

MAKING YOUR VOICES HEARD !

The first public comments hearing for the new California **Draft** Industrial General Storm Water Permit was held on Tuesday, March 29, 2011 at the Joe Serna Jr. California CalEPA Headquarters Building. Due to the large number of presenters, the meeting extended well into the afternoon. It would appear that the **Draft** General Permit struck a nerve of those stakeholders who are monitored by this regulatory document. The presence of a State Assemblyman and Senator indicate stakeholders are not limiting their comments to the State Water Board's verbal and written comments only, but are also using whatever channels available to allow their voices and opinions to be heard.



The presenters expressed a variety of serious concerns about the **Draft** General Permit. Presenters expressed politely and professionally, but with passion, to the three State Water Board members in attendance, including Board Chair Charles R. Hoppin, Board Vice-Chair Frances Spivy-Weber, and Board Member Tam Doduc.



The Board heard from various environmental groups and businesses and the California Stormwater Quality Association (CASQA), as well as, politicians, trade associations, school districts, and municipalities from across the State. While many points were made by the presenters, a few continued to be repeated by the various presenters.

The positions expressed by the environmental group "California Coastal Keepers Alliance" was essentially reiterated by other environmental group presenters. Their general position included support for the **Draft** General Permit, increased compliance enforcement, public access to stakeholder information, Numeric Effluent Limits (NELs), no consideration for run-on or other background influences, and the elimination of monitoring groups. The environmental groups expressed a desire for required treatment controls for every permittee, expanded General Permit coverage of businesses currently not required to have coverage, immediate violations to be issued for NEL exceedances with no Tiered Numeric Action Levels (NALs), expanding the definition of a qualifying storm to all hours, not just regularly scheduled daylight business hours, added inspections to the current **Draft** General Permit inspections, NELs to automatically be considered as causing or contributing to an exceedance of the receiving water quality standard, and opposing the option to composite a facility's various sampled outfalls.

Following the presentations by the environmental groups, Mr. Hoppin requested that Mr. Geoff Brosseau, Executive Director of the California Stormwater Quality Association (CASQA) and his team, make their presentations. Mr. Brosseau began with an introductory presentation of General Permit areas, which were later elaborated on by other CASQA members. Mr. Brosseau expressed several areas of concern about the **Draft** General Permit. CASQA found the **Draft** General Permit to be too complex and the NALs to be in effect NELs. Mr. Brosseau mentioned the current benchmark

approach to a General Permit is a more appropriate approach to storm water permit compliance, as reflected in the Federal Multi-Sector General Permit. Following Mr. Brosseau, Susan Paulson, PhD, gave a presentation outlining CASQA's position concerning the NELs in the **Draft** General Permit as unrealistic. As support for her position, Ms. Paulson cited storm water sampling performed on vacant land and had never encountered industrial activity. She noted storm water sampling of analytical results from vacant land exceeded the proposed NELs.

Following CASQA, presenters representing businesses, trade associations, school districts, and municipalities expressed their support of CASQA's comments and concerns relative to the current economy of shrinking budgets. The **Draft** General Permit appears to be another unfounded State mandate, which will cause certain economic impact by requiring additional sampling, inspections, and BMPs. Presenters also expressed the increased cost associated with the "unsupported" proposed NELs. The proposed NELs would cause many permittees, who are currently meeting all permit requirements, to fall out of compliance with permit conditions. This would in turn require many facilities to install new costly treatment systems or modify existing ones. The proposed NELs may also cause many stakeholders to incur fines for NEL exceedances and become vulnerable to third party litigation for being in violation of the General Permit.

Two visitors to the hearing, Jeff Miller, State Assemblyman who represents the 71st Assembly District and later in the day, State Senator Rod Wright who represents 25th Senate District appeared to capture the attention of the Board members. Assemblyman Miller arrived during the CASQA presentation and Mr. Hoppin allowed him to immediately address the Board. Assemblyman Miller said several from his district along with other State Assembly members expressed concern that the **Draft** General Permit came as a surprise and was on the "fast track to adoption." He said **Draft** General Permit regulations were seen by many in his district and the State Assembly as "over reaching and burdensome." He went on to inform all present that the Assembly was drafting a letter to the Board requesting the Board to slow down the adoption process. Mr. Miller's comments were greeted with applause from the majority of the hearing attendees.



