



March 16, 2011

Mr. Charles R. Hoppin, Chair
State Water Resources Control Board
1001 1 Street, 24th Floor
P.O. Box 100
Sacramento, California 95812-0100

Re: Comments on Draft Industrial Storm Water General Permit dated January 28, 2011

Dear Ms. Townsend:

Safety-Kleen, Systems, Inc. ("Safety-Kleen") appreciates the opportunity to provide comments to the State Water Board's proposed modifications to the Draft Industrial Storm Water General Permit. Safety-Kleen strongly believes that there are significant water quality and financial elements associated with these proposed changes to the Industrial Storm Water General Permit.

Our comments are as follow and include both general comments and specific comments:

GENERAL COMMENTS:

Numeric Limits: The State Water Board convened a panel of experts to provide consultation on the controversial issue of specifying "numeric limits" in storm water permits. The State Water Board's panel of experts suggested that before imposing numeric limits that the State Water Board first needed to re-examine the existing data sources and collect new data. However, it appears that the State Water Board has elected to simply ignore their own panel of experts and has proposed to go forward with imposing these numeric limits without re-examining the existing data sources or collecting any new data. These numeric limits will certainly lead to allegations by the enforcement staff at the Regional Waste Quality Control Boards (RWQCB) that facilities are in violation of their Industrial Storm Water Permit when in fact their only violation would likely be that of exceeding some arbitrary numeric value that was never adequately supported with a scientific basis in the first place.

Not only is the violation and penalty from the RWQCB painful for a facility that has exceeded one or more of these arbitrary numeric values, but the violation itself will propel that facility from Level 1 monitoring into Level 3 monitoring which is also very costly. Once in Level 3 the facility will be required to collect storm water samples from each and every qualifying rain event. Not only can this become very expensive (in addition to hiring of a PE to develop and certify the SWPPP, cost of analysis, annual fees associated with the permit, equipment that will need to be available at each site to measure the rain fall, conduct pH and specific conductance, and fines for non-compliance) but time consuming to submit the report electronically on

SMARTS by the permit required deadlines. Someone at each facility will need to be named the qualified Storm Water Pollution Prevention Plan (SWPPP) practitioner (QSP). This person will need to become very familiar with all the permit requirements (e.g., visual inspections of dry and rain event and the documentation of these events as well as annual inspections in accordance to the permit requirements). In addition, if this Level 3 facility does not meet the strict/detailed enhanced monitoring and reporting requirements then once again the facility is subject to additional violations and penalties (up to \$37,500 per calendar day of non-compliance). The business climate in California is difficult enough without companies getting violations and penalties because of "junk science". It is almost as if the State Water Board wants companies to go right to the exhaustive Level 3 monitoring and be subject to these very difficult and expensive monitoring and reporting obligations – for that is *exactly* what will happen with these arbitrary numeric limits in the storm water permits.

Elimination of Group Monitoring: The State Water Board has eliminated the group monitoring from the Industrial Storm Water General Permit and in its place now also requires sampling from all drainage areas. Dischargers must either analyze each sample collected or analyze a combined sample consisting of equal volumes of samples collected from as many as three drainage areas. However, samples must be combined by a laboratory (Page 35, XII.B). This combining of samples may only be done if the Qualified SWPPP Developer (QSD) has certified that both the industrial activities within each drainage area and that each drainage area's physical characteristics (grade, surface materials, etc.) are substantially the same. Once again, these changes will cause a substantial increase in the cost burden to companies to implement the conditions contained in the Draft Industrial Storm Water General Permit without any evidence of improved or enhanced environmental protections. Both of these changes should be reconsidered by the State Water Board prior to adopting the Draft Industrial Storm Water General Permit that currently contains these onerous conditions that have no demonstrated environmental benefit(s).

SPECIFIC COMMENTS:

Page 12 – Section S, Item 1: It appears that this section is not complete and the last line needs continuation.

Page 18, Section D, Item 2(a): This section requires the permittee to list the names and titles of "specific individuals or the positions within the facility organization" (team members) who assist the QSD/QSP with implementing the SWPPP and conducting all monitoring requirements required in Section IX of the permit. Since specific individuals may often change throughout the 5-year term of the permit, Safety-Kleen recommends that when a team member changes, the permitted facility is allowed to make the change in the SWPPP and this action not be specifically required to be completed by the QSD (since this person might have been hired from outside for developing the initial SWPPP only). Furthermore, we believe that simply referencing the job title / position should suffice instead of having to name the specific individuals.

Page 24, Section H, Item 1 (e): Safety-Kleen recommends that this section be clarified to identify who will lead the employee training as well to define the frequency of the required training.

Page 39, Section XVII, B.2 (c): The required certification by this section states that “pollutant source(s) causing the exceedance of the NAL are not related to the facility’s industrial activities.” Safety-Kleen believes that background levels may attribute to exceedances of the NALs and the draft permit makes no mention of background levels or off-site pollutant sources that may impact storm water discharges.

The lack of consideration of background and/or offsite pollutant sources is punitive to the discharger and makes the discharger responsible for sources of pollutants that the discharger has no control over. Safety-Kleen recommends that language be incorporated into the permit that reiterates the discharges’ responsibilities and allows for consideration for off-site background pollutant sources.

Page 54, Section P (1): This section quotes the amount of “\$34,5004” for violations of any permit condition of the General Permit. This figure appears to have an extra digit and needs to be revised to indicate a valid amount. Also, the imposition of a penalty in the amount even close to \$34,500 for *any* violation of any condition of the General Permit is both excessive and void of any consideration of mitigating factors that might have a significant bearing on the scope and extent of the alleged violation of the General Permit condition. Safety-Kleen suggests that this penalty section be deleted entirely and that the State Board and Regional Boards simply rely on their existing statutory authority to impose penalties for violations of this General Permit.

The comments described above are being submitted before the public hearing scheduled for March 29, 2011 and we reserve the right to provide clarifications or additional comments after the public hearing and before comment period closes on April 18, 2011.

Please contact either me or Nahid Toossi (714-429-4355) if you have any questions or require any additional information.

Sincerely,



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cc: Mike Rogge, California Manufacturer Technology Association
Nahid Toossi, Sr. EHS Mgr, Corporate SWPPP Coordinator, Safety-Kleen