Industrial Storm Water Dischargers in Areas Impacted by Wildfires

The State Water Board have given partial regulatory relief to businesses subject to the Industrial Storm Water General Permit.

The State Water Resources Control Board (State Water Board) recognizes that Governor Brown has declared a state of emergency in multiple counties throughout California due to the wildfires’ impacts on the health and environment of the local communities. Dischargers with coverage under the Statewide Industrial Storm Water General Permit (Permit) that are located in the impacted communities must continue to comply with the Permit; however, this letter serves as Permit compliance guidance for storm water sampling of industrial facilities impacted by wildfires that result in high levels of pollutants otherwise unrelated to facility operations.

Dischargers that meet the description above are required to comply with Permit Section XI.B by collecting, analyzing, and reporting industrial storm water runoff sampling.

Reminder: Every Employer with 11 or more employees must post their Osha 300A by February 1st
EPA requires closures of 19 illegal cesspools in Hawaii

The U.S. Environmental Protection Agency’s enforcement actions last year in Hawaii resulted in closures of 19 large capacity cesspools (LCC).

EPA regulations under the Safe Drinking Water Act required closure of all existing LCCs by April 5, 2005. The ban does not apply to individual cesspools connected to single-family homes.

“We will continue working to close all remaining large cesspools,” said Alexis Strauss, EPA’s Acting Regional Administrator for the Pacific Southwest. “This enforcement effort will help protect Hawaii’s drinking water and coastal water resources.”

Cesspools collect and discharge untreated raw sewage into the ground, where disease-causing pathogens and harmful chemicals can contaminate groundwater, streams and the ocean. Groundwater provides 99 percent of all domestic water in Hawaii, where cesspools are used more widely than in any other state. Since EPA banned LCCs in 2005, over 3,400 large-capacity cesspools have been closed state-wide, many through voluntary compliance.

EPA actions to close prohibited LCCs this past year include:

- Matheson Tri-Gas facility, a commercial gas supply company in Campbell Industrial Park, Kapolei, Oahu closed two LCCs and converted to a septic system. The company agreed to pay a civil penalty of $88,374 and to spend an estimated $50,000 on a supplemental environmental project to close an on-site small-capacity cesspool. Matheson completed its work and converted to a septic system at the end of 2017.
- Maui Varieties Investments, Inc., which owns two Big Island hardware stores and a commercial property, is closing four LCCs at its properties in Naalehu, Kamuela and Hilo and paid a $134,000 penalty.
- Fileminders of Hawaii, LLC, which operated a prohibited cesspool in Kapolei, and Hawaii MMGD, the company’s owner, were assessed a civil penalty of $122,000. In June, the cesspool was closed and the company installed an individual wastewater system.
- The U.S. Navy paid a civil penalty of $94,200 and closed nine LCCs at Joint Base Pearl Harbor-Hickam. The Navy had closed six cesspools in 2012, but had failed to close the remaining three in a timely manner. The three remaining cesspools served an estimated 160 people at three separate facilities. The Navy has since closed the non-compliant cesspools.
- The County of Hawaii agreed to close seven large capacity cesspools that serve the Pahala and Naalehu communities. The agreement requires the closure of two LCCs serving the Pahala community, three LCCs serving the Naalehu community, and two LCC serving the Pahala Elderly Apartments. Combined, the seven cesspools serve about 280 households. The County will replace the cesspools with wastewater treatment systems approved by the Hawaii Department of Health.
- Aloha Petroleum, Ltd. paid a penalty of $57,500 for operation of an LCC at its Aloha Island Mart convenience store and gas station in Captain Cook on the Big Island. EPA found that Aloha Island Mart had operated the illegal LCC until 2014. Aloha Petroleum has since closed the non-compliant cesspool and replaced it with an approved wastewater system.
- Uilani Associates owns and operates the Uilani Plaza, a multi-unit commercial building in Kamuela. The company paid a $6,000 fine and replaced the cesspool with a Hawaii Department of Health approved wastewater system.

Cesspools contaminate our ground water, streams and oceans

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results even if those results are potentially unrepresentative of their facility’s industrial activities. Dischargers may claim their industrial storm water runoff sampling is unrepresentative of their facility operations by documenting and reporting which storm water samples are impacted by wildfire conditions (including post wildfire conditions) and information that serves as the basis for the samples being unrepresentative of their facility’s runoff from industrial activity areas. Such documentation must comply with the required sample event visual observations in Permit Section XI.A.2.

