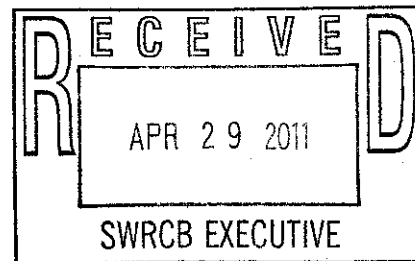


# THE FLANIGAN LAW FIRM

Public Comment  
Draft IGP  
Deadline: 4/29/11 by 12 noon

April 29, 2011



Ms. Jeanine Townsend  
Clerk of the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

Re: Comment Letter – Draft Industrial General Permit

Dear Ms. Townsend:

On behalf of the West Coast Chapter of the Institute of Scrap Recycling Industries (ISRI), we are providing the following comments regarding the Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (Industrial General Permit). ISRI is a trade association representing approximately 1,550 companies nationwide, of which ten percent are located in California. ISRI members process, broker, and consume scrap commodities. They are experts in the handling, processing, shipping, and/or recycling of recyclable scrap commodities.

Storm water management is one of the most important issues for the recycling industry as it affects every aspect of facility operations. From the inception of storm water regulations in the early 1990s, ISRI has been active in storm water management. The recycling industry's preferred approach to storm water management has focused on the design, implementation, operation, and maintenance of appropriate, effective nonstructural and structural best management practices (BMP) and control measures to reduce and minimize the impact of recycling activities on the quality of storm water discharges. Because advances in storm water technology have led to the availability of better, cost-effective BMPs and control measures over time, this approach is still viable to achieve on-site storm water goals.

The focus of ISRI's comments will pertain to the draft Industrial General Permit's elimination of the group monitoring program. First, however, we would be remiss if we did not share our concerns of how perplexed we are that the State Water Resources Control Board (SWRCB) would initiate the 45-day public comment period on a draft Industrial General Permit which is incomplete.

We refer to the California Storm water Quality Association's (CASQA) comments relating to the costs and additional requirements as outlined in the draft of the Industrial General Permit, which we agree with their analysis and concerns.

ISRI is a member of the WATER coalition and share their concerns that the SWRCB staff has not addressed the recommendation from the State Water Board's panel of experts who suggest that before even considering the imposition of numeric limits, the State Water Board needs to re-examine the existing data sources and collect new data before imposing numeric limits as proposed in the draft Industrial General Permit. As you know, state law requires that a number of factors be analyzed before developing such regulations including measuring its water quality benefits and calculating the cost of compliance. It appears, however, that the SWRCB staff has written the rules for the permit before doing the analysis.

As stated above, the focus of our comments relate to the elimination of the group monitoring program. Many of our members participate in a group monitoring program. If, however, the draft Industrial General Permit is approved by the board, the group monitoring program will be eliminated. The group monitoring program allows small businesses and local governments to pool their resources to conduct water quality monitoring as a group which makes it practical and more affordable for smaller companies.

More importantly, the group monitoring program provides our members an opportunity to have access to highly qualified, technically competent, professional engineers, who specialize in storm water issues. Through their experiences with various groups, these engineers are in a superior position to provide guidance to group participants regarding the most effective BMPs that otherwise might not be available to a locally available engineer or consultant with less familiarity with storm water controls or a particular industry.

It is important to recognize that under the existing permit, group participants are individually obliged to comply with, and are held individually accountable for, compliance with all permit conditions other than the number of sampled events. In addition, group participants have additional obligations not imposed on individual general permittees, such as group leader inspections and evaluations, as well as the submittal of the annual group evaluation report.

The elimination of the group monitoring program will force companies and agencies to spend millions of dollars to comply with the proposed regulations without a study being conducted to determine the benefits.

To date, staff has not demonstrated a compelling need to change the current NPDES permit. The draft Industrial General Permit would require the recycling industry, public agencies and other businesses to comply with several new requirements that are above and beyond what the US Environmental Protection Agency mandates and will result in hundreds of millions of dollars in additional costs with no proven or added environmental benefit. As stated in the WATER coalition's response, the draft Industrial General Permit will create: arbitrary numeric limits without proven water quality benefits, unsound regulations which will invite costly lawsuits; duplicative regulations; and will prohibit cost-effective group compliance.

Ms. Jeanine Townsend  
April 29, 2011  
Page 3

ISRI urges the SWRCB and staff to consider our concerns as you move toward the final draft of the Industrial General Permit. Please do not hesitate to contact me if you have any questions.

Sincerely,



Katherine S. Brandenburg  
Legislative Advocate

cc: Members of the State Water Resources Control Board

