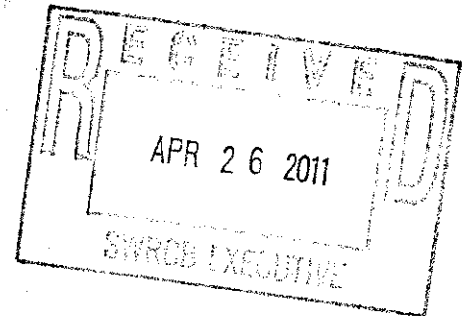


Environmental Compliance Options Consulting
P.O. Box 130
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April 20, 2011

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



Re: Comment Letter – Draft Industrial General Permit

Dear Ms. Townsend:

The following comments are filed on behalf of the 165 industrial transportation facilities I have assisted with Industrial General Permit compliance during the past 19 years. These facilities participate in 3 separate Monitoring Groups for which I have acted as one of the Group Leaders along with legal counsel and company managers. .

Should the Board require clarification or have any questions regarding the following comments please feel free to contact Sarah Yount Hoffman at 603-746-1059.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Yount Hoffman". The signature is fluid and cursive.

Sarah Yount Hoffman
Sole Proprietor
Environmental Compliance Options Consulting

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

Re: **Comment Letter – Draft Industrial General Permit**

The following comments are filed on behalf of the 165 industrial transportation facilities I have assisted with Industrial General Permit compliance during the past 19 years. These facilities participate in 3 separate Monitoring Groups for which I have acted as one of the Group Leaders along with legal counsel and company managers. The following comments are presented in order of the Draft Permit, not necessarily in order of importance.

Proposed Draft Permit Comments

Section 1.A.13.

Draft Permit states that “Compliance with this General Permit will result in improvements in water quality” unfortunately this is not a correct assumption. The amount of monies and time spent on required sampling, and redundant visual inspections required in the Draft Permit will decrease the amount of funding and time available to the Dischargers to train employees and implement truly effective BMPs. The excessive costs of simply meeting the sampling requirements will undermine facility budgets. The act of sampling does NOT improve water quality, however if the expense of sampling could be directed to the purchase of an oil water separator, overhead coverage for maintenance activities or expanded training for the employees on the frontline, then the State *would* see improved receiving water quality.

The termination of Monitoring Groups would also have an adverse effect on State water quality. Many smaller facilities that currently participate in Monitoring Groups do not have the funding for or the technical understanding of effective BMPs, especially BAT/BCT applicable to their industry, without the support of the Group Leaders. The Monitoring Groups provide an immense training benefit to participating facilities. The training and BMP guidance provided by the Group Leaders has a direct positive impact on State water quality.

The Group Monitoring option provides an economy of scale to large companies with multiple facilities in the state. The savings obtained by sampling reductions for companies with 50 plus sites in the State allow the Monitoring Groups to conduct trainings and implement the most effective control and treatment BMPs – these actions (not sampling) directly affect the water quality of the State! The removal of Monitoring Groups and increase in sampling frequency and sampling locations could cost an estimated \$240,000 for some of the industrial Groups in the State. Compromised budgets for all companies in California will have a direct negative impact on the Dischargers ability to maintain regular training and effective control and treatment BMPs.

Section 1.Q.1, 2, 3

Obtaining new Permit coverage for existing facilities as written in the Draft Permit is not possible within required timeline and leaves facilities without permit coverage for a significant amount of time. The Draft states that the Current Permit will be terminated on the date that the new permit takes effect. However, the Draft Permit also states that existing dischargers will be deemed covered by the Draft Permit only once the Waste Discharge Recertification notification is submitted to SMARTS. The required information submitted in the PRDs includes the site SWPPP, but the site SWPPP according to Section 1.Q.3 must be revised and implemented according to Draft Permit requirements by the QSD within 90 days. However, the QSD has a year to be trained and pass the State test, Section VII.B.1,2. There is substantial conflict in Draft Permit deadlines as sited in above Sections. As written existing discharges could be without permit coverage for up to year or until the QSD is able to be trained, pass the State test and modify the existing facility SWPPP and submit the Recertification.