As required by Permit Section XI.B.11.a, Dischargers must submit the analyzed sampling results in the Storm Water Multiple Application and Report Tracking System (SMARTS) as an Ad Hoc monitoring report within 30 days of obtaining results from the analytical laboratory. Dischargers entering sampling results in the Ad Hoc monitoring report and claiming sampling results as unrepresentative of the facility’s industrial activities are required to submit the collected sampling event visual observation information demonstrating the unrepresentative sample quality is due to wildfire impacts.

Below are examples of sampling event visual observation documentation that the Dischargers may collect and include in their Ad Hoc monitoring report submission to the Water Boards.

Documentation should include photographs:
- Discharge location(s) conditions;
- Photographs of facility, discharge locations, and surrounding lands impacted by wildfires;
- Facility operation status and condition;
- Areas of high erosion and areas with high collection of ash deposits;
- Information on any facility observations prior to a rain event;
- Best management practices currently implemented to manage runoff of industrial pollutants and to manage wildfire-related impacts at the facility;
- Best management practices planned for implementation to manage runoff of industrial pollutants and to restore wildfire-related impacts at the facility; and
- Comparisons of historical facility sampling results from drainage areas to the sampling results collected post-wildfires.

Dischargers that perform an analysis of the collected sample results and determine the discharge is unrepresentative of the industrial activities and materials at the facility may submit the results and analysis in SMARTS as a non-qualifying storm event. Non-qualifying storm event results will not be included in the Numeric Action Level exceedance calculation. The State Water Board recognizes that it may not be feasible for all facilities to obtain four QSEs in a reporting year because enough qualifying storm events may not occur. Therefore, a Discharger that attempts but is unable to collect and analyze storm water samples from two QSEs in each half of a reporting year per discharge location due to a lack of QSEs is not in violation of Permit Section XI.B.2.

The Regional Water Quality Control Boards have the authority to require the discharger to revise and resubmit Ad Hoc monitoring reports determined to be inaccurate (Permit Section XIX).
In the months after President Donald Trump took office, the Occupational Safety and Health Administration lost 40 inspectors through attrition and made no new hires to fill the vacancies as of Oct. 2.

The departing inspectors made up 4 percent of the OSHA’s total federal inspection force, which fell below 1,000 by early October.

OSHA’s reduced staff reflects Trump’s broader effort to slow the growth of the federal bureaucracy and is a part of the mass departure of civil servants across the government, from the Internal Revenue Service to the Environmental Protection Agency.

OSHA is one of the many federal agencies where hiring has stalled in Trump’s first year and mounting vacancies remain unfilled. Some worker advocates and former officials worry that staffing delays are undermining the work of a small but critical institution responsible for protecting the health and safety of American workers.

OSHA inspectors are the ground troops that enforce federal health and safety requirements in the workplace. Inspectors flag potential hazards, investigate employee complaints, and document apparent violations, which can result in citations, fines and other penalties against employers. Since the agency has limited resources, OSHA prioritizes high-risk workplaces like construction sites and manufacturing plants that have elevated rates of fatal accidents, illnesses and serious injuries.

Though the president has repeatedly stressed the need to shrink the federal workforce, OSHA has acknowledged in recent months that it needs more manpower to do the job.

Since early October, the agency has hired “several additional inspectors” and is currently recruiting over two dozen more, according to Labor Department spokesman Eric Holland. The new hires will “ensure that OSHA has the necessary personnel to carry out its important work,” Labor Secretary Alexander Acosta said in November.

But, as with many other federal agencies, OSHA has faced headwinds in hiring in Trump’s first year: A government-wide hiring freeze; a push to reduce the workforce through attrition; proposed budget cuts; and deep uncertainty about future funding.

Conservative advocates for smaller government say that it’s wise to consider whether more federal workers are truly necessary. Rachel Greszler, a fellow at the Heritage Foundation, a conservative think tank, said that the administration is making a laudable effort to reduce “redundancy, waste and inefficiency” across the federal workforce while remaining adequately staffed.

By that measure, Trump has succeeded: The federal government had 16,000 fewer permanent workers at the end of September than it had at the end of 2016 out of a workforce of nearly 2 million, according to data from the Office of Personnel Management. During the same time period, OSHA dropped below 2,000 permanent, full-time employees, with 116 fewer total staff than in December 2016, according to the latest personnel data.

But former agency officials are concerned that staff departures and hiring delays are coming at a cost to ordinary Americans. Under federal law, OSHA has a limited window of time...
U.S. Environmental Protection Agency Selects Three California Sites for the Superfund Redevelopment Focus List

Thirty-one Superfund sites were announced throughout the U.S.

