



October 19, 2012

Ms. Janet Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95812



Via Mail and E-Mail: commentletters@waterboards.ca.gov

Subject: Comment Letter - Industrial General Permit

Dear Ms. Townsend and Members of the Board:

The California Manufacturers & Technology Association (CMTA) appreciates the opportunity to comment on your July 16, 2012 draft General National Pollution Discharge Eliminations System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (IGP).

California Manufacturers & Technology Association (CMTA) is a trade association with the mission to improve and preserve a strong business climate for California's 25,000 small and large manufacturers, processors and technology-based companies. California manufacturers employ 1.5 million Californians and contribute billions of dollars to the state's economy. CMTA membership includes over 750 businesses representing chemical, aerospace, high-tech, biotech, pulp and paper, glass, oil, steel and others. CMTA lobbies the state legislature and regulatory agencies to promote policies on issues such as the one before us today to assure the continued viability of California's manufacturing community.

While we definitely appreciate the changes that were made from the January 29, 2011 draft and the open working relationship that we have had with Board staff in the interim, our members still have a number of major concerns about the cost flexibility and workability of the current draft:

Legally Responsible Party

We believe that the term "Legally Responsible Party" (LRP) should be dropped. Designation of a Duly Authorized Representative by the Discharger should be sufficient. The person considered under this permit as a "Legally Responsible Party" may be physically hundreds if not thousands of miles away, unfamiliar with the day to day workings at that site and potentially responsible for

hundreds of operations nation or worldwide. You cannot expect the LRP to certify and submit data to SMARTS.

No Exposure Certification

Requiring companies to hire a California qualified licensed engineer annually to recertify that the facility industrial activities are not exposed to storm water. We believe that a 5-year recertification should be sufficient unless there are modifications to the facility in the interim which adversely change the exposure. Many facilities are engineered in such a way that exposure is simply not possible. The annual recertification adds a cost to business which is not justified.

pH Testing

This draft permit requires the discharger to purchase a pH meter for each site and train personnel to calibrate the equipment. This can mean a significant investment for a company. In addition, we have members who have numerous remote satellite operations manned by employees with only basic skills. Their ability to handle such “sophisticated” equipment on a routine basis is questionable. We instead propose that high sensitivity pH Litmus paper be considered an acceptable alternative.

Electronic Posting of Storm Water Pollution Plans

We have extreme concerns about the filing of SWPP on the SMARTS system for both security and proprietary information reasons. There are concerns about the general public knowing where on the facility particular chemicals (especially toxic, flammable or explosive chemicals) may be stored for both National Security and general security reasons. Such materials will be significantly more susceptible to sabotage or theft. In addition, there are some chemicals which companies would not want their competitors to know that they are using. Just the knowledge of their presence may telegraph a trade secret. We believe that it should be sufficient to hold these plans at the site and only submit them upon specific request by the Board. The requirement to post these plans goes beyond Federal law.

Receiving Water Limitations

Provide regulatory certainty and clarity regarding actions necessary to comply with receiving water limits and corrective actions. We do not want to see a company considered in complete compliance with its SWPP obligations and still subject to third party lawsuits. There needs to be some sort of Safe Harbor incorporated into the permit for the Discharger who is continuing to make continuous improvement.

Background Levels

We believe that the Board should publish the background level of naturally occurring metals (like arsenic, zinc and copper) to be used for all calculations. This should not be the Discharger’s responsibility. There is conflicting data out there. We need confirmation what are

acceptable levels to use. Along this same line, we would like to see a link provided to information that would tell us if the water body we discharge to is impaired or not. It does not appear that there is no one place we can go for this information.

Required Equipment

Our members would like to know that the equipment that they purchase will be accepted by the Board as adequate for the purpose of sampling and testing. We would like to see the Board either certify specific equipment or at least describe the type of equipment that would be considered acceptable.

Pre-Storm Inspections

Requiring companies to track the weather and conduct a pre-storm inspection essentially mandates that the facility operator designate someone as a weatherman. We believe a monthly inspection should suffice.

QISP Training

We are concerned that we seem to be getting the “cart before the horse,” The QISP training is not planned to have individuals qualified until as much as a year after the permit would go into effect. In fact, the requirements and training program have yet to be established. We also believe that the program could function with at least one less level of QSP. The program should be delayed until

Numeric Action Levels (NAL)

We would like to make sure that the permit language matches the SWRCB staff presentation stating that NAL exceedances would not be applicable until July 2014.

Effective Date

Due to the significant differences between this permit and the previous permit, we request that the effective date for compliance begin 12 months after adoption.

Flexibility

Throughout the permit, the deadlines are just too tight. If everything goes smoothly at the lab and at the facility and submission of data is the top priority for that facility, these deadlines can be met; however, the reality is that California manufacturers have already reduced their manning to the bone just to survive. Any additional tasks and costs are difficult to absorb. We agree with the time extensions proposed in the comments provided by the California League of Food Processors.

There needs to be a method prescribed in the permit to allow a Discharger to get out of testing for a pollutant if it is not found after several years.

Please consider allowing an exception for failure to meet an electronic filing date due to a communications failure.

Thank you for considering our comments. We look forward to continuing to work with your staff on the resolutions of these problems.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Rogge". The signature is written in a cursive style with a large, stylized initial "M".

Michael J. Rogge
Policy Director, Environmental Quality

cc: Greg Gearhart, State Water Resources Quality Control Board