

US EPA ARCHIVE DOCUMENT



§§ 122.26(a)(1)(ii) and 122.26(c), dischargers of storm water associated with industrial activity are required to apply for an individual permit or to seek coverage under a promulgated storm water general permit.

4. Marine cargo handling, Standard Industrial Classification (SIC) 4491, falls under SIC Major Group 44 and, pursuant to 40 CFR § 122.26(b)(14)(viii), is an industrial activity subject to the discharge and permitting requirements under Section 402 of the Act, 33 U.S.C. § 1342.
5. Section 308(a) of the Act, 33 U.S.C. § 1318(a), and its implementing regulations authorize EPA to, inter alia, require the owner or operator of any point source to establish records, make reports, or submit other reasonably required information, including individual and general NPDES permit applications.
6. Pursuant to Section 308(a) of the Act, 33 U.S.C. § 1318(a), and 40 CFR § 122.21, any person who discharges or proposes to discharge storm water associated with industrial activity must submit an application for an NPDES permit 180 days prior to commencing industrial activity.
7. The State of California has an EPA-approved NPDES program, and issues permits, including storm water permits, through its State Water Resources Control Board (State Board) and nine Regional Water Quality Control Boards (Regional Boards). Since 1991, the State Board has adopted two successive statewide NPDES general permits for discharges of storm water associated with industrial activity. The permit that is currently effective, General Permit No. CAS000001/Water Quality Order No. 97-03-DWQ (General Permit), was adopted on April 17, 1997.
8. All facility operators seeking coverage under the General Permit must submit a notice of intent to comply (NOI) to the State Board 14 days prior to commencing industrial operations. Facility operators that do not submit an NOI must submit an application for an individual NPDES permit. (General Permit, Provision E(1), pg. 6 and Attachment 3 to the General Permit).
9. The General Permit requires facility operators to develop and implement a storm water pollution prevention plan (SWPPP) prior to commencing industrial operations. (General Permit, Section A(1)(a), pg. 11). The purpose of the SWPPP is to identify sources of industrial storm water pollution and to identify and implement site-specific best management practices (BMPs) to control discharges.

10. The SWPPP must include, inter alia, a narrative description of the storm water BMPs to be implemented at the facility for each potential pollutant and its source as well as a site map (or maps) that identifies: (a) facility boundaries and an outline of facility drainage areas, (b) the storm water collection and conveyance system, (c) an outline of impervious areas, (d) locations where materials are directly exposed to precipitation, and (e) areas of industrial activity. (General Permit, Section A(4), pg. 12, 13 and Section A(8), pg. 17)
11. Facility operators must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges using best available technology economically achievable (BAT) for toxic pollutants and best conventional pollutant control technology (BCT) for conventional pollutants. (General Permit, Effluent Limitation B(3), pg. 4).
12. Facility operators must develop a written monitoring program, and must conduct quarterly visual observations of non-storm water discharges, monthly visual observations of storm water events, and prescribed storm water sampling and analysis. (General Permit, Section B(1), (3), (4), and (5), pg. 24-27). In addition, facility operators must submit an annual report to the Regional Board that summarizes visual observations and sampling and provides a comprehensive site compliance evaluation. (General Permit, Section B(14), pg. 35). A copy of the written monitoring program as well as records of inspections, steps taken to reduce or prevent discharges, and the annual report must be maintained for at least five years and must be available at the facility for review by facility employees or inspectors. (General Permit, Section B(13), pg. 34).
13. The Port of Los Angeles (Port) is a division of the City of Los Angeles, a municipality and a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5). The majority of the property within the Port’s boundaries is owned by the Port and leased to tenants operating in various industrial categories. The remaining properties are privately owned and operated.
14. The Port does not assume responsibility for compliance with storm water requirements at any of its tenant facilities. Therefore, industrial operators within the Port’s boundaries must independently obtain coverage under the General Permit.
15. Trapac, Inc. (Respondent) is a branch of the Japanese corporation Mitsui O.S.K. Lines, Ltd., licensed to do business in California and is thus a “person” under CWA Section 502(5), 33 U.S.C. § 1362(5).
16. Respondent operates a facility within the Port’s boundaries, located at 920 W. Harry Bridges Blvd. in Wilmington, California (Facility). Respondent is engaged in marine cargo handling at the Facility, an industrial activity classified under SIC 4491.
17. Respondent submitted a NOI for which the State Board assigned Waste Discharge Identification (WDID) Number 419I000868 to the Respondent for the Facility on March 23, 1992.

18. Rainfall events at the Facility that exceed 0.1 inches are generally sufficient to generate storm water runoff. Data from the Torrance Municipal Airport Weather Monitoring Station, approximately six miles from the Facility, indicate that there were 90 days with more than 0.1 inches of rainfall at the Facility from November 1, 2002 through April 30, 2007.
19. Storm water runoff at the Facility discharges through storm drains located at the Facility to the Los Angeles Harbor (Harbor). The storm drains are owned by the City of Los Angeles and are part of its municipal separate storm sewer system (MS4). The Facility's storm drains and the City of Los Angeles' MS4 are "point sources" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14).
20. The storm water discharged from the Facility contains "pollutants," including industrial waste, as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), and is storm water discharge associated with industrial activity as defined by EPA regulations in 40 CFR § 122.26(b)(14).
21. The Harbor, including the outer and inner harbors, is a "navigable water" within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7), and a "water of the United States" as defined by EPA regulations in 40 CFR § 122.2.
22. On May 16, 2007, a representative of EPA inspected the Facility to evaluate Respondent's compliance with the General Permit. The inspection report is attached and incorporated by reference, and contains evidence that Respondent:
  - a. Failed to develop a complete SWPPP as required by the General Permit (Section A, pg. 11-23), including:
    1. Failed to develop a completed site map;
    2. Failed to identify a pollution prevention team;
  - b. Failed to implement adequate BMPs at the Facility as required by the General Permit (Effluent Limit B.3 pg.4 and Section A.1 pg. 11), including:
    1. Failed to implement adequate BMPs for handling and storage of oil drums and oily vehicle parts;
  - c. Failed to provide evidence of conducting annual comprehensive site compliance evaluations as required by the General Permit (Section A(9)).
  - d. Failed to provide a written storm water monitoring and evaluation plan for on-site review.
  - e. Failed to provide employee training records pertaining to storm water pollution prevention and BMP implementation.
23. Based on the foregoing, EPA has determined that by violating General Permit CAS000001, Respondent has violated Section 402 of the Act, 33 U.S.C. § 1342.