The U.S. Environmental Protection Agency (EPA) released its initial list of Superfund National Priorities List (NPL) sites with the greatest expected redevelopment and commercial potential. Three Superfund sites were selected in California: Aerojet General Corp., in Rancho Cordova, MGM Brakes in Cloverdale, and Operating Industries Inc. Landfill in Monterey Park.

"EPA is more than a collaborative partner to remediate the nation’s most contaminated sites, we’re also working to successfully integrate Superfund sites back into communities across the country," said EPA Administrator Scott Pruitt. "Today’s redevelopment list incorporates Superfund sites ready to become catalysts for economic growth and revitalization."

Superfund redevelopment has helped countless communities reclaim and reuse thousands of acres of formerly contaminated land. Superfund sites on the list have significant redevelopment potential based on previous outside interest, access to transportation corridors, land values, and other critical development drivers. The sites selected in California are:

Aerojet General Corp., Rancho Cordova, CA

The Aerojet General Corporation Superfund site is a former rocket propulsion development and testing facility located about a half-mile from the American River near Sacramento. EPA listed the site on the National Priorities List in 1983.

Today, the site is home to a 40-acre solar facility that generates 6 megawatts of power. The solar facility is the largest single-site industrial system in California and one of the largest single-site industrial installations in the United States. The solar farm helps power the site’s extensive groundwater remediation program, reducing the company’s carbon footprint and improving energy usage. The facility also restores the land to beneficial use as an energy-producing environmental asset.

Currently, the solar facility is part of a mix of site uses, including industrial operations, livestock grazing, and commercial activities. Future reuse plans for other parts of the site include mixed-use development with residential, commercial and industrial areas.

MGM Brakes, Cloverdale, CA

The 5-acre MGM Brakes site is a former aluminum brake manufacturing and casting facility located in Cloverdale, less than one mile west of the Russian River. EPA listed the site on the National Priorities List in 1983.

EPA demolished the casting plant in 1992 and excavated contaminated soils in 1994. Cleanup levels for groundwater have been met and all groundwater monitoring wells have been closed. The site is currently vacant, zoned for service/commercial use, and can support light industrial reuse. Site surroundings include multi-unit residential buildings, office buildings, a hotel, gas stations and convenience stores.

Operating Industries Inc. Landfill, Monterey Park, CA

The 190-acre Operating Industries Inc. Landfill site is located in Monterey Park, about ten miles east of downtown Los Angeles. Landfilling operations at the site took place from 1948 to 1984. EPA listed the site on the National Priorities List in 1986.

Previously, an innovative landfill gas treatment system converted landfill gas into electricity, meeting more than half the remedial system’s energy requirements. Today, there is a 500,000-square-foot retail center being constructed on site that will host stores, restaurants, a bank, a fitness center and parking. Additional redevelopment opportunities exist at the site, including solar development potential. The area surrounding the site is heavily developed, with mixed general commercial/industrial and residential land use and small pockets of open space.

In July 2017, the Superfund Task Force released its recommendations to streamline and improve the Superfund program including a focus on redevelopment training, tools and resources towards sites on the NPL. EPA will work diligently with developers interested in reusing these and other Superfund sites; will identify potentially interested businesses and industries to keep them apprised of redevelopment opportunities; and will continue to engage with community groups in cleanup and redevelopment activities to ensure the successful redevelopment and revitalization of their communities.

Administrator Pruitt has set the expectation that there will be a renewed focus on accelerating work and progress at all Superfund sites across the country. The Superfund program remains dedicated to addressing risk and accelerating progress at all of its sites, not just those on the list. The list is intended to be dynamic. Sites will move on and off the list as appropriate.
Some OSHA officials are concerned that staff departures may come at a cost

to issue citations for health and safety violations — a time period that Trump and Congressional Republicans helped shorten by killing an Obama-era regulation in April.

Reduced staff has made it even harder for OSHA to do its job properly, said David Michaels, who headed OSHA during the Obama administration. “It means there’s greater pressure to quickly reach a settlement with the employer, which often means reduced fines,” he said. “The lack of new inspectors makes OSHA invisible. If employers don’t think OSHA will come, workers are much more likely to be hurt.”

OSHA insists that its enforcement efforts have remained vigorous, even with fewer inspectors on the job. According to the Labor Department, the agency conducted 32,396 OSHA inspections from October 2016 to the end of September 2017 — a few hundred more than in 2016, marking the first annual increase in five years.

