

Waste & Water Update

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MAJOR CHANGES TAKE EFFECT ON INDUSTRIAL STORM WATER PERMIT

California's "Industrial General Permit" (IGP), which regulates pollutants in storm water discharges from many industrial facilities statewide, has been amended effective July 1, 2020. The changes may have major implications for dischargers – mainly in Southern California – that discharge to "impaired" water bodies or watersheds. The IGP already applies Numeric Action Levels (NALs) to a group of pollutants that may be found in a facility's storm water discharge. When a facility's storm water sampling results exceed a NAL, the facility must take actions to better control that pollutant. The same 23 NALs are applied throughout California.

However, the various Regional Water Quality Control Boards have now developed additional water body-specific (or in some cases, watershed-specific) regulatory levels. These apply only to facilities that discharge storm water to a specified water body or watershed. In all cases, this does not need to be a direct discharge. Facilities that discharge to a municipal storm sewer that, in turn, discharges to the impaired water body or watershed are also subject to the new regulatory levels. The affected water bodies and watersheds are primarily, although not exclusively, located in Southern California.

The IGP amendments set two types of new regulatory levels for a group of water bodies and watersheds, mainly in Southern California. These new levels are published in Attachment E of the amended IGP. The regulatory levels are specific to water bodies/watersheds and are different for each water body and

watershed. Because these new levels were put in place only for a minority of water bodies and watersheds in California, it is critical to understand where your facility's storm water discharges to and then use that information to review Attachment E, available online at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/un-off_igp_amend.pdf

The first new type of regulatory level, known as a "TNAL," is similar in its effect to the current NALs. When a TNAL value is exceeded, a facility will perform Exceedance Response Actions (ERAs) using the Level 1 and Level 2 ERA processes in the IGP. However, the new TNAL values will frequently be lower than current NAL values. TNALs are also set for pollutants that do not currently have an NAL at all.

In addition to TNALs, the Regional Boards may also specify, for certain watersheds, Numeric Effluent Limits (NELs). Unlike NALs and TNALs, a facility whose pollutant concentrations in storm water exceed an NEL is in violation of the IGP. Facilities will face penalties for such violations and will be required to take actions as necessary to prevent future exceedances. Because the IGP is a federally enforceable permit, this presents a real risk to facilities operating in watersheds where NELs will be established.

Other permit changes address solutions to TNAL and NEL exceedances, particularly focusing on various storm water capture methods. In accordance with Attachment I of the amended IGP, certain types of storm water capture systems, when designed to specific criteria, may allow a discharger to demonstrate compliance with the NELs (and NALs and TNALs also). Because installing such systems may be an extended project, the

Regional Boards are negotiating what are known as Time Schedule Orders with dischargers that may want to shield themselves from NEL exceedances during the time it takes to install their capture system.

Waste & Water Tip

As part of Senate Bill (SB) 205, which took effect January 1st, when applying for or renewing a business license with a City or County, the Business and Professions Code 16100.3 now requires businesses in covered Standard Industrial Classification (SIC) Codes to demonstrate compliance with a storm water discharge permit program by providing either their Waste Discharger Identification (WDID) No. showing full IGP coverage; WDID Application No.; Notice of Non-Applicability (NONA) ID No.; or No Exposure Certification (NEC) No. For more info, visit: https://www.waterboards.ca.gov/water_issues/programs/stormwater/sb_205_business_license_requirements.html

Upcoming Online EH&S Training Offered by Yorke Engineering – Each Session Is Presented Over 4 Half-Days

- California Multi-Media Environmental Regulations: Permitting, Compliance, and Reporting Seminar:
Session 1 – Sept. 29, 30, Oct. 6, 7, 2020
Session 2 – Oct. 26, 27, Nov. 2, 3, 2020
- California Industrial Hygiene/Safety Seminar:
Session 1 – Oct. 13, 14, 20, 21, 2020
Session 2 – Nov. 9, 10, 16, 17, 2020
Class Info at: <http://yorkeengr.com/classes>

Upcoming Due Dates for 2020/2021*

- SWRCB CGP Annual Report 9/1/20
- SWRCB Level 1 ERA Report..... 1/1/21
- SWRCB Level 2 ERA Action Plan.. 1/1/21
- DTSC Annual Reports for E-Waste Handling and Recycling Activity..... 2/1/21
- CDTFA Hazardous Waste Generator Fee..... 2/28/21
- USEPA Hazardous Waste Report for RCRA TSDF 3/1/21

*Due dates listed are statutory dates; sometimes dates are extended when on a weekend/holiday.

