



April 18, 2011

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

Re: Comments Regarding the Draft Industrial General Permit for Storm Water Discharges

Dear Ms. Townsend:

The Southern California Rock Products Association (SCRPA) represents hundreds of sites in the Southern California area that are subject to the Industrial General Permit ("IGP"). These facilities are engaged in the production of aggregate (sand and gravel), ready mixed concrete, asphalt, and other industrial materials. SCRPA acts as the Group Leader for the Building Materials Industry (BMI) monitoring group which covers over 200 different sites.

SCRPA has reviewed the draft revised IGP and has a number of comments which are presented in the attached document. We look forward to working with the State Water Board to develop a permit that is practical and protects water quality.

Best regards,

A handwritten signature in black ink, appearing to read "S. Bledsoe", with a long horizontal line extending to the right.

Stephen Bledsoe
President
Southern California Rock Products Association
Building Materials Industry Monitoring Group

2011

**SOUTHERN CALIFORNIA ROCK PRODUCTS ASSOCIATION
BUILDING MATERIALS INDUSTRY MONITORING GROUP**

COMMENTS TO DRAFT IGP

April 18, 2011

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COMMENTS TO DRAFT IGP

April 18, 2011

1.0 EXECUTIVE SUMMARY

The Southern California Rock Products Association (SCRPA) represents hundreds of sites in the southern California area that are subject to the IGP. These facilities are engaged in the production of:

- Aggregate material (sand and gravel);
- Ready mixed concrete;
- Asphalt; and
- Other industrial materials.

SCRPA has reviewed the Draft NPDES General Permit for Storm Water Discharges Associated with Industrial Activities (hereafter "IGP" or "Permit"). Our comments are presented in detail in the following sections. In summary, our major concerns with the IGP are:

- Some of the mandatory BMPs presented in the IGP are impractical, infeasible, or provide no water quality benefit;
- The registrations / certifications for QSDs should be expanded and QSDs should be able to sign all documents related to IGP compliance;
- The inspections required under the IGP (over 500 per year) are an onerous burden that should be simplified;
- The Permit should allow for Group Monitoring; and
- Facilities should be allowed to account for background concentrations and storm water run on when determining compliance with numeric discharge limits.

We appreciate the opportunity to present our comments and look forward to working with the State Water Board to develop a Permit that protects water quality and is reasonable for the facilities that must comply with it.

2.0 BEST MANAGEMENT PRACTICES

SCRPA realizes the importance of using Best Management Practices (BMPs) to control pollutants and supports their use. However, some of the "Minimum BMPs" outlined in the IGP are not feasible as discussed below.

2.1 Erosion and Sediment Controls - Run On

Section VIII.H.1.a.vii ("Minimum BMPs," Pg. 23) requires facilities to "[d]ivert storm water or authorized non-storm water flows from non-industrial areas (such as employee parking) from contact with industrial areas of the facility." Section VIII.H.1.g ("Minimum BMPs," Pg. 25) requires facilities to implement "practices to prevent erosion from occurring. This includes ... diversion of run-on and runoff away from areas subject to erosion."

Small mining sites typically encompass hundreds of acres; large mining sites can be thousands of acres in size. Many of these sites have hundreds of undisturbed acres that are subject to natural erosion (not erosion resulting from industrial operations). The IGP requires facilities to divert water away from these non-industrial areas. This would be difficult, if not impossible, because:

- Depending on the size of the upstream watershed, storm water run on could include thousands of acre-feet of water that would have to be controlled;
- Controlling (diverting) a large volume of water would require the construction of large structures. Dams, concrete-lined drainage channels, etc. would have to be erected to divert and transport storm water;
- The design, permitting, installation, and maintenance of these structures could easily cost millions of dollars;
- Constructing these structures could require permits from a number of different agencies including a "1600" agreement from the California Department of Fish and Game and a "404" Permit from the United States Army Corp of Engineers (and associated "401" Water Quality Certification from one of the Regional Water Quality Control Boards).
- It is not reasonable to expect that the design, permitting, and construction of such drainage devices could be completed in the 90-day compliance window of the IGP.

While it is theoretically possible to build flow diversion structures, their construction is not a desired outcome. The IGP should encourage facilities to conserve natural resources and waterways, not dam them up and line them with concrete.

2.2 Covering Storage Piles

Section VIII.H.1.a.iv ("Minimum BMPs," Pg. 23) requires facilities to "[c]over all stored industrial materials that can be readily mobilized by contact with storm water."