There must be a grace period, in which facilities with active WDID numbers under the current Permit are legally covered under the State Board Order No. 97-03-DWQ for 6 months to 1 year. The extended legal coverage under the current permit would allow dischargers time to appoint the appropriate QSD, obtain training for the QSD, revise the facility SWPPP according to Draft Permit requirements, and file the Waste Discharger Recertification notification into the SMARTS system. A grace period would prevent; a crash of the SMARTS system that would be overloaded with discharges attempting to file simultaneously, a back log of QSDs trying to obtain state training, and most importantly prevent all currently permitted dischargers from being susceptible to third party law suits for lack of permit coverage in the period of time between the termination of State Board Order No 97-03-DWQ and submittal of the Recertification notification.

Further in Section 1.Q.3 the Draft Permit requires the discharges to revise the facility SWPPP in a timely manner but no longer than 90 days. These revisions as stated in Section VIII must be made by the appointed QSD, whom is only a QSD once the State training and test are accomplished. It does not seem likely that the State training and testing program can accommodate thousands and thousands of dischargers trying to train their QSDs within the stated 90 day timeline. Also the 90 day requirement is in direct conflict with the allowance of 1 year for the QSD to obtain certification. This conflict can be avoided by establishing a legally binding grace period as stated above.

Section V.E.1.

The BMP design storm language should be changed to 5 year 24 hour storm event as supported by data reported during the March 29 public hearing. The cost of a larger system is not justified by an increase of protection to the receiving waters. It is fiscally irresponsible to design a system for a once in a decade storm especially when the gain to the receiving waters is negligible. More facilities will be able to install the more affordable controls resulting in a net gain for the receiving waters – instead of pricing the treatment control out of range for many dischargers with a net loss in quality for the receiving waters.

There is no language in the current Draft that states that treatment BMPs in place already are not subject to the "Design Storm" ruling. Please make clear in the following draft that all prior installed treatment controls are "grandfathered" and need not be retrofitted to meet the design storm.

Section VI.A and D

The Draft Permit is requiring the discharger to have on hand, read and understand the implications of many complicated State and Federal programs including: the Statewide Water Quality Control Plan; the California Toxics Rule, the National Toxic Rule, the Regional Basin Plans and the CWA 303 (d) watershed lists.... Understanding the storm water implications for one small facility according to the above list of rules is an

amazingly complex legal and technical undertaking that would take a staff of environmental and legal experts to wade through and figure out. The Draft Permit writers reference these plans to cover all possible regulations ...but they themselves cannot delineate the specific sections or portions of the rulings and list which SIC codes, counties, or receiving water bodies they would apply to. How is a manager of a transportation facility that has no legal or environmental compliance training supposed to determine which portions of these rulings apply? The Permit should be written so that compliance with Storm Water Permit effectively accomplishes the objectives of these other plans. It is the responsibility of the Permit writer to understand which parts of the above rulings apply and write those restrictions in to the permit where possible. OR the relevant portions of the above listed rules should be provided to each and every discharger so that they clearly understand their responsibilities and do not have to have a law degree to figure it out. This section of the permit is onerous at best and cannot be accomplished by the average discharger - especially without the assistance of a Monitoring Group.

Section VII.B.1.ab.i - iv.

Dischargers must be able to appoint someone on staff or within their professional support groups to accomplish the task of being the trained QSD. A QSD should be a current staff member that understands the facility operations and potential pollutants sources. An outside registered professional is not only expensive but may not have any institutional knowledge of the site. The qualifications for the QSD should NOT be as listed in the Draft Permit, instead qualifications should be based on industrial and storm water regulatory knowledge and experience as outlined below:

1. Discharger facility personnel that has extensive knowledge of daily operations, industrial activities and potential pollutants occurring on site and basic storm water awareness;
2. Discharger facility personnel that has extensive knowledge of the storm water program and its requirements as well as basic industrial operations awareness;
3. Outside consultant or vendor that has at least 5 years' experience with both storm water regulations and dischargers industrial operations.
4. The Selected professional must complete State training.

The QSD should be responsible for training the QSP. The QSP should not have to undergo State training or testing. This will save the discharger considerable time and money, allowing the QSP to immediately start ensuring compliance with the SWPPP.

