



CASTELLÓN & FUNDERBURK LLP

March 4, 2014



**Via E-Mail Only**

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814  
commentletters@waterboards.ca.gov

**Re: Comment Letter- April 1, 2014 Board Meeting: Final Draft Industrial General Permit**

Dear Ms. Townsend and Members of the Board:

Our firm represents the Chemical Batch Processing Monitoring Group, Inc. (“CBPMGI”). CBPMGI is the umbrella group of two storm water monitoring groups, the Chemical Batch Processing Monitoring Group (“CBPMG”) and the California Paint Council Monitoring Group (“CPCMG”). CBPMGI respectfully submits these comments on the 2014 Draft Industrial General Permit (“2014 IGP” or “Draft Permit”) that was issued on February 19, 2014. CBPMG and CPCMG are State Water Resources Control Board (“SWRCB”) approved monitoring groups in good standing and have been operating under the provisions of the Industrial General Permit since 1992.

CBPMG members produce a variety of products in batches, unlike many chemical manufacturers which use continuous processes. Chemical batch processors generally make multiple products with the same equipment, e.g., a chemical batch processor will utilize the same base stocks or chemicals and different chemical additives to produce different chemical products. For instance, CBPMG members may introduce water into a 10,000 gallon blending tank and combine chemical additives into a “batch” to produce an industrial cleaner. In the next “batch”, the same base stock is used except that another chemical additive is utilized to produce a bleach or adhesive. Each finished product is then packaged in containers of various sizes and stored for bulk shipment.

The CPCMG is comprised of manufacturers of paints, varnishes, lacquers, chemical coatings, and kindred products. CPCMG members, like the CBPMG members, produce their end product through a batch process and also employ similar material handling practices. For example, materials are blended in large containers and the end product, which for most

members is paint or architectural/traffic coatings, is stored for shipment and transferred to rail tank car and/or truck.

In general, most processing by CBPMGI members is performed indoors or in covered areas and the facilities have extensive secondary containment to prevent pollutants from storm water exposure. Due to these structural best management practices (“BMPs”), very few pollutants are foreseeably exposed to storm water from these members’ facilities.

CBPMGI’s comments are submitted with the group members’ desire to meet their compliance obligations in a manner that will result in protection of California’s waters without placing unrealistic and arbitrary compliance burdens on industrial dischargers. CBPMGI group members have expressed concern over the below-listed issues and/or matters contained in the 2014 IGP. In addition, CBPMGI members support CASQA’s<sup>1</sup> proposed revisions and comments on the 2014 IGP.

**1. The State Water Board Should Have Granted At Least 30 Days to Review and Comment on the 2014 Permit**

The Water Board should have granted at least thirty days to comment and review the revised permit documents. The 2014 Permit was issued on February 19, 2014, which allowed less than 10 business days to review the 2014 Permit, response to comments, and accompanying documentation. This lack of comment period has not allowed for sufficient review and analysis.

**2. Receiving Water Limitations Section I.E.37, page 6 (Order)**

Section I.E.37 should be consistent with and reference Section XX.B. Because Section XX.B. allows for a facility to evaluate its BMPs through a facility evaluation and SWPPP assessment, this should be reflected in Section I.E.37. As such, the language should be changed as noted below.

Current 2014 IGP Language: “If any Discharger’s storm water discharge causes or contributes to an exceedance of a water quality standard, that Discharger must implement additional BMPs or other control measures in order to attain compliance with the receiving water limitation.”

Proposed Change: “If any Discharger’s storm water discharge causes or contributes to an exceedance of a water quality standard, that Discharger must comply with the mechanism detailed in Section XX.B.” ~~implement additional BMPs or other control measures in order to attain compliance with the receiving water limitation.”~~

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<sup>1</sup> CASQA refers to the California Stormwater Quality Association. CASQA’s Industrial Permit Subcommittee has issued comments on the 2014 IGP as well.

**3. Receiving Water Limitations Section II.E., page 22 (Fact Sheet)**

Section II.E. should reference infiltration, storm water retention, and water reuse as potential BMPs in section E. This is consistent with the draft order that states “These include BMPs that divert, infiltrate, reuse, contain, retain, or reduce the volume of storm water runoff. Dischargers are encouraged to utilize BMPs that infiltrate or reuse storm water where feasible.” X.H.2.b.ii. page 35. As such, the language should be added as noted below.

Current 2014 IGP Language: “If additional operational source control measures do not adequately reduce the pollutant, Dischargers must implement additional measures such as the construction of treatment systems and/or overhead coverage.”

Proposed Change: “If additional operational source control measures do not adequately reduce the pollutant, Dischargers must implement additional measures such as the construction of treatment systems, ~~and/or~~ overhead coverage, infiltration, retention, and/or storm water reuse.”

**4. SWPPP Implementation and Revisions Section X.B.3., page 25 (Order)**

Section X.B.3 is confusing and unnecessary. The facility should only be required to submit an updated SWPPP whenever the SWPPP contains significant revisions. There is no reason for a facility to submit its SWPPP via SMARTS if there is a minor revision. As such, the language should be deleted as noted below.

Current 2014 IGP Language: “All Dischargers are required to implement their SWPPP by July 1, 2015 or upon commencement of industrial activity. The Discharger shall:

1. Revise their on-site SWPPP whenever necessary;
2. Certify and submit via SMARTS their SWPPP within 30 days whenever the SWPPP contains significant revision(s); and,
3. With the exception of significant revisions, the Discharger is not required to certify and submit via SMARTS their SWPPP revisions more than once every three (3) months in the reporting year.”

Proposed Change: “All Dischargers are required to implement their SWPPP by July 1, 2015 or upon commencement of industrial activity. The Discharger shall:

1. Revise their on-site SWPPP whenever necessary;
2. Certify and submit via SMARTS their SWPPP within 30 days whenever the SWPPP contains significant revision(s). ~~and,~~

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- ~~3. With the exception of significant revisions, the Discharger is not required to certify and submit via SMARTS their SWPPP revisions more than once every three (3) months in the reporting year."~~

In conclusion, we appreciate the opportunity to present these comments and your subsequent review. We also request that our comments on previous versions of the industrial general permit submitted on April 29, 2011, October 22, 2012, and September 19, 2013 be incorporated by reference to the extent that those previously made comments are still applicable.

If you have any questions or comments, please feel free to call.

Very truly yours,



Anna Le May  
William W. Funderburk, Jr.

ALL:ss