## ORDER FOR COMPLIANCE

Considering the foregoing Findings of Violations and the potential environmental and human health effects of the violations, EPA has determined that compliance in accordance with the following requirements is reasonable. Pursuant to the authority of Section 308 and 309 of the Act, 33 U.S.C. §§ 1318 and 1319, it is hereby ordered that Respondent comply with the following requirements:

24. Immediately upon receipt of this Order, Respondent shall take all necessary measures to fully and properly comply with all terms and conditions of the General Permit.
25. Within 30 days of receipt of this Order, Respondent shall complete interim cleanup and housekeeping measures (Interim Measures) for all of the Facility's areas of industrial activity, including:
  - a. Place drums on spill pallets and under cover in vehicle maintenance area;
  - b. Clean oily parts on the ground in vehicle maintenance area;
  - c. Remove accumulated trash and debris throughout trailer parking areas and at fence lines of the Facility.
26. Within 30 days of receipt of this Order and upon completion of the Interim Measures, Respondent shall submit a Notice of Completion, which shall include a list of the Interim Measures taken, the date each Interim Measure was completed, the person(s) responsible for overseeing completion of each Interim Measure, and copies of documents associated with the completion of the Interim Measures, such as contracts, permits, manifests, and photographs.
27. In performing the Interim Measures, care shall be taken to ensure they do not cause or contribute any runoff to waters of the United States, the municipal storm drains, or the municipal sewer system. Care shall be taken to ensure compliance with all applicable federal, state, and local waste storage and disposal requirements.
28. Within 60 days of the receipt of this Order, Respondent shall submit a revised SWPPP that fully complies with the General Permit. The SWPPP revisions shall include, among all other required elements:
  - a. A facility site map;
  - b. Adequate BMPs for handling and storage of oil drums and oily vehicle parts;
  - c. Identification of a pollution prevention team.
29. Within 60 days of the receipt of this Order, Respondent shall submit its written monitoring program that fully complies with the General Permit.
30. Within 60 days of the receipt of this Order, Respondent shall submit a report to EPA on the costs associated with the development of the revised SWPPP, projected incremental annual costs associated with implementation of the revised SWPPP, and any other costs associated with complying with this Order.

31. All reports submitted pursuant to this Order must be signed by a principal executive officer, ranking elected official, or duly authorized representative of Respondent (as specified by 40 CFR § 122.22 (b)(2)) and shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

32. All submissions requested by this Order shall be mailed to the following address:

U. S. Environmental Protection Agency - Region 9  
Clean Water Act Compliance Office WTR-7  
75 Hawthorne Street  
San Francisco, CA 94105  
Attention: Jeremy Johnstone

All telephone inquiries should be made to Jeremy Johnstone, Senior Environmental Engineer, at (415) 972-3499.

33. Respondents shall send a copy of all submissions required under this Order to:

California Regional Water Quality Control Board – Los Angeles Region  
Coastal Storm Water Unit  
320 West 4<sup>th</sup> Street, Suite 200  
Los Angeles, CA 90013  
Attention: Ivar Ridgeway

34. This Order shall be binding upon Respondent and its officers, directors, agents, employees, heirs, successors, and assigns.
35. This Order is not a permit under the CWA, and does not waive or modify Respondent’s obligation and responsibility to ascertain and comply with all applicable federal, state, or local laws, regulations, ordinances, permits, or licenses.
36. This Order is not to be deemed an election by EPA to forgo any remedies available to it under the law, including without limitation, any administrative, civil, or criminal action to seek penalties, fines, or other appropriate relief under the Act. EPA reserves all rights

and remedies, legal and equitable, available to enforce any violations cited in this Order and to enforce this Order.

- 37. Requests for information contained within this Order are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is not a “collection of information” within the meaning of 44 U.S.C. § 3502(3). It is directed to fewer than ten persons and is an exempt investigation under 44 U.S.C. § 3518(c)(1) and 5 CFR § 1320.4(a)(2).
- 38. Respondent may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated, under 40 CFR Part 2, Subpart B, regulations to protect confidential business information it receives. If legally supportable, a claim of business confidentiality may be asserted in the manner specified by 40 CFR § 2.203(b) for all or part of the information requested by EPA. EPA will disclose business information covered by such claim only as authorized under 40 CFR Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.
- 39. Section 309(a), (b), (d) and (g) of the Act, 33 U.S.C. § 1319(a),(b), (d) and (g), provides administrative and/or judicial relief for failure to comply with the CWA. In addition, Section 309(c) of the Act, 33 U.S.C. § 1319(c), provides criminal sanctions for negligent or knowing violations of the CWA and for knowingly making false statements.
- 40. This Order shall become effective upon the date of receipt by Respondent.

\_\_\_\_\_/s/\_\_\_\_\_  
Alexis Strauss  
Director, Water Division

\_\_\_\_11/09/07\_\_\_\_\_  
Date