Section VIII.B.2

The existing discharges SWPPP revisions are required to be completed by the QSD, however the QSD training may take as long as a year to accomplish due to the high volume of permittees in the State, causing a potential backlog of training and testing. However, the Draft Permit requires these revisions to be completed within 90 days of the adoption date of the permit. The timeline for revisions and the required training and testing of the dischargers QSD is contradictory and unachievable as written. Dischargers should have a year grace period in which to appoint and train a QSD. Within the established legal grace period the trained QSD would also revise the SWPPP and file the recertification package with the State.

Section VIII.C.3.

The requirement that "all treatment BMPs for any other pollutants shall be designed for no less than a ten year 24 hours storm event" is cost prohibitive and limiting. Many of the transportation facilities have installed filter inserts in the catch basins designed to trap sediment, oil and grease and filter other various pollutants. These filters cannot be designed for such a large storm (that only happens at best every ten years) especially within the confines of the size of the facility catch basins. Dischargers can NOT afford to resize all site catch basins (some

have dozens) just to meet this requirement. If a filter could be sized for the 10year/24 hour storm (and still fit in existing basins) it would site specific and therefore custom built, costing much more over the stock sizes. THIS REQUIREMENT WILL HAVE A NET NEGATIVE IMPACT ON RECEIVING WATER QUALITY!. This requirement will make implementing many treatment control BMPs cost prohibitive and dischargers will be forced to implement other less effective BMPs. The same restrictions apply for many onsite treatment BMPs including oil water separators, detention basins, vegetative swales etc.

Section VIII.H.1.d.v.

The requirement to inspect and clean daily any material handling equipment is close to impossible. If the SWRCB is trying to bankrupt all small industrial businesses in the State then this is the way to do it. Dischargers' staffs have daily job requirements other than constant storm water inspections. Cleaning all equipment daily, even with a dedicated staff that did nothing but clean, would still be unachievable for most permittees. It is in the best interest of the Discharger to maintain all site equipment in a way that is compliant with the Discharger SWPPP. Regular inspections and cleaning on an as needed basis is all that should be required. The reporting burden of this inspection is important too. Would these daily inspections be required to be uploaded into SMARTS? How would this ever be achievable by either the Discharger or the SMARTs' site capacity? Or worse is this an inspection that would need to be recorded on paper and maintained in the facility SWPPP. With five years of these daily inspections being maintained the paperwork burden would be disastrous.

Section VIII.H.1.h.i

The quarterly periodic visual site inspections should only be required if there are any significant changes to the facilities operations or BMP implementation procedures. The Draft Permit states in the above noted section that periodic inspections are required to ensure that the SWPPP addresses any site changes. The inspection frequency should reflect this statement by requiring a complete site inspection (similar to the ACFCE) ONLY when there have been significant changes in operations or BMPs. Therefore a site that has been conducting all the same activities and BMPs in a given quarter can check a box in SMARTS that indicates that there were no significant changes to operations so NO inspection is required that quarter. The Draft Permit requires an extreme number of inspections that will cost businesses huge amounts of budgeted funds already. Helping to reign in redundant and unnecessary inspections is required in this Draft Permit. If no site changes occur during the entire permit year then the Discharger would still be required to conduct the ACFCE.

Section IX.C.1.

The requirements for visually monitoring storm water runoff must be modified to contain the language that is used for the non-storm water inspections. Section IX.C.1 should contain the following requirement.

A qualifying storm event is one that: (Section IX.C.1 has a. and b. c. must be added as below)

c. Occurs during facility operating and daylight hours.

It is unsafe and out of the questions to ask the QSP or other Discharger staff to report to the industrial site in the middle of the night. Requiring night time inspection could lead to accidents and potential liabilities for the Discharger and the State. Also, the quality of inspection is questionable in the dark as the inspector will have a hard time observing for floating material, oil and grease, discoloration, turbidity and trash with the absence of light (flashlights allow for inaccurate observations).

In this same Section the qualifying requirements listed at Section IX.C.1.b should be changed to state that a qualifying event should be preceded by two days of dry weather defined as two days in which no runoff

occurred. In this way the QSP (or other responsible staff) is not constantly checking the rain gauge or weather tracking service. The Draft Permit has undue burden to monitor weather and record weather events that are unrealistic and would require close to full time of staff that have other job requirements associated with business operations.