This is very problematic. Mining facilities have many different storage piles (a.k.a. "stockpiles") of unprocessed material, partially processed material, and finished product. These stockpiles are in use throughout the day; they are replenished, and material is removed from them, using conveyors or mobile equipment such as front end loaders. These stockpiles contain dust, dirt, fine material and even sand which can be "readily mobilized by contact with storm water" and therefore would require covering. Stockpiles can be acres in size, contain thousands of tons of material, and be over 100 feet tall.

As a result, covering stockpiles would be incredibly expensive given the size of these piles and the fact that they are frequently relocated as mining operations move around the site.

Therefore, this BMP would be an enormous cost burden to facilities and in many cases provide no environmental benefit. Many stockpiles at mining sites are located in the active mining area. At a majority of mine sites, the active mining area is a pit that does not discharge storm water. As it is currently written, this Minimum BMP would require covering stockpiles located in mine pits, even if the storm water contacting them cannot leave the site.

2.3 Material Containment

Section VIII.H.1.a.v ("Minimum BMPs," Pg. 23) requires facilities to "[c]ontain all stored non-solid industrial materials (such as liquids and powders) that can be transported or dispersed via wind dissipation or contact with storm water."

This requirement is confusing. It is unclear what definition of "non-solid" is being used. If the definition is based on the state of matter (i.e. solid, liquid, or gas), powders are a solid and should not be included as an example of a non-solid. If materials such as powder are included based on particle size, the Permit should specify at what particle size a material is considered a solid.

2.4 Daily Inspections and Cleaning

Section VIII.H.1.d.v ("Minimum BMPs," Pg. 24) requires facilities to "[i]nspect and clean daily any outdoor material/waste handling equipment or containers that can be contaminated by contact with industrial materials or wastes."

Mine sites, concrete batch plants, and asphalt plants contain storage bins that hold raw materials and finished products as well as conveyors that move material between pieces of processing equipment and to and from storage areas. These devices are constantly in contact with industrial materials (sand and rock). A single conveyor at a mine site can be over a mile long and sites have multiple conveyors. These facilities would have to hire dozens of new employees just to clean the conveyors on a daily basis as required by this Minimum BMP. In order to safely clean a conveyor, it must be stopped. Therefore, at most sites the cleaning operation would have to occur after the facility's scheduled operating hours (which are typically daylight hours). Therefore, a number of people would have to come to the facility each night to clean a conveyor that would just get dusty again the next day. In addition to being a cost burden that will bankrupt most mining operations, this BMP provides no environmental benefit:

- The dust and dirt that accumulates on the conveyors is material that was recently removed from the ground. If rain water dislodges this material from the conveyor, it will just return to the ground.
- It would take a large amount of water to clean a conveyor, especially ones that are a mile or more in length. Using our precious water resources to clean a conveyor belt that will get dusty when the plant resumes operation a few hours later is a waste.

In addition, there are multiple pieces of mobile equipment (front end loaders, dozers, haul trucks, etc.) present at these facilities which are also "material handling equipment." Inspecting and washing these units daily is a burden that provides no water quality benefit as these items will become coated with industrial materials (such as sand, dust, and rocks) the next time they are used. In fact, this requirement

would adversely affect water supply by using water to wash this equipment every day, even when it is not necessary.

2.5 Sediment Basins

Section VIII.H.1.g.iv ("Minimum BMPs," Pg. 25) states that, "[a]t sites where sediment basins are used, dischargers shall, at a minimum, design sediment basins according to the method provided in CASQA's Industrial and Commercial BMP Guidance Handbook and satisfy the 10 year, 24-hour compliance storm event requirement."

Sediment basins are frequently mandated by (or their existence codified in) planning and land use documents such as Use Permits. Modifying existing basins could require significant permitting from other agencies and it is not realistic to believe that facilities could have the required changes designed, permitted, and constructed in the 90-day compliance window of the Permit.

The IGP should contain a provision to "grandfather" existing sediment basins at facilities.

2.6 BMPs – Suggested Changes

We recognize that there is an exemption in the IGP where the minimum BMPs are "clearly inapplicable to the facility" (Section VIII.H.1, Pg. 22). However, many of the minimum BMPs required by the IGP could be considered applicable (or not "clearly inapplicable," depending on the point of view), yet they are not useful, not practical, or not cost effective. However, the Permit does not have an exemption for these categories.

We realize that the Water Board is attempting to require a minimum suite of BMPs for all facilities. However, given that the IGP applies to a variety of industrial operations throughout the state that have widely different characteristics, we do not believe that a "one size fits all" solution that mandates that every facility do something (without considering the type of operation or the facility's location) is a reasonable approach.

