

# Waste & Water Update

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## PREPARED FOR ENFORCEABLE STORM WATER EFFLUENT STANDARDS?

California's "Industrial General Permit" (IGP), which regulates pollutants in storm water discharges from many industrial facilities statewide, was amended effective July 1, 2020. The changes have particular implications for dischargers – mainly in Southern California – that discharge to "impaired" water bodies or watersheds. For a number of these watersheds, new regulatory levels were established that significantly increase the risk of being found in violation of the IGP.

Because these new levels were put in place only for a minority of California water bodies/watersheds, it is critical to first understand whether you will be affected by them. This requires review of the list of affected watersheds in Attachment E of the amended IGP.

Attachment E establishes for the first time (and again, only for specified water bodies/watersheds) Numeric Effluent Limits (NELs). Unlike Numeric Action Levels (NALs) established in the IGP, the new NELs institute pollutant concentrations that, when exceeded, constitute a permit violation. Facilities will face potential fines for such violations and will be required to take actions as necessary to prevent future exceedances. This presents a real risk to facilities operating in watersheds where NELs are, or will be, established.

To avoid an avalanche of effluent violations, the State Water Resources Control Board (SWRCB) did two things. First, IGP Attachment I of the

amended permit describes a process by which dischargers can become exempt from the NELs by implementing an on-site or off-site water management program that diverts storm water to one of several alternative uses. These "compliance options" can include infiltration, on-site storm water use, or even discharge to a sanitary sewer. The challenge, however, is that the design storm standard for these options is quite high. Not only is diversion of the 85<sup>th</sup> percentile 24-hour precipitation event required, but a 24-hour drawdown time is also specified.

Knowing that these compliance options may require significant time and money to design and construct, the State has promoted the use of Time Schedule Orders (TSOs). In this context, a TSO establishes an enforceable agreement between the discharger and Regional Water Quality Control Board to implement one of the compliance options in IGP Attachment I within a specified schedule, in exchange for the Regional Board agreeing not to take enforcement action for NEL exceedances during the design and construction period.

There is a time challenge, however. As a legally enforceable document, a TSO must be crafted carefully by both parties. Recent experience is showing that TSOs requested in mid-2020 are only now being finalized, owing to Regional Board resource availability, pandemic effects, and the need for each TSO to receive formal approval by the Regional Board executive. With the 2020-2021 winter rain season already upon us, there may be no time to lose if a discharger is hoping to use a TSO to address NEL exceedances occurring this winter.

## Waste & Water Tip

*After 10 years of consideration and draft regulation, the Department of Toxic Substances Control (DTSC) has finally amended Title 22 of the California Code of Regulations (CCR) to allow waste photovoltaic (PV) solar panels to be managed as universal waste, effective January 1, 2021. Individual modules or containers of PV modules would be labeled as "Universal Waste-PV module(s)." Like Universal Waste – Electronic Devices, limited dismantling and other processing is allowed.*

### 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: March 23, 24, 30, 31, 2021
- California Industrial Hygiene/Safety Seminar: April 20, 21, 27, 28, 2021
- Air Quality Regulations, Permitting, and Compliance Seminar: SJVAPCD/BAAQMD: May 4, 5, 11, 13, 2021 SCAQMD: May 4, 6, 11, 13, 2021 Class Info at: <http://yorkeengr.com/classes>

### Upcoming Due Dates for 2021\*

- SWRCB Level 1 ERA Report .....1/1
- SWRCB Level 2 ERA Action Plan .....1/1
- SWRCB Level 2 ERA Technical Report .....1/1
- DTSC Annual Reports for E-Waste Handling and Recycling Activity .....2/1
- CDTFA Hazardous Waste Generator Fee .....2/28
- CUPA HMBP Recertification.....3/1\*\*
- DTSC Tiered Permit Closure Cost Estimate Inflation Adjustment.....3/1
- USEPA Hazardous Waste Report for RCRA TSDF .....3/1
- USEPA TRI Report .....7/1
- SWRCB IGP Annual Report .....7/15
- SWRCB Level 2 ERA Technical Report Updates .....7/15

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

\*\*Most common due date, varies by CUPA.

