



September 16, 2013

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

RE: Comments on Draft Storm Water Industrial General Permit (IGP)

Dear Ms. Townsend and the Board:

Thank you for the opportunity to submit comments on the proposed Storm Water Industrial General Permit (IGP). We appreciate the extension of the comment deadline to 12 pm on September 19, 2013. Covanta Energy Corporation (CEC) owns and/or operates several facilities in California. These include Energy-from-Waste (EfW) and biomass facilities. We support the implementation of continuous storm water quality improvement measures that are:

- clear
- cost-effective,
- practical, and
- known to have demonstrated water quality benefits.

We are appreciative of the numerous changes and improvements that have been made to the proposed permit since it was initially proposed on January 28, 2011. However, we still have several concerns about the proposed IGP.

I. **FINDINGS**

- 1 a. **General Findings:** Item 9 states that "Industrial Activities covered under this General Permit are described in Attachment A." Attachment A is titled "Facilities Covered by National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (General Permit)". Some facilities may be considered to qualify for the need for an IGP under this rule based on one of the definitions in Attachment A but may not currently have an IGP based on past State Water Resources Control Board (SWRCB) decisions. Additional confusion is raised by language in I. O. 72., which states that "...Light industry facility dischargers that were previously excluded from coverage must obtain the appropriate coverage under this General Permit..." (Note: The term "light industry facility is not included in either Attachment A or C.)

The definition of "Discharger" found in Attachment C is not helpful in this determination since it defines a discharger as "A person, company agency or other entity that is the operator of the industrial facility covered by this permit."

Please clarify the language in the relevant areas to indicate if past decisions regarding the need to have (or not have) an IGP are still relevant and applicable even if the facility appears to be covered based upon the definition of one of the categories in Attachment A.

- b. **General Findings:** Item 11 states that terms used in the General Permit are defined in Attachment C. A review of Attachment C shows that there is no definition for the term "discharge" which is used repeatedly in the document. Is a discharge only when storm water leaves the plant site through one or more outfall locations? Does it include storm water that is in unlined structures that recedes into the ground? Or does it mean storm water from roofs, etc. as it goes into an unlined pond, swale, etc.? Please define the term "discharge" in Attachment C.
- c. **Industrial Activities Not Covered Under this General Permit:** Item 20 indicates that storm water discharges "...regulated under another individual or general NPDES permit adopted by the State Water Board or Regional Water Board are not covered under this General Permit..." Does this include facilities that have storm water requirements in their current Waste Discharge Requirements (WDRs) or only those facilities that actually have an NPDES Storm Water Permit?
- d. **Conditional Exclusion – No Exposure Certification (NEC):** CEC agrees with the reduced requirements for facilities that qualify for the NEC.

II. **RECEIVING GENERAL PERMIT COVERAGE**

- General Permit Coverage (NOI):** This section requires Dischargers to register for coverage. Please clarify if this requirement is only for dischargers that do not already have a NPDES Storm Water permit or coverage under an existing WDR, or if it applies to those already covered under said requirements.

III. **MONITORING**

- a. **Visual Observations:** Section XI.1.b states that monthly visual observations "shall be conducted ... on days *without* precipitation." CEC is curious about this requirement. Limiting visual observations to days *without* precipitation seems unnecessary. It could also be difficult for a facility to comply if there is an extended period of continuous precipitation. How would a facility determine what would constitute a day without precipitation. Does this mean absolutely no precipitation? Is there a minimum threshold? What happens if there is a little rain or other type of precipitation in the morning but it's dry in the afternoon? Would such a situation mean that no visual observations could occur on that day?

We recommend revising Section XI.A.1.b as follows: "The monthly visual observations shall be conducted during daylight hours of scheduled facility operating hours and may be conducted on days without precipitation."

- b. **Sampling and Analysis:** This rule defines a "Qualifying Storm Event (QSE)" in terms of discharge and not in terms of precipitation. Please discuss the rationale for this. The language in this section reinforces the need for the SWRCB to define what it means by the term discharge.

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In addition, there is no discussion about an exemption if a facility has no QSE's. It is highly likely that in arid areas or in drought conditions that there will be a QSE at all. There may be situations where there is only 1 QSE for one half of the reporting year and none in the other. Please clarify the language to address these types of situations. Below is some suggested language:

"The Discharger is exempt from monitoring if that discharge did not occur due to use of on-site retention system or other storm water treatment system, or infrequent storm events of sufficient magnitude to produce discharge during normal business hours and safe conditions."

IV. ANNUAL REPORT

- This section requires that the Annual Report be submitted no later than July 15th. We request that the reporting deadline be changed to July 30th to allow for additional time to get results from any samples that may need to be taken in late June.

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V. SPECIAL CONDITIONS – NOTICE OF NON-APPLICABILITY (NONA)

- a. The draft IGP only requires that facilities that wish to file NONA applications "...shall meet the following eligibility requirements:
- a. The facility shall either be (1) engineered and constructed to have contained the maximum historic precipitation event (or series of events) using the precipitation data collected from the National Oceanic and Atmospheric Agency's website..."

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The term "maximum historic precipitation event" is not defined in the rules, but the Fact Sheet states that:

"At a minimum, Dischargers must ensure that the containment design addresses maximum 1-hour, 24-hour, weekly, monthly, and annual precipitation data for the duration of the exclusion."

Requiring this level of containment seems unreasonable. Given the natural background discharges that are likely to occur during storms that approach or exceed this threshold, the SWRCB should consider returning to the more reasonable and straightforward language from the 2011 draft as stated below:

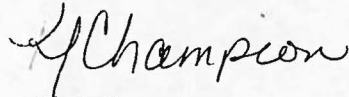
"Dischargers who have facilities designed to contain a 100 year 24-hour storm event and three (3) consecutive 20 year 24-hour storm events in a month are not found to have a potential to discharge pollutants, and therefore pose no threat to water quality."

- b. In addition, there is nothing in the requirements listed in the NONA section that states that, prior to applying for a NONA, the facility must first obtain a NEC certification. The only place this is stated is in Section S of the "National Pollutant Discharge Elimination System (NPDES)

**General Permit Fact Sheet for Storm Water Discharges Associated with Industrial Activities”
(AKA Fact Sheet). This is an important requirement that should be included in the final IGP.
Finally, CEC does not agree with the requirement to have a NEC certification to receive a NONA.**

We appreciate this opportunity to comment on these regulations. Please do not hesitate to contact me at (503) 393-0890 if you have questions or need additional information

Sincerely,



Kelly J. Champion
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Regional Environmental Manager, West Region

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