Given that the new Permit requires QSDs who prepare SWPPPs to have certain credentials, attend State-sanctioned training, and pass a test that is administered by the State, we suggest that the Permit be modified so that QSDs are allowed to specify the appropriate BMPs for the site.

3.0 SWPPP PREPARATION / QSDs

The following comments are related to SWPPP preparation, SWPPP updates, and QSDs.

3.1 QSD Qualifications

The IGP lists several designations that may act as QSDs. These include:

- A California registered professional civil engineer;
- A California registered professional geologist or engineering geologist;
- A California registered landscape architect; and
- A professional hydrologist registered through the American Institute of Hydrology.

The Permit states that registered professional civil engineers can act as QSD, but does not include engineers registered in other disciplines (e.g. mechanical or chemical). A chemical engineer is at least as qualified as a landscape architect to act as a QSD (consider identifying expected pollutants and proper sampling and analysis procedures). A mechanical engineer is at least as qualified as a geologist to act as a QSD (consider identifying preventive maintenance schedules for equipment). The Permit should be changed to allow any registered professional engineer to act as a QSD.

The Construction General Permit includes other designations that are allowed to act as QSDs including:

- A Certified Professional in Erosion and Sediment Control (CPESC)[™] registered through Enviro Cert International, Inc.;
- A Certified Professional in Storm Water Quality (CPSWQ)[™] registered through Enviro Cert International, Inc.; and
- A professional in erosion and sediment control registered through the National Institute for Certification in Engineering Technologies (NICET).

An individual with any one of these designations should be able to act as QSDs in the IGP as well.

In addition, there are various other documents and certifications in the IGP that must be approved by a California registered professional civil engineer. These include:

- The BMP Implementation Extension Request (BIER);
- The Suspension of Numeric Effluent Limitation (SNEL) request;
- The No Discharge Certification;
- The Inactive Mining Operation review; and
- The Green Storm Water Impact Reduction Technology (G-SIRT) conditional exclusion;

As these conditions are written, any California registered civil engineer could certify these documents regardless of his or her familiarity with the IGP and without having to take the state-sanctioned training. The Permit should be modified to allow anyone who is a QSD to certify these documents.

3.2 Training Consistency With the Construction General Permit

The State Water Board should consider creating a streamlined version of the IGP QSD training for people who have already been certified as a QSD under the Construction General Permit. This will allow a greater number of QSDs to be available and eliminate the burden on companies that are required to comply with both the Construction and Industrial Permits.

3.3 SWPPP Updates

The IGP states the “[t]he discharger shall ensure that the SWPPP is written, amended and certified by a Qualified SWPPP Developer” (Section VII.B.1.a, Page 16).

The IGP further states that “[d]ischargers shall include in the SWPPP a narrative description of each BMP implemented at the facility that includes:

- a. The type of pollutants the BMP is designed to reduce or prevent;
- b. The frequency, time(s) of day, or conditions when the BMP is scheduled for implementation;
- c. The locations within each area of industrial activity or industrial pollutant source where the BMP shall be implemented;
- d. The identity of the individual and/or position responsible for implementing the BMP;
- e. The procedures (including maintenance procedures) and/or instructions to implement the BMP; and
- f. The equipment and tools necessary to implement the BMP.” (Section VIII.H.3, Page 26)

Therefore, if a facility wanted to change a BMP from “the Maintenance Technician sweeps the floor with a broom once a day” to “the Maintenance Technician sweeps the floor with a broom twice a day,” the discharger would have to hire a QSD to update the SWPPP (if they did not have a QSD on staff - as most dischargers will not). This is an enormous cost burden for simple changes that could occur frequently. In fact, the way the IGP is currently written, a qualified QSD would have to be hired to change a telephone number in a SWPPP.¹ We request that the Permit be modified so that dischargers are allowed to make minor changes to their SWPPP.

3.4 Dust and Particulate Generating Activities

Section VII.G.3 (Page 20) states that “[t]he SWPPP shall describe all industrial activities that generate dust or particulate pollutants that may be deposited within the facility’s boundaries, including discharge locations and the type, characteristics, and estimated quantity of dust and particulate pollutants that may be deposited within the facility’s boundaries. Identify the primary areas of the facility where dust and particulate pollutants would settle.”

This requirement is unclear. Using a strict interpretation, facilities would have to conduct sophisticated air dispersion modeling to determine the quantity of pollutants that may be deposited. To model the emissions from, and deposition within, a site – including multiple analyses (to encompass the different process throughputs that may occur at various times) – for a whole year (to evaluate various meteorological conditions that may occur) could easily cost \$25,000. We doubt that this is the Board’s intent, and request that this requirement be clarified.