UPDATED HMBP SUBMISSION REQUIREMENTS

Assembly Bill (AB) 1429, which was signed into law in 2019, changed the Health & Safety Code* requirements relative to the submission of Hazardous Materials Business Plans (HMBPs), including chemical inventories. The changes went into effect January 1, 2020, and were intended to relieve the HMBP submission burden on the hundreds of thousands of businesses that submit HMBPs/chemical inventories into the California Environmental Reporting System (CERS).

While the intent was laudable, the actual burden reduction is probably minor. AB 1429 went through with little input from the Certified Unified Program Agencies (CUPAs) that are on the front line of reviewing and approving CERS submissions. This resulted in a bit of confusion as to what the statute change actually meant for regulated businesses and the CUPAs. Only relatively recently was clarification provided from the State level [i.e., the California Governor's Office of Emergency Services and the Department of Toxic Substances Control (DTSC)] as to both the nature of the changes (which were fairly clear upon a close reading) and how they would be effected through the use of CERS (which was not clear).

Essentially, the changes allow a specified group of facilities to re-submit their HMBP and associated chemical inventory once every 3 years, as opposed to annually. Facilities that cannot take advantage of this relaxation are as follows: 1) Any facility that is subject to federal Emergency Planning and Community Right-to-Know Act (EPCRA) chemical inventory reporting requirements. You'll need to evaluate the federal thresholds for chemical reporting for Extremely Hazardous Substances (EHS) and the federal 10,000-pound threshold for non-EHS chemicals. 2)

Any facility subject to California's Aboveground Petroleum Storage Act (APSA) requirements. If you meet either of these, you must still submit your full HMBP information annually.

Hazardous materials handlers not subject to either the EPCRA and APSA requirements may submit their HMBP every 3 years, rather than annually, but must still submit an annual certification that their HMBP is complete and up to date. This last requirement is where the HMBP facility that was seeking relief from dealing with CERS re-submission every 3 years is disappointed. Every HMBP facility still needs to make a CERS re-submission of at least their Business Activities and Owner/Operator Information Forms each year. This means that you are "touching" the CERS system each year by March 1st, or an alternate date if your CUPA has set a date different from the State March 1st default.

**See Health & Safety Code Division 20, Chapter 6.95, Section 25508.*

CALIFORNIA HAZARDOUS WASTE CHANGES COMING

The Generator Improvements Rule (GIR) from the United States Environmental Protection Agency (USEPA) took effect on May 30, 2017, in only the few states where the USEPA also runs the state hazardous waste programs. The GIR included changes that are deemed more stringent, less stringent, and neither more nor less stringent than current rules. California must adopt the more stringent changes to the Resource Conservation and Recovery Act (RCRA), but can choose to adopt the less stringent and no more/no less stringent changes.

The changes were to have been completed by July 1, 2019, by the DTSC. However, although the DTSC filed notification of the changes with the State Office of Administrative Law this past Spring, this was subsequently withdrawn. A revised rulemaking package is expected this Fall. Sources have determined that the initial changes will only apply to RCRA hazardous wastes (i.e., not to California-only hazardous wastes) and will include the following:

- Require notices every 4 years from Small Quantity Generators (SQGs) and every 2 years from RCRA Large Quantity Generators (LQGs) confirming their status as SQGs/LQGs;
- Implement a closure process for RCRA LQGs with notifications prior to and after closure;
- Keep incompatible materials separated at satellite container areas;
- Requirements for emergency preparedness, prevention, and response for SQGs and LQGs for documenting coordination with local authorities and to require RCRA LQGs to make a quick contingency plan reference guide;
- Require LQGs to keep ignitable or reactive wastes away from fire, heat, or other sources of ignition; and
- Adding the definition of non-acute hazardous waste and clarifying the definitions of RCRA LQG and SQG based on non-acute hazardous waste or acute hazardous waste generated in a month.

Other GIR possibilities – including the reorganization of the Title 22 regulations for generators – remain in regulatory limbo at this time.

Yorke Engineering, LLC has assisted over 1,150 industrial and government facilities with air, waste, and water regulatory compliance and permitting throughout California. Our staff are very experienced and specialized in assisting customers with their specific EH&S needs related to the local air districts, CARB, DTSC, Water Boards, CUPAs, USEPA, and other regulatory agencies.