for use in determining compliance with permit requirements. Most storms do not result in a discharge to receiving waters at the Boatyards due to their storm water retention BMPs, so this requirement will likely not be overly burdensome. Sampling the industrial storm water discharge at any time of the day at the specified frequency will also provide the data to conduct, if necessary, a reasonable potential analysis to determine

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<sup>2</sup> A reasonable potential analysis determines if a pollutant is discharged into receiving waters at levels which will cause, have the reasonable potential to cause, or contribute to an excursion above water quality objectives.

which pollutants may require water quality-based effluent limitations in future permits.

3. The Tentative Order includes revisions from the Current Order to be consistent with the *Statewide General Permit for Storm Water Discharges Associated with Industrial Activities*, Order 2014-0057-DWQ (Industrial General Permit or IGP). These revisions include the following:
  - a. In addition to annual average Numeric Action Levels (NALs), the Tentative Order includes instantaneous maximum NALs for pH, total suspended solids, and total oil and grease.
  - b. The definition of a QSE is modified in the Tentative Order to be “a qualifying storm event that occurs when sufficient precipitation generates runoff from the Facility that is discharged into the receiving water and is preceded by at least 48 hours with no discharge.” The previous definition required at least seven preceding days with no discharge instead of 48 hours.
  - c. The Tentative Order requires that the Storm Water Pollution Prevention Plan (SWPPP) include a description of BMPs and a table summarizing each identified area of industrial activity, the associated industrial pollutant sources, the industrial pollutants, and the BMPs being implemented.
4. The Tentative Order includes effluent limitations and monitoring requirements for wastewater discharges from a floating dry dock. These requirements are applicable to any Boatyard in San Diego Bay that operates a floating dry dock.
5. The Tentative Order requires, as in the Current Order, the immediate implementation of the Toxicity Reduction Evaluation (TRE) process after exceeding the chronic toxicity effluent limitation a second time. Part of implementing the TRE process is the submittal of a detailed TRE work plan within 15 days of the second exceedance. To avoid delays with the preparation and submittal of the detailed TRE work plan, the Tentative Order requires that an initial TRE work plan already be in place to help guide development of the detailed TRE Work Plan. The detailed TRE work plan will follow the initial TRE work plan but will be revised as appropriate for the particular toxicity event. Therefore, the Tentative Order requires the initial TRE work plan be submitted within 90 days of the Tentative Order’s effective date. This requirement is not in the Current Order; however, the requirement is consistent with other San Diego Water Board permits.
6. Receiving water and sediment monitoring language has been updated to include more specificity in the requirements, such as the requirement to develop a Conceptual Site Model (CSM) to guide the development of the receiving water and sediment monitoring program. Only one receiving water and sediment monitoring report is required per permit term in the Tentative Order which is reduced from the two receiving water and sediment monitoring reports required per permit term under the Current Order.

#### **COMPLIANCE RECORD**

Non-compliance incidents at Boatyards enrolled during the permit term of the Current Order are listed below:

**1. Driscoll Boat Works/Driscoll Custom Boats**

During the permit term of the Current Order, the facility reported that no storm water from the facility was discharged to San Diego Bay. The facility had two deficient reporting violations for not including a weekly BMP visual inspection summary with the 2016 and 2017 annual reports.

On November 20, 2018, the San Diego Water Board issued a Staff Enforcement Letter (SEL) for the violations.

**2. Marine Group Boat Works – National City**

During the permit term of the Current Order, the facility did not discharge storm water to San Diego Bay. The facility had the following violations during the permit term:

- a. One late reporting violation for not submitting an Engineering Certification Report.
- b. Two late reporting violations for not timely submitting the 2014 and 2015 annual reports.
- c. Three violations for failure to implement BMPs.
- d. Two deficient reporting violations for not submitting weekly BMP visual inspection summaries with the 2016 and 2017 annual reports.

