



Via Email

September 19, 2013

ES-13-128

Jeanine Townsend Clerk to the Board State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: *Lawrence Berkeley National Laboratory (LBNL) Comments on the Draft Industrial General Permit for Stormwater Discharges.*

Dear State Water Resources Control Board:

Thank you for the opportunity to provide comments on the Draft NPDES General Permit for Stormwater Discharges Associated with Industrial Activities, dated July 16 2013 (IGP). We appreciate the effort required to draft a permit designed to apply to such a broad spectrum of activities and facilities. We also support the effort to protect and improve stormwater quality in California. At the same time, we are concerned that various aspects of this permit will add significant burden to our resources in difficult financial times and may not provide improvements to stormwater quality. The comments prepared below elaborate on some of these concerns and suggest alternatives which we recommend for incorporation into the IGP.

- 1. **Non-Industrial Source Pollutant Demonstration and/or a Natural Background Pollutant Source Demonstration Submittals.** Permittees should be allowed to submit a Non-Industrial Source Pollutant Demonstration and/or a Natural Background Pollutant Source Demonstration at any time.

Section XII.D.2.b and XII.D.2.c states that a permittee can submit a Non-Industrial Source Pollutant Demonstration or a Natural Background Pollutant Source Demonstration as part of a Level 2 ERA Technical Report. LBNL recommends revising the IGP to allow a permittee to submit these reports at any time.

- 2. **Returning to Baseline Status.** The IGP should clarify that a discharger can return to Baseline status if the sample results for the same drainage area or discharge point show no exceedances for four subsequent and consecutive QSEs.

Section XII.C.2.b. of the IGP states that a discharger’s Level 1 status will return to Baseline status if, among other requirements, the results “*from four (4) subsequent and consecutive QSEs that were sampled indicate no additional NAL exceedances for that parameter.*” Section XII.D.4.a contains a similar provision. If prior NAL exceedances for one parameter (e.g., Total Suspended Solids (TSS)) in one drainage area triggered Level 1 or Level 2 status and the facility has fully implement its BMPs in that drainage area, the facility should not be precluded from returning to Baseline status if the facility experiences an NAL exceedance for TSS in another drainage area of the facility.

LBNL recommends the following revision to Section XII.C.2.b:

A Discharger's Level 1 status for a parameter will return to Baseline status:

- once a Level 1 ERA report has been completed,
- all identified additional BMPs have been implemented, and
- results from four (4) subsequent and consecutive QSEs that were sampled indicate no additional NAL exceedances for that parameter in the drainage area or at the discharge point that triggered Level 1 status.

3. **Returning to Baseline Status.** Page 52. Eligibility for Returning to Baseline Status (4)(b). Dischargers should not be ineligible to return to Baseline status because they have:

- submitted an industrial activity BMP demonstration,
- a non-industrial pollutant source demonstration, or
- a natural background pollutant source demonstration.

Section XII. D.4.b precludes a discharger from returning to Baseline status if it has submitted one of three demonstrations: an industrial activity BMP demonstration, a non-industrial pollutant source demonstration, or a natural background pollutant source demonstration. It is our understanding of the IGP that these demonstrations are intended to allow a facility to reduce its obligations under the IGP by demonstrating that any NAL exceedances are the result of either non-industrial sources or natural background. However, by making these very demonstrations, the discharger becomes ineligible to return to Baseline status.

LBNL recommends that the Board delete Section XII.D.4.b in its entirety, or, at a minimum provide a reasonable explanation why these demonstrations should preclude the discharger from returning to Baseline status.

4. **Test Methods and Method Detection Limits.** The IGP should clarify the applicable test methods and provide NAL values which are above commercially achievable reporting limits for all parameters.

Table 2 specifies the specific EPA and SM test methods that must be used for analyzing samples. At the bottom of the table, the *** footnote identifies that more stringent test methods with lower detection limits may be used. It is noted that reporting limits for some metals, from our two commercial labs, are not below the metal NAL values. A metals analysis by graphite furnace AA instead of the identified test methods via ICP/MS could result in more stringent (lower) analytical results for the metals. However, a more stringent method is not available for the Total Cyanide analysis. During our review of a few state certified laboratories, it was identified that the PQL for the Total Cyanide analysis is at, or near, the annual NAL level; this significantly increases the possibility of false positive results.

In general, since methods can change from time-to-time, it is our recommendation to reference the recently updated test Clean Water Act procedures only, e.g., Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; Analysis and Sampling Procedures; Final Rule, 77 Fed. Reg. 29757, (May 18, 2012).

Once again, LBNL would like to reiterate our commitment to stormwater quality in California and thank the State Water Resources Control Board and Staff for all their efforts in preparing this draft IGP. We look forward to working with you to address our concerns and generate an IGP that protects the environment and may be effectively implemented.

Respectfully Yours,



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