

The Rain Events

A Monthly Newsletter on the California
Industrial General Permit
By WGR Southwest, Inc.

But it doesn't discharge!

There is growing alarm about the Notice of Non-Applicability (NONA) requirements in the new Industrial General Permit (IGP). At first it seems rather straight forward, but a deeper look at the IGP's Fact Sheet reveals some troubling language and begs the following questions, "*Who needs a no discharge NONA? How is a NONA filed? And who can possibly qualify for one?*"

Who Needs a No Discharge NONA? In short, only those facilities who have been requested by the Water Board to do so. Section XX.C. of the IGP provides the requirements for dischargers claiming, through a NONA, that their facility has "no discharge". It states that the entities needing a NONA are those identified in [Section 13399.30 of the California Water Code](#), which are basically the facilities applicable to the IGP, who have not filed a Notice of Intent (NOI), and ***who have been contacted by the Water Board***. The Fact Sheet provides further clarification where it states that this section of the Water Code was amended "*to require entities who are requested by the Water Boards to obtain General Permit coverage, but that have a valid reason to not obtain General Permit coverage, to submit a Notice of Non-Applicability (NONA)*." Therefore, our interpretation of this section is that if a facility is currently not under the IGP, it is not required to submit a NONA until they are requested to do so by the Water Board. However, if a facility is currently covered by the IGP and is wanting to claim that it does not need permit coverage because it does not discharge storm water to Waters of the United States, then it must submit a NONA. This is also true of any facility who filed for a NONA under the previous permit. They will need to submit another NONA in accordance with the NONA filing requirements of this new IGP.

How is a NONA filed? To file a "No Discharge" NONA, an industrial facility has two eligibility options. The first option is that it has to be engineered and constructed to contain the "maximum historic precipitation event (or series of events)" using climatic data from a governmental source to demonstrate that there will be no discharge of industrial storm water to waters of the United States. The second option, is for the facility to be located within a basin or other physical location that makes it impossible for storm water runoff to reach waters of the United States. To claim "no discharge", the entity is required to file for a NONA on SMARTS and upload a technical report. The No Discharge Technical Report must sufficiently demonstrate how the facility meets either of the two eligibility options and it must be signed by a California licensed professional engineer.

What are the problems in qualifying for a NONA? The above information mostly comes out of Section XX.C. of the Order, and is pretty straight forward. But, the section in the Permit's Fact Sheet addressing this same topic greatly convolutes the NONA process and brings into question, if it is even possible to qualify for a No Discharge NONA. For example, the broad open-ended definition of a "design storm event" is troubling. It is not limited to a 24-hour period, a single event, a 100-year or even a 500-year storm event; but can include a series of storms or even the highest annual rainfall amount ever recorded for that location. Bottom line, the engineer preparing the technical report must consider all historic storm data and be able to say that this facility would never have a discharge even if it rained on a Biblical scale for "*forty days and forty nights*". The second very troubling NONA requirement is under "Additional Considerations" and states that a "No Discharge" determination does not cover storm water containment systems that transfer industrial pollutants to groundwater. If storm water is to percolate on site, the licensed engineer must prove in its Technical Report that industrial pollutants will not "*discharge to or contaminate groundwater*". What are industrial pollutants? Among other things, they include oil & grease, hydrocarbons, ammonia, nitrates, sulfates, dissolved solids, and heavy metals such as aluminum, copper, iron, mercury, nickel, and zinc. A geological chemical fate and transport study may be necessary to prove that these pollutants will not "*discharge to or contaminate groundwater*". Whether Regional Boards will require this level of analysis to approve a NONA is yet to be seen. Will they accept a design based on a 100-year storm? We don't know that yet. But, if a licensed engineer does not include all historic data and proves that industrial pollutants will not discharge to groundwater, will they be open to litigation? For all these reasons, we wonder if there will be very many No Discharge NONAs.

Annual Training

September is a great time to perform the required storm water training because the storm season begins on October 1st and it has been a long hot summer since most people have last thought about storm water runoff. The current Industrial General Permit requires training of personnel who are responsible for:

1. Implementing activities identified in the SWPPP such as performing any industrial activity or working with any material or pollutant source that would be exposed to storm water,
2. Conducting inspections, sampling, and visual observations, and
3. Managing storm water such as opening or closing drain valves, pumping water, or maintaining the storm water conveyance system.

