



September 18, 2013

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

SENT BY EMAIL:
comment.letters@waterboards.ca.gov

Re: Comment Letter- Industrial General Permit

Dear Chair Marcus and Members of the Board:

Thank you for the opportunity to provide comments on the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Draft Permit), dated July 19, 2013. The Industrial Environmental Association (IEA) is a consortium of commercial and industrial members, many of whom are regulated industrial dischargers. Our members strive to achieve a balanced relationship between environmental protection, public health, and economically sustainable growth.

We appreciate the open communication and the public involvement that State Water Resources Control Board (SWRCB) staff has fostered during the development of the Draft Permit. Furthermore, we are pleased that the Preliminary Draft Permit was revised to address many of IEA's concerns including:

- Removal of Numeric Effluent Limits (NELs);
- Decreased inspections and visual observations;
- Flexibility in implementing minimum best management practices (BMPs);
- Revised qualifications of industrial storm water practitioners; and
- Clarification that Numeric Action Levels (NALs) are not NELs, Technology-based Effluent Limits, or Water Quality-based Effluent Limits

IEA's primary concerns related to the current Draft Industrial General Permit are summarized below:

1. Monitoring

- 1 IEA requests that the permit allow flow-weighted averaging for calculating compliance with annual average. Equating all discharges, regardless of flow, is not reflective of water quality conditions / pollutant loading.

2. Applicability of reduced monitoring frequency on drainage area basis

- 2 It is our understanding from the permit that Level 1/Level 2 status is meant to implicate drainage areas that contributed to the exceedance. Following this logic, we recommend if certain drainage areas are consistently below NALs, they should be allowed to remain on a reduced sampling frequency. In other words, focus on the area that contributed to the exceedance rather than the entire facility. Evaluating all drainage areas, based upon one area exceedance is a waste of valuable resources and manpower.

3. Applicability of Reduced Monitoring on a Pollutant Basis is Too Complicated.

- 3 We have offered our assessment in the workshops that reduced monitoring could apply on a pollutant basis. The SWRCB indicated that the draft permit did not include such a provision because of concerns with complexity and difficulty with tracking. We explained that reducing the list of pollutants to be analyzed at different outfalls could be an area of significant cost savings and should be given additional consideration by the SWRCB.

4. Alternative Monitoring Strategy

- 4 IEA requests additional clarity on the potential of incorporating watershed-based monitoring into TMDL requirements.

5. Applicability of Numeric Action Level Exceedances on Drainage Area Basis

- 5 It was our initial impression from the permit that evaluations following Numeric Action Level exceedances pertain to the drainage areas that contributed to the exceedance. Yet, the permit language indicates that "all drainage areas shall be evaluated." (Page 47, Paragraph C.1) Again, this requirement poses significant cost implications for large industrial facilities. We recommend that evaluations be limited to the drainage areas that contributed to the exceedance. If the objective of the SWRCB is to identify drainage areas of concern and then to require focused investigation, the permit should reflect that and should not require investigation of the entire facility.

6. **Effective Date**

- IEA joins the many other organizations that have recommended
- 6 an implementation date of July 2015. We agree that implementation in the middle of the rainy season would be counterproductive to an effective permit cycle.

7. **Sampling**

The State of California currently requires storm water samples to be analyzed for Total Organic Carbon (TOC), EPA Method 415.1 and allows for the use of Oil & Grease (O&G), Method 1664, in lieu TOC, but this appears to have changed in the draft permit. One of the implications of this change is it functionally eliminates the use of automatic water samplers from being used to sample storm water (you can see an example by going to the following web page:

- <http://www.isco.com/products/products1.asp?PL=201>). The reason for this can be found in a number of places, including on page 27 of Environmental Protection Agency's (EPA) Industrial Storm water Monitoring and Sampling Guide published in March of 2009. EPA specifies that when sampling for O&G, the glass sample bottle is to be filled directly from the discharge and never collected in a container first and then transferred to the sample bottle. This is not possible when using automatic water samplers. There is no similar guidance from EPA for TOC. Also, EPA Method 415.1 sample collection procedure indicates that ... "Sampling and storage of samples in glass bottles is preferable. Sampling and storage in plastic bottles such as conventional polyethylene and cubitainers is permissible if it is established that the containers do not contribute contaminating organics to the samples." Therefore we would like to encourage the State to consider keeping TOC, at the very least, as an alternative to O&G. Something that might also be considered is recognizing that Teflon (used in the construction of the sample tubing) could be used when sampling for O&G.
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We would like to encourage the State to consider a major benefit from this change: it would be exceedingly beneficial to maintain the ability to use an automatic water sampler to get storm water sampling performed, especially when it rains in the middle of the night as it does much of the time, here in Southern California, and when sampling at outfalls located below grade in a confined space. Both of these scenarios are more prevalent than you might think, and are legitimate safety concerns that affect the employees who take these samples.

- We would also point out that the general permit indicates that ... "Visual observations are only required of storm water discharges that occur during daylight hours", this same requirements does not apply to sampling, so if discharge begins outside to daylight hours, you still need to get a sample. Sampling is required within (proposed) four hours of discharge and scheduled facility operating hours. If you operate 7/24 and it is after dark, you still need to put your employees at risk to get a sample in the dark. The current permit
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offered an alternative in that it indicated that..." Facility operators are not required to collect samples or perform visual observations during adverse climatic conditions." The new draft permit does not. The safety of employees that take these sample is still a concern.

We would point out that even the EPA's 2008 MULTI-SECTOR GENERAL PERMIT FOR STORMWATER DISCHARGES does not require sampling when there is adverse conditions, which they define as conditions that are dangerous or create inaccessibility for personnel, such as local flooding, high winds, or electrical storms, or situations that otherwise make sampling impractical, such as drought or extended frozen condition. In addition, the State of Washington's Industrial Storm water General Permit, indicates ..."Permittees need not sample outside of regular business hours, during unsafe conditions, or during quarters where there is no discharge..." Lastly, we would say that the State of Washington requires samples to be collected within the first 12 hours of storm water discharge events. If this approach were adopted, sampling in the dark would likely no longer be an issue. We would encourage this to be considered as well.

8. Legally Responsible Person (LRP)

The permit language that defines the LRP who is authorized to sign and certify NOIs and other documents required by the permit is inconsistent with EPA's standard definitions found in 40 CFR 122.22.a.1. and places unnecessary limitations on who can be a LRP, resulting in complicating the implementation of this permit. We request this definition be revised to be consistent with EPA's definitions, as follows:

Revise Section K.4.a.(a) to state:

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"For the purposes of this section, an authorized corporate officer means: (a) a president, secretary, treasurer, vice-president, or any other person who performs similar policy- or decision-making functions for the corporation~~officer of the corporation with authority to execute documents on behalf of the corporation pursuant to corporate bylaws or board resolution;~~ or (b) the manager of the facility, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate ~~procedures~~~~bylaws and by corporate resolution;~~"

Note that EPA's regulations do not specify that these designations need to be confirmed in the corporations bylaws or within a corporate resolution.

9. Impact on Fees

10 Given the extent of the new permit changes, will additional funds be required to support the operations of the local regional boards? And will this result in permit fee increases?

10. Industrial Storm Water Permit Education and Outreach

- IEA would like to offer the following suggestions to assist the SWRCB with education and outreach. As discussed above, IEA members are committed to environmental compliance and routinely train and educate their member companies. IEA views this permit as an opportunity to expand its education and outreach to non-IEA members and to “light industry”. This type of environmental initiative and stewardship has significant potential benefit by improving discharge and receiving water quality by focusing attention on facilities that have not been subject to permit compliance. IEA is very interested in working with State Water Board staff to develop this type of program. In reciprocation, IEA member organizations would like consideration of reduced permit fees and/or where appropriate tailored permit language that credits this initiative.
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- 12 Finally, we suggest caution be used when querying MS4 industrial/commercial databases to identify “light” industrial facilities. Many of these facilities do not have a SIC codes that subject themselves to this permit.

Thank you for your consideration of these comments. We look forward to working with the SWRCB and its staff on the implementation of this Permit.

Sincerely,



Jack Monger
Executive Director