Shortly before the afternoon break, Senator Rod Wright arrived, Mr. Hoppin also allowed him to immediately address the Board. Senator Wright spoke of the declining California economy and cited several examples showing business in California as too expensive and causing business owners to look to other states. Senator Wright stated, referring to the **Draft** General Permit, "California does not need to take the lead with these proposed regulations again, but needs to consider what other states are doing and perhaps follow their lead." He expressed the importance to the Board of finding a balance between cost of regulating and the impact on protecting the environment. Senator Wright indicated that bills were currently being introduced in the State Capital, which would require all future regulatory requirements to consider the fiscal impact as part of the development process. At points throughout his presentation, Senator Wright was momentarily interrupted by spontaneous applause from the audience.

In response to Senator Wright's comments, Mr. Hoppin stated that the Board developed the **Draft** General Permit, in part, as a response to third party lawsuits and the rulings handed to the Board.

 Linda S. Mahan Acting Secretary for Environmental Protection	State Water Resources Control Board Executive Office Charles R. Hoppin, Chairman 1001 I Street - Sacramento, California 95811 • (916) 341-5001 Mailing Address: P.O. Box 108 - Sacramento, California 95832-0108 Fax: (916) 341-5021 • http://www.swrcbboards.ca.gov	 Edmund G. Brown, Jr. Governor
NOTICE OF OPPORTUNITY TO COMMENT DRAFT STATEWIDE GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR THE DISCHARGE OF STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITIES (INDUSTRIAL GENERAL PERMIT) EXTENDED DEADLINE TO SUBMIT WRITTEN COMMENTS		
<p>NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board (State Water Board) will extend the deadline for comments on the draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated With Industrial Activities (Industrial General Permit).</p> <p>The Notice distributed on January 28, 2011 required comment letters to be received no later than 12:00 Noon on April 18, 2011. <u>This notice extends the deadline to 12:00 Noon on April 29, 2011.</u> State Water Board staff will not accept additional comment letters after this deadline unless the State Water Board determines otherwise. Please send comment letters to Jeanine Townsend, Clerk to the Board, by email: commentletters@waterboards.ca.gov (15 megabytes, or less, in size); by fax: (916) 341-5020; or by mail, addressed to:</p> <p style="text-align: center;">Jeanine Townsend Clerk to the Board State Water Resources Control Board 1001 I Street, Sacramento, CA 95814</p> <p>Please indicate in the subject line: Comment Letter – Draft Industrial General Permit</p> <p>AVAILABILITY OF DOCUMENTS AND PROGRAM INFORMATION The draft Industrial General Permit and the existing Industrial General Permit are available to view or download on the Storm Water Web site: http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml</p>		
California Environmental Protection Agency 		

Upon the conclusion of the final presenter, Board member Doduc requested the Executive Director of CASQA, Mr. Brosseau, to come back to the podium. She requested CASQA to provide the Board with more information and recommendations concerning a sector specific storm water permit, how to organize sectors, data of sites utilizing treatment systems and unable to meet proposed NALs and NELs, recommended NAL improvement options including what data should be requested, improving the current General Permit group monitoring structure, expanded definition of a QSD, and an off ramp or ways of returning to baseline status from a Tier 3. Mr. Brosseau compiling the requested information would be a challenge given the current April 18, 2011 deadline for the **Draft** General Permit written comments. In response, Mr. Hoppin conferred with his staff and agreed to **extend the written comments deadline to 12:00 noon on Friday April 29, 2011.**

Mr. Hoppin closed the hearing by expressing his appreciation for the respectful manner by which the comments were made and the seriousness with which the Board took the comments. Mr. Hoppin also expressed that the comments presented had made it apparent to him and the entire Board just how much the **Draft** General Permit was in need of extensive revisions.

“To Do List” for April:

- Monthly Storm Water Observations (Form 4)
- Storm Water Sampling (Some of you are already done! If you haven't completed sampling, try to get your first or second sample.)
- Quarterly Non-Storm Water Observations sometime between now and June 30 (Forms 2 & 3)





Perspectives on some of the Draft General Permit requirements

(In part excerpted from <http://cagreenteaparty.org/>)

- 1. Minimum BMPs** – By applying a “one-size-fits-all” approach, the State is really penalizing those businesses who have been implementing an effective program. Why should a business which has consistently had discharges below benchmarks and no history of non-compliance now be compelled to do more? This causes a good environmental player to be exposed for potential non-compliance; what if they forget to check the trash bin on Wednesday? Are they out of compliance? Did it really change the effectiveness of their program? If visual inspection and monitoring data indicate no problems, why should the business be compelled to inspect their forklifts weekly or their trash containers daily? It is another example of arbitrarily loading businesses with an unnecessary permit burdens and exposing them to unnecessary violations.
- 2. Sampling & Background** – Sampling requirements should reflect the potential pollutants that would be present as a result of industrial activity. The **Draft** General Permit in § VI.A includes a blanket requirement to sample for the California Toxics Rule (CTR) and the National Toxics Rule (NTR) parameters. Why should a business whose industrial activities exclude items listed in the CTR or NTR have to bear the added expense, potential out of compliance violations, and liability of sampling for those parameters? Facilities are affected by the industrial and natural forces that are around them. It is unreasonable for the **Draft** General Permit to not consider background pollutant sources before assessing elevated action levels or fines for being above a NEL that is not applicable to the business or caused by surrounding environmental sources.