The IGP states that the training should address topics such as spill response, good housekeeping, material handling procedures, and actions necessary to implement all BMPs identified in the SWPPP. It is required that periodic dates for such training be identified in the SWPPP. Records must be kept for 5 years of all training sessions held.

QISP Training Update

The Rain Events has been receiving quite a few questions concerning the new Qualified Industrial Storm Water Practitioner (QISP). As you may know, the new IGP requires dischargers to designate a QISP to prepare Exceedance Response Action (ERA) Plans. The State Water Board has assembled a team of volunteer storm water professionals to work together on, what is called, the Industrial General Permit Training Team (IGPTT). This team has been working on developing the training for the past year and has made good progress. The training content is currently in the process of being finalized. At this point, it appears that 3 to 5 realistic scenarios will be utilized to instruct QISP candidates on the various aspects of the permit for which they will need to be knowledgeable. It is the goal of the team to have the initial 16 hours of training done online using a variety of learning tools including videos, PowerPoint™ presentations, as well as, written materials. Before moving on in the training, the QISP candidate will need to take and pass an online exam. After passing the exam, the student will then be required to participate in a live one-day practicum class. The candidate will be issued their QISP certificate after successful completion of the practicum class and payment of the certificate fee to the California Storm Water Quality Association (CASQA). The Water Board and the IGPTT hope to have the training completed and available by Spring 2015. Most QISPs will have at least a year to complete their training. However, those wanting to be Trainers of Record (QISP instructors) or Compliance Group Leaders will need to complete the training earlier.



“To Do List” for September:

- ☁ Make sure the 1st Quarter Non-Storm Water Observation is performed (Forms 2 & 3) by September 30.
- ☁ Schedule the annual storm water training for applicable facility staff.
- ☁ Inspect the facility and look for exposed pollutants or storm water maintenance items that need to be taken care of before the rain begins.
- ☁ Get the observation and sampling forms ready. Prepare your sample kits.

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SEPTEMBER 22-26, 2014

Please contact us if you have any questions ...

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Technical Questions about Environmental Compliance?

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Don't miss two great LID workshops being offered during Storm Water Awareness Week for free at the University of California, Davis ...

Workshop # 1 – Thursday, September 25 at 8:00 AM
The LID Classroom

- Field trip of the beautiful and impressive LID features at UC Davis
- See the evolution of LID at the University
- Expert staff will share lessons learned and successes

Workshop # 2 – Thursday, September 25 at 9:30 AM
Water Conservation and Efficient Landscape Irrigation

- Field trip of the drought resistant and water efficient landscaping techniques used by the University
- Learn from University staff and landscape maintenance personnel
- Send MS4 staff to these workshops to help meet permit-required training



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Storm Water Contest ...

Each month, we invite our readers to participate in a contest to test their knowledge of the Industrial General Permit and their storm water compliance program. We enter all submittals to our monthly newsletter question into a drawing, and one person is selected at random to receive a \$25 gift card.

Last Month, the question was ...

True or False? The word “benchmark” is not found in the current Industrial General Permit.

Neil Tran was the winning entry. The correct answer is: **False, it is not found in the 97-03 permit.**

Neil wins a \$25 gift card to Chili's restaurant to treat his BMP team to chips and salsa.

This Month's Contest Question ...

What will trigger a Level 1 ERA according to the new Industrial General Permit?

By September 30, 2014, submit a response for the following question by email to steravskis@wgr-sw.com. All persons submitting the correct answer will be placed in a drawing. The winner will receive a \$25 gift card to Chipotle Mexican Grill.



Storm Water Coupon

Do you need annual training for your facility's personnel before the rain season starts? Let WGR come to you and train your staff. Try us out for a **special introductory offer** of ...

\$375 /training session

Offer good through October 15, 2014. Training locations farther than 40 miles from our Lodi or Los Alamitos office will have an additional travel charge. WGR's prepaid projects are not applicable for this pricing. Contact Aaron Ortiz at (209) 810-5151 or at aortiz@wgr-sw.com to arrange for the training.