Section IX.C.5, 6 and 7

Pre Storm Inspection

There is no need for this requirement...again the burden of trying to track every storm takes time, energy and monies that could be better spent on training and or BMPs that actually have a net positive impact on the receiving waters. This constant tracking of the weather does NOT improve receiving water quality.

The Draft Permit requires taxing inspections, daily, weekly monthly and quarterly. Continual inspections are already occurring for regular BMP maintenance, monthly storm water inspections, quarterly non-storm water inspections and quarterly comprehensive facility inspections. There is absolutely no need to add un-scheduled and unpredictable inspections to the facility operating schedule that is already overburdened with Draft Permit required inspections. To require a site inspection prior to all anticipated storms is over burdensome and will enable the Discharger to focus on the maintenance of implemented BMPs, management of industrial activities and the daily operations required to actually conduct intended business. It is very difficult to predict storms in all the microclimates of California. Constantly checking the weather forecast to see if there is a possibility of a storm is of no value to the receiving waters or California businesses. There is no way a facility with limited staff for all the other requirements in the Draft Permit can have the time to drop all expected work and inspect prior to every storm. This requirement should be removed from the Draft Permit.

Section X

The removal of the Monitoring Group option for companies that have numerous facilities within the state is a costly mistake that will have a net negative impact on the receiving water quality. One current Group has 66 facilities in the State. The increase in sampling costs alone for this company with the removal of the Group will be \$107,090. If required to sample every outfall at each facility the increased cost will jump to at least \$240,000. Please see estimate details below.

DRAFT PERMIT SAMPLING COSTS

The assumption is ONE sample per facility per quarter (the numbers increase dramatically if required to sample every outfall at every site)

Overnight shipping of samples	\$70.00/ sample	total \$18,480
Analytical Costs	\$166.00/sample	total \$43,824
Sampling equipment	\$533.00/site*	total \$35,178
Data Management/Labor	\$388.00/site	total \$25,608

*Least expensive conductivity meter located \$453.00

The above numbers are calculated using actual costs of past years sampling multiplied by the sampling requirements in the Level 1 for all Dischargers. The analytical costs will be higher for other companies as the above numbers are based on a Laboratory contract that lowers analytical cost significantly. The analytical costs above are also for just oil and grease, specific conductance and TSS.

Increasing time and money spent on sampling and analysis does NOT IMPROVE QUALITY OF RECEIVING WATER! Increasing the sampling burden will have the exact opposite effect – there will be less time and money will be available for BMPs and training.

Removal of the Group Monitoring option would not only be cost prohibitive for many groups but also a huge compliance loss for the State and Regional Boards that have witnessed that improved compliance quality at all facilities within well run Monitoring Groups. Many smaller Dischargers throughout the State do not have access to legal or technical support that directly increases their understanding of Permit compliance obligations. The Monitoring Groups have been an indispensable source of technical support for hundreds of facilities providing sampling guidance and instructions, BMP implementation techniques and improvements as well as inspection and reporting assistance. Dischargers forced to comply on their own will lose touch with BCT and BAT and receiving water quality will suffer. Overall compliance for these smaller sites will decrease as Draft Permit burden increases with no support mechanisms available.

Another benefit of the Monitoring Groups is that they have been using the EPA benchmarks as intended each year with the AGER process. The EPA benchmarks have been used successfully to determine when and if improvements to the Dischargers BMPs must be conducted.

Group Monitoring should be included in the current Draft Permit, and companies and other large groups that qualify under Order No. 97-03-DWQ to comply as a group, should be allowed a sampling reduction similar to Order No. 97-03-DWQ. The quality and consistency of data collection is superior within Monitoring Groups. It is therefore reasonable to apply a sampling reduction. Also as indicted above in the cost summary it is cost prohibitive for one company with so many facilities within the State to conduct the sampling as proposed in the Draft Permit. Qualifying Groups should be allowed to collect samples according to the following schedule:

- 40 % of the Group participants sample each permit year and,
- 2 samples will be collected at each facility within 2 of the 4 designated quarters,
- All other Draft Permit sampling requirements will be met by the Group designated samplers for the year.

Section X.E

The parameters for a qualifying storm event must contain the requirement of daylight hours. Many facilities hours of operation extend into the non-day light hours. It is extremely dangerous to attempt sampling at many outfall locations after daylight hours. Also, Discharger staff cannot be expected to monitor weather and then report to the facility in the middle of the night to collect the sample. The liability of this requirement is tremendous. The definition of a qualifying event must include a requirement of daylight hours in the Draft Permit.