But critics warn that the staff departures have crippled small, regional OSHA offices that were already short-handed. The southeast region — Alabama, Florida, Georgia and Mississippi — lost the most on-the-ground inspectors in the first eight months of the Trump administration, with 10 departures, according to data that the Labor Department sent in a letter to Rep. Rosa DeLauro, D-Conn., first obtained by NBC News.

“OSHA is far too understaffed to fulfill its mandate of reducing workplace injuries,” DeLauro said. “Under the Trump administration, OSHA has suffered a troubling decline in both staff and workplace inspections in key areas of the country.”

Industry groups said they haven’t noticed a shift in OSHA enforcement under the new administration. But they also stressed that government oversight was not the key to protecting workers.

“Inspectors don’t make workplaces safe. People and programs do by working to prevent problems before they occur and by creating workplace cultures where safety is top of mind,” said Eric Mittenthal of the North American Meat Institute, the meatpacking industry’s biggest trade association. “Safety programs operate continuously regardless of the frequency of OSHA inspections.”

Not all the delays in federal hiring have been by design. The Labor Department said budget uncertainty affected its hiring timeline in 2017, even after the president lifted his hiring freeze. The government was operating under short-term funding measures throughout 2017, at the same time that House Republicans and Trump were proposing cuts to OSHA’s 2018 budget.

By August, however, the Labor Department said it had more budget certainty and could “responsibly add inspectors that would likely be funded” through 2018, said Holland. That month, Acosta said that he gave OSHA the green light to hire new inspectors “in an expedited manner,” he told lawmakers in November.

But federal hiring is often a protracted process, and OSHA requires its inspectors to pass a medical exam, among many other requirements. As of Sept. 30, the agency had 54 inspection staff vacancies and still hadn’t hired any new inspectors.

Jordan Barab, an OSHA official under Obama, said that it typically takes months of training and experience in the field for agency inspectors to get up to speed.

“Even after OSHA hires someone, they can’t just send them out to do an inspection by themselves,” Barab said. “This will have an impact for years.”
Infractions, Fines and Sometimes Jail Time...Enforcement

Contractor Continues To Expose Roofers to Falls and Other Safety Hazards

The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) has cited an Ohio roofing contractor for exposing employees to falls and other safety hazards. The contractor, Casey Bortles, faces proposed penalties totaling $91,629.

On Oct. 26, 2017, inspectors observed five roofers at a Waterville residential site working at heights greater than 8 feet without adequate fall protection, and employees using nail guns without eye protection. OSHA also cited the company for failing to train workers on fall hazards, and for not developing and maintaining an accident prevention program. Bortles has been cited for similar violations four times since 2014.

“This employer continues to expose employees to fall hazards by failing to comply with federal safety requirements,” said OSHA Toledo Area Office Director Kim Nelson. “Employers are responsible for ensuring employees are adequately protected from the hazards that exist at their worksites.”

Three Four Colorado Employers Cited After Fatal Fire and Explo-

The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) has cited four employers — Anadarko Petroleum Corporation, Energes Services LLC, Dominguez Welding LLC, and Unlimited Services LLC — for exposing employees to health and safety hazards at an oil and gas tank battery construction project where one employee was killed in an explosion and fire and three others suffered third-degree burns. The companies face $70,711 in proposed penalties.

Employees were merging two tank batteries into a single tank battery operated by Anadarko Petroleum Corporation in Mead in May 2017 when the explosion and fire occurred. OSHA inspectors found that flammable vapors or gases ignited as employees worked near pipes connected to a crude oil tank.

OSHA cited the employers for introducing potential ignition sources into work areas containing flammable gases or vapors; not isolating flammable gases or vapors from welding activity; and not adequately inspecting the worksite and addressing safety hazards including an excavation.

“Oil and gas industry employers must take proper precautions for hot work in the presence of flammable hydrocarbon vapors,” said OSHA Area Director Herb Gibson, in Denver. “OSHA and the industry have issued guidance for employers on the hazards of flammable materials and appropriate protective measures.”

OSHA Cites Schnabel Foundation Company, $212,396 in Penalties

On July 11, 2017, OSHA opened an inspection after learning that a 2,600-pound rock dislodged from the building’s foundation and fatally struck a Schnabel employee.

The contractor was also cited for failing to instruct employees to recognize and avoid unsafe conditions while working beneath the foundation. OSHA cited the company for similar hazards in 2015 when an employee was pinned by a granite block that came loose.

“Failure to supply proper safeguards and training has led to a needless and avoidable death,” said OSHA Andover Area Office Director Anthony Covello. “It is imperative that employers train their employees, and equip them with the necessary tools to prevent crushing and other hazards.”
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