## TREATED WOOD WASTE

### Be Advised – Special Rules No Longer Apply

Wood treated with chemical preservatives for protection against pests and environmental conditions is called “treated wood.” Treated wood is used for fence posts, railroad ties, utility poles, landscape timbers, pilings, docks, piers, guardrails, and decking. Wood treatment chemicals include arsenic, chromium, copper, pentachlorophenol, and creosote. These chemicals can cause wood waste to become hazardous waste in California.

In 1995, legislation was passed that exempted most treated wood waste (TWW) from being managed as hazardous waste. TWW – such as poles, crossarms, pilings, fence posts, lumber, support timbers, flume lumber, and cooling tower lumber, from electric, gas, or telephone service companies – could be deposited in a municipal solid waste landfill that has a composite liner. In 2007, the State adopted alternative management standards for TWW that applied to all generators [Health and Safety Code (HSC) 25150.7, regulations codified at 22 CCR 67386, et seq.]. This allowed TWW from all generators to be managed by alternative standards rather than as hazardous waste, provided the waste was not a Resource Conservation and Recovery Act (RCRA) hazardous waste or designated to be burned. However, this exemption had a sunset date of December 31, 2020.

To address the exemption sunset date, Senate Bill 68 was written and passed by the State legislature in 2020 to permanently extend the alternative management standards for TWW. However, Governor Newsom did not sign the bill, citing budget considerations.

Therefore, if you generate TWW and are not an electric, gas, or telephone

utility, after January 1, 2021, you must manage TWW that meets California criteria for a hazardous waste as a fully regulated hazardous waste. This means TWW must not be placed directly on the ground, cannot be accumulated for more than 90 days for a Large Quantity Generator (LQG) or 180 days for a Small Quantity Generator (SQG), and is subject to container labeling and hazardous waste manifest rules. TWW will now count toward your generator status and may cause you to become an LQG.

The DTSC has indicated that they intend to issue a temporary variance that would allow the current management methods to continue, until such time as the State legislature can act on the matter again, e.g., by submitting a revised bill to the Governor. When available, the variance and related forms and procedures will be posted to the DTSC’s TWW webpage, located here:

<https://dtsc.ca.gov/toxics-in-products/treated-wood-waste>

### UST REPORTING REGULATION UPDATE

As of October 1, 2020, revised forms for testing and inspections are required for Underground Storage Tanks (USTs). The new forms can be found on the SWRCB website and must be used in lieu of the forms released in October 2018. The revised forms are for monitoring system certifications, secondary containing testing, spill containment testing, overfill prevention equipment, Designated Operator (DO) identification, and DO visual inspections.

In addition to revising the forms, 23 CCR 2713 was also amended to add a

reporting requirement for Certified Unified Program Agencies (CUPAs) to report facilities where a compliance inspection has not been performed over that previous calendar year. In addition, the UST owner or operator is now required to sign DO visual inspection reports within 72 hours of receipt, acknowledging the inspection results.

### Owner Statement of Designated UST Operator Compliance

There has been some confusion regarding what forms need to be submitted in the UST section of the California Environmental Reporting System (CERS) and when they need to be updated. The regulation requires the *Designated Underground Storage Tank Operator Identification Form* (DO Form) to be re-submitted whenever the DO information changes, and the *Statement of Understanding and Compliance Form* (SOUAC Form) if a change in facility owner/operator occurs. However, it is always useful to check with your local CUPA inspector since local CUPAs vary in how they implement regulations.

### Overfill Prevention Equipment Inspection

The initial Overfill Prevention Equipment Inspection was required by October 13, 2018. Some facilities completed their initial inspection after this date. This inspection is due every 36 months, however, regardless of when the initial inspection was completed. This means the second 3-year inspection must be completed by October 31, 2021, and every 36 months thereafter, irrespective of whether the initial inspection was completed on time.

*Yorke Engineering, LLC has assisted over 1,200 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.*