The San Diego Water Board issued SELs on June 18, 2014; November 2, 2015; January 21, 2016; and November 20, 2018 for the violations.

**3. Koehler Kraft Company, Inc.**

During the permit term of the Current Order, the facility did not discharge storm water to San Diego Bay. The facility had the following violations during the permit term:

- a. One late reporting violation for not timely submitting a SWPPP and Receiving Water and Sediment Monitoring Plan or Engineering Certification Report.
- b. Four late reporting violations for not timely submitting 2014, 2015, 2016, and 2017 annual reports.
- c. Two deficient reporting violations for not submitting weekly BMP visual inspection summaries with the 2016 and 2017 annual reports.

The San Diego Water Board issued a Notice of Violation (NOV) on May 5, 2015, and SELs on June 18, 2014 and November 20, 2018 for the violations.

**4. The Marine Group, LLC**

During the permit term of the Current Order, the facility did not discharge storm water to San Diego Bay. The facility had the following violations during the permit term:

- a. One late reporting violation for not timely submitting a Receiving Water and Sediment Monitoring Plan or Engineering Certification Report.
- b. Two late reporting violations for not timely submitting the 2014 and 2015 annual reports.
- c. Two deficient reporting violations for not submitting weekly BMP inspection summaries in the 2016 and 2017 annual reports.

The San Diego Water Board issued SELs on June 18, 2014; November 3, 2014; November 3, 2015; and November 20, 2018 for the violations.

**5. Driscoll Mission Bay, LLC**

During the permit term of the Current Order, the facility did not discharge storm water to Mission Bay. The facility had the following violations during the permit term:

- a. One late reporting violation for not timely submitting the 2015 annual report.
- b. Two deficient reporting violations for not submitting weekly BMP inspection summaries with the 2016 and 2017 annual reports.

The San Diego Water Board issued SELs on June 18, 2014; January 6, 2015, December 16, 2015; and November 20, 2018 for the violations.

**6. Oceanside Marine Centre, Inc.**

During the permit term of the Current Order, the facility sampled the one and only qualifying storm event on February 14, 2019 that resulted in a discharge of storm water during business hours. The facility had the following violations during the permit term:

- a. One late reporting violation for not timely submitting a Receiving Water and Sediment Monitoring Plan.
- b. Four late reporting violations for not timely submitting the 2014, 2015, 2016, and 2017 annual reports.
- c. Two deficient reporting violations for not submitting weekly BMP inspection summaries with the 2016 and 2017 annual reports.

The San Diego Water Board issued an NOV on May 5, 2015 and SELs on June 18, 2014 and November 20, 2018 for the violations.

**PUBLIC NOTICE**

The Tentative Order was noticed and released for public review and comment on July 15, 2019, with comments due August 29, 2019. The Notice of Public Hearing and Comment Period was posted on the San Diego Water Board website for the duration of the comment period and sent to all interested persons on the "Boatyard General NPDES Permit" electronic subscription email list. The Notice announced a public hearing to be held on October 9, 2019, availability of the Tentative Order for review and provided instructions for submittal of written comments. A copy of the Notice is provided in **Supporting Document No. 5**. Notice of the public hearing on the Tentative Order was also provided in the Meeting Notice and Agenda for the October 9, 2019 San Diego Water Board meeting, which is posted on the Board website.

**SUPPORTING DOCUMENTS**

1. Revised Tentative Order No. R9-2019-0008
2. Location Maps
3. Public Comments:
  - a. Koehler Kraft Company, Inc. comment emails dated July 29, 2019 and August 28, 2019
  - b. Shelter Island Boatyard comment email dated August 27, 2019

- c. Dana Point Shipyard comment letter dated August 28, 2019
  - d. Nielsen Beaumont Marine, Inc. comment email dated August 29, 2019
  - e. Oceanside Marine Centre comment email dated August 29, 2019 with attachment letter dated August 28, 2019
4. San Diego Water Board Response to Comment Report
  5. Notice of Public Hearing and Comment Period