Section X.F

Dischargers with 4 or more outfalls must not be required to sample from all facility discharge locations. The cost and labor is difficult for even 4 outfalls, but many sites have 10 plus, some 20 plus outfalls. It is physically challenging not to mention at some transportation facilities nearly impossible to collect from all discharge locations due to safety and traffic control issues. The Draft Permit must allow for the selection of sampling outfalls based on representativeness of Discharger runoff.

The requirement to sample ALL discharge locations is redundant, costly and not necessary to monitor the water quality leaving the site. Dischargers with more than 4 outfall locations should be allowed to select representative locations for storm water sampling. Sites with 4 or more drainage outfalls would be required to collect samples at a minimum of 4 outfalls, selecting locations that represent the water quality leaving the site. Most facilities have one or two samplers that are responsible for sample collection and one set of sampling equipment. It is not feasible to require multiple sampling teams and multiple sets of sampling equipment. There is no end benefit to the receiving waters of California in requiring the discharges to spend limited time and monies on sampling all outfall locations.

Section X.G

The Draft Permit should clearly state that if a qualifying storm event does not occur in a given quarter then the Discharger is not responsible for collecting a sample that quarter or an additional sample in the following quarter. Seasons in which no runoff occurs limit the potential impact to receiving waters; therefore no sample should be required within that quarter. The Discharger should not be burdened with collecting multiple samples per quarter because the weather did not cooperate in a previous quarter. The number of samples collected should be related to the number of qualifying events that occur each quarter representing the potential impact to receiving waters quarterly. Storm water sampling analysis is not the most effective means of evaluating Discharger compliance. The Draft Permit, by requiring excesses sampling, is taking emphasis away from more effective evaluations such as BMP inspections, quarterly and monthly outfalls inspections and the quarterly ACFCE. Redirecting focus, time and monies of the Discharger to the relevant inspections and implementation of BCT/BAT will improve receiving water quality and provide a measure of Discharger compliance that is more meaningful than the snap shot grab sample.

Section X.K

The requirement for electrical conductivity to be measured in the field must be removed. There is no technical advantage or analytical gain in data quality to justify this requirement. In fact requiring Discharger staff to operate, maintain and calibrate the equipment as needed is yet another costly time and monies requirement that is unnecessary. The holding time for the electrical conductivity is 28 days so there is no improvement in data results by analyzing the sample immediately. The least expensive conductivity meter found was \$453.00. The cost of analysis at the lab ranges between 7\$ - 21\$ dollars. Meters need continual recalibration, expensive batteries and replacement every 2 to 4 years. The data quality and consistency is much improved when the analysis is conducted at a California certified lab. Given that the data quality is better and the cost is lower it only makes sense for this analysis to be conducted at the laboratory.

Section XVII

The NALs/NELs as set in Draft Permit are technically inappropriate. The EPA benchmarks were never intended as use for numeric limits. The EPA's numbers were to be used to determine overall effectiveness of control measures and to provide guidance for when additional corrective actions may be necessary. EPA clearly states in the 2008 MSGP that using the EPA benchmarks as numeric limits would be inappropriate and unsubstantiated.

Specific Conductance Limits

EPA did not attempt to set a benchmark value for specific conductance. The limit set in the Draft Permit is technically and in many cases physically infeasible. Specific conductance is an indirect measure of the presence of dissolved solids. EPA has set a **drinking water standard** for Total Dissolved Solids (TDS) at 500 mg/l. The linear correlation between TDS and Specific conductance can be used to estimate a relative specific conductance standard based on the TDS drinking water standard. Using a conversion factor established by City of Boulder/USGS Water Quality Monitoring program the specific conductance EPA drinking water standard would be between 666 - 909 umhos/cm. The CA Draft Permit has established a benchmark that is 3 to 4 times lower than that for safe drinking water. The specific conductance benchmark value must be set at an appropriate number for storm water runoff, not a number that is 3 times more stringent than potential EPA drinking water standard.

