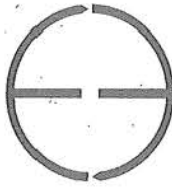


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California Council for Environmental and Economic Balance

Public Hearing
Draft Industrial General Permit
Deadline: 9/19/13 by 12 noon

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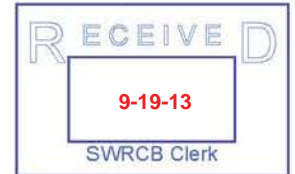
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September 19, 2013

#16



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

Via email: commentletters@waterboards.ca.gov

RE: Comments re Industrial General Permit

Dear Members of the California State Water Resources Control Board:

The California Council for Environmental and Economic Balance (CCEEB) is a non-partisan, non-profit coalition of business, labor and public leaders that advances strategies for a strong economy and a healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization. On behalf of CCEEB, we want to thank the State Water Resources Control Board (SWRCB) for this opportunity to make further comments on the Draft Industrial Storm Water General Permit.

Please accept the following comments:

FACT SHEET

Sampling Frequency -- **1.D.11 (page 7):**

We are concerned that the draft permit has doubled the number of sampling events required without a clear justification of the benefits of the increase. In parts of California, during drier than normal years, there is still the likelihood that one or both sampling periods will not have a Qualifying Storm Event (QSE) during normal operating hours (or even a storm event that produces a discharge at any time). **We believe that the Fact Sheet should include the ability to provide an explanation in the Annual Report to substantiate why there was no QSE and sampling (reflecting Monitoring provision XI.C.6. b of the Order).** Furthermore, we recommend keeping the two QSE per year sampling requirement consistent with the current permit.

Material and Waste Management -- **I.2.K (page 35):**

- 2 We generally agree that covering waste disposal containers when not in use and when a storm event is imminent is an important BMP. However, it is generally not feasible to cover all roll off type containers and these types of containers are common at industrial facilities. It is important to allow a suite of BMPs to be utilized in such circumstances (and as mentioned in I.2.O Implementation of BMPs) in the SWPPP. This section of the Fact Sheet should reference I.2.O for any infeasible BMP.

ORDER

Receiving Water Limitations - **VI (page 2)**

- 3 Receiving Water Limitations should specifically include the control of pollutants in discharges through a BMP selection process as allowed under the Clean Water Act. The selection and evaluation of BMPs through such a defined process will address technology-based and water quality-based effluent limits.

Finding on Exceedances of the NALs -- **I.M.66 (page 11)**

- 4 The Finding needs to clarify that Non-Industrial Source Pollutant Demonstration, Natural Background Pollutant Source Demonstration, and Industrial Activity BMPs Demonstration ERA Plans and Technical Reports can be submitted at any time before Level 2 is reached. Please see our further comment under Exceedance Response Actions XII.D.3.d, XII.D.4.b.ii, & XII.D.4.b.iii (pages 51 & 52) below.

Sampling and Analysis -- **XI.B.2 (page 37)**

Please see our comment on the Fact Sheet regarding sampling frequency (Fact Sheet Section 1.D.11 (page 7))

Sampling and Analysis -- **XI.B.5 (page 38)**

- 5 There are numerous industrial facilities that have skeleton crews at night tasked with monitoring control panels and responding to emergencies only. Companies may have more than one such facility. Technically, these facilities might be considered 24/7 facilities, but in regards to staffing, the night shift(s) are not normal operating hours. This minimum number of night shift personnel cannot shift attention from their process monitoring to leaving control stations to go outside at night to remote monitoring locations. A requirement to monitor at night would entail adding at least one, probably two (for safety) additional personnel for each night shift that are trained in

sampling procedures, or contract with one or more similarly trained consultants to respond to callouts for sampling. This cost was not included in the SWRCB Cost Analysis, and in of itself, can cost a company more than the total incremental cost of compliance per facility (which is low, ignoring this element).

We propose that the MIP document these reduced normal operating hours and that the SWRCB modify Section XI.B.5 to require such documentation in an added XI.B.5.c.

Sampling Analysis Reporting – **XI.B.11**

- 6 We recommend increasing the amount of time allowed to enter data into SMARTS following data receipt from the analytical lab from 30 to 60 days in order to allow the facility sufficient time to review the data.

Baseline Level Evaluation and Reports -- **Add this section prior to Exceedance Response Actions**

- 7 The Dischargers should be allowed to proactively perform any of the Action Plans and Technical reports mentioned in the permit (currently only mentioned at an elevated level) while at the Baseline Level without risk of Level elevation if information is available to adequately prepare the report(s) and perform demonstration(s). Without this provision, the permit subjects the discharger to endangerment. To alleviate this risk, we propose three Baseline Action Plans and Technical Reports as follows: 1) The Baseline Industrial Activity BMP Demonstration would be a discharger in-house evaluation designed to determine whether BMP improvements are needed to avoid NALS. This plan and evaluation need not be submitted for review and approval as no NALs would necessarily be expected to be exceeded during the Baseline Period; 2) The Baseline Non-Industrial Pollutant Source Demonstration Plan and Technical Report. This Plan and Technical Report would have to be submitted and approved due to the potential and presumption that non-industrial pollutant sources (ex., atmospheric deposition) could contribute to a future NAL exceedance; 3) A Baseline Natural Background Pollutant Source Demonstration Plan and Technical Report. This Plan and Technical Report would have to be submitted and approved due to the potential and presumption that non-industrial pollutant sources (ex., natural background pollutant contribution) could contribute to a potential NAL exceedance).