Permit Timeline

So, when will all of this take place? The following is the estimated timeline for implementation of the new permit:

January 28, 2011	Draft Industrial General Permit released
March 29, 2011	Public Hearing to receive comments on the new proposed permit language will be held at the Cal-EPA Building in Sacramento
April 29, 2011	Written comments on the permit are now due by 12 Noon
Fall 2011	Revised Tentative Draft Industrial General Permit issued
Winter 2012	Anticipated permit adoption date (depending upon hearing schedules)
Spring 2012	Establish the LRP account, file new PRDs, revise the SWPPP, and comply with the new permit requirements





We Have a March Contest Winner !!!

George Alvarez submitted the winning answer!

The question was: What is current due date for the annual storm water report and what is new proposed due date?

Current annual storm water report due date is July 1st and the new proposed annual storm water report due date is July 15th.

George will receive a \$25 eGiftCard to



No Exposure Certification and the Draft General Permit

In the “Fact Sheet” of the current General Permit, businesses referred to as “light industry” which have their Standard Classification Code (SIC) listed in Attachment 1, Category 10 are not subject to the requirements of the General Permit, as long as they can certify the following minimum conditions have been met:

1. All prohibited non-storm water discharges have been eliminated or otherwise permitted.
2. All areas of past exposure have been inspected and cleaned, as appropriate.
3. All materials related to industrial activity (including waste materials) are not exposed to storm water or authorized non-storm water discharges.
4. All industrial activities and industrial equipment are not exposed to storm water or authorized non-storm water discharges.
5. There is no exposure of materials associated with industrial activity through other direct or indirect pathways such as particulates from stacks and exhaust systems.
6. There is periodic re-evaluation of the facility to ensure Conditions 1, 3, 4, and 5 are continuously attained.

If these businesses determine they meet all of the above conditions, they did not have to apply for General Permit coverage or notify the State Water Resources Control Board (SWRCB) or the Regional Water Quality Control Board (RWQCB). They were simply advised to keep a ‘No Exposure Certification’ on file.

Under the proposed **Draft** General Permit, every industrial business whether light or not can apply for a No Exposure Certification as long as they can certify “none of the following materials or activities are, or will be in the near future, exposed to precipitation”:

1. Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed;
2. Materials or residuals on the ground or in storm water inlets from spills/leaks;
3. Materials or products from past industrial activity;
4. Material handling equipment (except adequately maintained vehicles);
5. Materials or products during loading/unloading or transporting activities;
6. Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to storm water does not result in the discharge of pollutants);
7. Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;

8. Materials or products handled/stored on roads or railways owned or maintained by the discharger;
9. Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);
10. Application or disposal of processed wastewater (unless already covered by an NPDES permit); and
11. Particulate matter or visible deposits of residuals from roof stacks/vents and evident in the storm water outflow.

Unlike the current General Permit, all businesses which have SIC's listed in the **Draft** General Permit and meet the above No Exposure conditions **must** notify the SWRCB by applying for a No Exposure Certification through the Storm Water Multiple Application & Report Tracking System (SMARTS), pay an annual fee of \$200, and recertify their NEC status annually. The current NEC annual fee of \$200 is subject to change.

You can go to following SWRCB website for more detailed information:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/indstpermits.shtml



APRIL STORM WATER CONTEST

Try it out! You can win!

By April 30, submit a response for the following question via email to:

jteravskis@wgr-sw.com .

In the current and Draft General Permit, how many days do you have to apply changes to your Storm Water Pollution Prevention Plan following your Annual Comprehensive Site Compliance Evaluation?

All persons submitting correct answers will be placed in a drawing. The winner will receive a \$25 eGiftCard to  .

New Draft General Permit Written Comments Deadline - April 29, 2011 by 12:00 Noon

Take advantage of the comments period extension !

Want to get involved but don't know how or what to say?

Log on to:

<http://cagreenteaparty.org/>

- Follow the issues with the proposed permit;
- Copy and paste prepared comment language on the issues for your own response letter;
- Get mailing and email instructions to submit comments;
- Join in on a blog discussion on the issues; or
- Post your own issues with the proposed permit.

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Please contact us if you have any questions . . .

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Happy Easter!