Specific Conductance is a broad indicator test not a specific toxic substance. The limit set in this permit lacks scientific basis used with other specific toxins to determine water quality impairment. *Standard Methods for*

the Examination of Water and Wastewater states” the conductivity of **potable waters** in the United States ranges generally from 50 to 1500 $\mu\text{mhos/cm}$.”

Lastly, the resulting Specific Conductance values in the storm water runoff are impacted by many factors that are beyond the Discharger’s control, gases and dusts in the air, acidity of the rain, geology of the drainage areas, and sea water infiltrate. The specific conductance benchmark value must be increased to a number appropriate for widely variable storm water runoff scenarios.

In General focusing on extensive sampling and comparing the sampling results to NALs is limiting and an ineffective and has no positive impact on receiving water quality. Permit compliance should be focused on routine inspections, storm water visual monitoring, BMP implementation, training and reporting. Storm Water management programs based on BCT/BAT, training, monitoring and reporting will provide the Dischargers, as well as the State and Regional Boards, with the appropriate information for assessing the effectiveness of the Dischargers control measures.

The use of NALs should be limited to the intent of EPAs Multi Sector permit. The NAL numbers should be used to evaluate Discharger data result and if Discharger data meets any of the Corrective Action Triggers as delimited in the Draft Permit Section XVII.E. then the Discharger is responsible for making the appropriate corrective actions. Corrective actions as delimited in the Draft Permit Section XVII.B.1 -3 are appropriate and feasible. Data results will be uploaded into SMARTS within the required 30 days. Corrective action documentation will be provided within 30 days to Regional or SWRCB upon request. Sections XVII.B.4 – 7 should be removed from the Draft Permit requirements.

Sections XVII.C. & D. are unsubstantiated and technically unsound for many many reasons. These sections of the Draft Permit assume that the NAL/NELs laid forth in the Permit are appropriate limits for industrial storm water runoff. The EPA numbers were never intended as limits and have no technical merit to be used as such. These Sections rely on inappropriate use of unsound limits and therefore should be eliminated from the Draft Permit as written. More aggressive corrective actions for Dischargers that continue to meet the Triggers after several sampling events are appropriate. Increasing the number of storms sampled does NOTHING to improve the water quality runoff from the Discharger. In fact the increased sampling burden delimited in the Draft Permit Sections XVIII C and D with pull all limited resources from training and new and effective BMP implementation having a net negative impact on Discharger runoff quality. Dischargers that continue to meet Triggers should be provided with technical support from Regional and State Boards concerning BCT and BAT - there should be a collaborative effort in order to protect the receiving waters not a punitive system.

Attachment C

Conditional Exclusion – No Exposure

The Draft Permit NEC language is similar to the EPA multi-sector permit. However, there are number of descriptions of Material and Activities that do not require storm resistant shelters that are contradictory within the Draft Permit text and excessive as compared to the EPA NEC requirements.

Section 4.b.i.

Section 4.b. states that ASTs are considered not exposed even given transfer values and as stated in this section when used for “gasoline, diesel or compressed natural gas”. The Draft Permit sates that fueling of vehicles is part of vehicle maintenance. In Section 4.b.i. the Draft Attachment states that ASTs must be physically separated and not associated with vehicle maintenance to be considered not exposed. Though directly above this statement the opposite is stated. There are many transportation facilities that maintain outside ASTs containing used and new motor oil. The ASTs are plumbed inside the auto shops so that all daily transfers of

new and used oils are contained within the auto shop. These ASTs are clean and double walled and are only emptied or filled by spill trained professionals as dictated by the tanks capacity. Many of the ASTs also have secondary containment as well. The NEC language should be clear that well maintained ASTs that are plumbed inside the building, even though associated with vehicle maintenance, are considered not exposed.

Section 4.d.i.

The Draft NEC Attachment language should be clarified concerning the rinse water tracking after a vehicle has been washed. Many transportation facilities have washing tunnels in which vehicles move through as in a commercial car wash. Even though the tunnel is equipped with blowers there is still rinse water that drips off the vehicle when it exits the tunnel. The rinse water drag out is then captured in a catch basin or trench drain and pumped back into the washing system and is eventually discharged to the sanitary sewer system. This type of system virtually eliminates any impact or exposure from rinse water and should not eliminate a facility from qualifying for the NEC. The NEC language should make acceptance for this type of washing system.