- 8 We also propose that if either or both of the Baseline Non-industrial Pollutant Source Demonstration Reports and Natural Background Pollutant Source Demonstration Technical Reports demonstrate that non-industrial pollutant sources or natural background pollutant sources are a potential cause of a future NAL exceedance, that either or both these sources (as applicable)

continue to be sampled once each year to verify and justify remaining at Base line level.

We would like to remind the SWRCB that the industrial landscape is subject to constant change that may have, as circumstances warrant, the need for periodic assessments such as these without peril. As an example, industries or development construction may move next door, etc. that may affect the discharger and the discharger must have the tools and flexibility to account for and address those changes prior to penalty.

Exceedance Response Actions -- XII.C.1 (page 47)

The Level 1 ERA Evaluation justifiably should address the pollutant(s) that exceed an NAL(s) and the potential pollutant sources in the drainage basin where the NAL(s) was/were exceeded. However, the requirement to evaluate drainage basins not exceeding NALs is excessive and costly given that the draft permit does not detail the elements of such an evaluation for basins not exceeding an NAL.

- 9 We recommend that the SWRCB delete the requirement for evaluation of drainage basins not exceeding an NAL, or provide a description of a cost effective "preventative" analysis such as a descriptive discussion of why the BMPs or other measures employed for the basin exceeding the NAL are or are not applicable to the other basins.

We further propose that the discharger be allowed to plan and perform any of the evaluations of this permit necessary to remain at Level 1 or return to Baseline Level status as the changing industrial landscape and circumstances warrant if information is available to adequately prepare the report(s) and perform demonstration(s).

Exceedance Response Actions -- XII.D.3.d (page 51)

- 10 If a discharger has not exceeded an NAL, or has submitted a Level 1 Technical report which also addresses the elements described by the Level 2 Demonstration Technical Reports due changes in the industrial landscape or circumstances, the discharger should not be automatically placed in Level 2. We propose that XII.D.3.d be modified to allow these exceptions.

Exceedance Response Actions -XII.D.4.b.ii and XII.D.4.b.iii (page 52)

- 11 If a discharge reaches Level 2 without satisfactorily performing previous demonstrations or if the annual verifications of these demonstrations show that the discharger's industrial contribution exceeds an NAL then the discharger should remain at level 2 until a applicable and satisfactory technical report is approved and a number of QSE results indicate that the discharger's

industrial contribution is again below the NAL threshold. The discharger should then be allowed to return to Baseline Level. This provides an incentive for a proactive applicant as well as provides a deterrent for those less proactive. We recommend removing the perpetual Level 2 status prescribed by XII.D.4.b.ii and iii and allowing return to Base Level once the above conditions are met.

Compliance Group and Compliance Group Leaders -- XIV (page 54)

- 12 Please clarify if similar separate facilities in one company can constitute a Compliance Group.

Annual Report -- XVI.A (page 56)

- 13 We recommend a due date of July 30 (instead of July 15) for the Annual Report. Our rationale is that companies with multiple facilities, as well as Compliance Groups, may need more than 15 days to compile multiple reports.

Electronic Signature and Certification Requirements --XXI. K.4.a (page 68)

The proposed language in Section K.4.a. includes language which is inconsistent with EPA's standard language for signatories to permits and applications found in 40CFR 122.22.a.1. Specifically, the permit:

- Would replace EPA's language that specifies that "...any other person who performs similar policy- or decision-making functions for the corporation..." with "...other officer of the corporation..."; and
- Would require in both K.4.a.(a) and (b), that these persons be given this authority in accordance with "corporate bylaws or board resolution" (4.k.a.(a)).

Both of these revisions to EPA's regulations will in practice be burdensome and will unnecessarily restrict both the persons to which the authority to sign documents is available and the manner in which this authority is established. EPA's regulatory language should be the defining language used for the definition of Legally Responsible Person/Authorized Corporate Officer.

We request that the K.4.a. be revised to state:

K.4.a. For a corporation: For the purposes of this section, an authorized corporate officer means:

(a)

- A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or

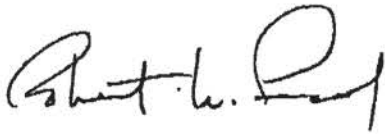
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• Any other person who performs similar policy- or decision-making functions for the corporation, or

(b) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Thank you for considering these comments.

Sincerely,



Robert W. Lucas
Water, Waste & Chemistry Project Manager



Gerald D. Secundy
President

cc: Matt Rodriguez, Secretary, California Environmental Protection Agency
Gordon Burns, Undersecretary, California Environmental Protection Agency
Jackson Gualco, The Gualco Group, Inc.