¹ Section VII.A.1 (Page 16) states that “[t]he discharger shall appoint a Qualified SWPPP Developer (QSD) to prepare, write, and make any revisions to the SWPPP” (emphasis added).

4.0 STORM WATER MONITORING / SAMPLING

The following comments relate to the storm water monitoring and sampling requirements in the IGP.

4.1 Increased Inspections

The table below presents the required inspections under the current IGP as well as under the proposed Permit. As shown in the table, the proposed IGP requires 484 **more** inspections per facility per year. This is 30 times more inspections than required under the current Permit.

Inspection Type (Draft IGP citation)	Current Permit	Proposed Permit
Quarterly authorized non-storm discharges (IX.B)	4	4
Quarterly unauthorized non-storm discharges	4	
Quarterly Inspections of Pollutant Sources ² (VIII.H.1.h.i)		3
Annual Comprehensive Site Compliance Evaluation (VIII.I)	1	1
Pre storm inspections ³ (IX.C.4, IX.C.6)		12
Storm water discharges (one storm event per month) (IX.C.1)	8	12
Weekly Outdoor Inspections (VIII.H.1.a.i)		52
Weekly Equipment Inspections (VIII.H.1.b.ii)		52
Daily Inspections of Outdoor Handling Equipment (VIII.H.1.d.v)		365
Total Inspections Per Facility Per Year:	17	501

The proposed IGP calls for an average of almost two inspections per day. This is excessive considering some locations in the state routinely have periods of more than six months with no rainfall.

This requirement needs to be modified to reduce redundancies and make it practical for facilities to implement.

² The Annual Comprehensive Site Compliance Evaluation counts as one of the quarterly inspections.

³ Assume 12 storm events per year.

4.2 Visual Monitoring and Sampling Safety

The IGP states that “[d]ischargers are not required to collect samples or conduct visual monitoring under the following conditions:

- a. During dangerous weather conditions such as flooding and electrical storms;
- b. Outside of scheduled operating hours” (Section XII.D.1)

If a facility operates during hours of darkness, visual monitoring and sampling could be required at times when there is no natural light (e.g. if the first four hours of a storm are during hours of darkness). This could be dangerous depending on sampling and monitoring locations and how much light is available. The Permit should be modified so that sampling and visual monitoring is only required during daylight hours as specified in the current Permit.

4.3 Additional Sampling for Facilities with Significant Land Disturbances

The IGP requires sites such as mines that have significant land disturbances to conduct sampling on each day of a storm event (Section XIII).

We have several concerns with this requirement:

- The Permit identifies facilities with “significant land disturbances” based solely on SIC Code without regard to the actual amount of disturbed area;
- The term “significant land disturbances” is not defined and it is unclear whether naturally disturbed areas (or just areas disturbed by industrial activity) are included;
- There is no mechanism to address naturally-occurring pollutants that may be present (see Section 5.1 for more discussion);
- A facility may have a large disturbed area that, due to the configuration of the site, does not discharge storm water. However, there is no mechanism in the Permit to exempt these facilities from the additional sampling requirement;
- The Permit discusses a process in which facilities can submit an Additional Sampling Exemption Request (ASER), but it is unclear whether or not Regional Board approval is required before the facility is exempt from additional daily sampling;
- There is no exception from this requirement for discharges that occur outside scheduled facility operating hours (based on the layout of the IGP, the exemption for “regular” sampling does not appear to apply to facilities with significant land disturbances). Therefore, personnel will have to report to work to take samples on days that the facility would otherwise be closed (e.g. Saturday and Sunday).

This is an excessive requirement that unfairly penalizes a few industries and should be removed from the Permit.

4.4 Group Monitoring

The IGP eliminates the Group Monitoring provision that was included in the previous version of the Permit. We have found Group Monitoring to be effective in improving storm water quality and aiding in storm water compliance:

- It reduces the burden of compliance among facilities;
- The Group Leader helps ensure that facilities are performing the required monitoring and taking the necessary samples; and
- The Group Leader can provide assistance to facilities in complying with Permit requirements.

In addition, the "Blue Ribbon Panel of Experts" noted in their report that they "recognize that economies of scale exist for large facilities and large groups of single facilities."

The Permit should be modified to reinstate the group monitoring provision.

5.0 NUMERIC LIMITS

The following comments are related to the numeric limits presented in the IGP.

5.1 Run on / Atmospheric Deposition

The IGP states that "[p]ollutants in storm water discharges caused by atmospheric deposition and/or run-on from forest fires, or any other natural disaster do not apply towards any NAL corrective action trigger determinations." However, the Permit does not waive the NAL corrective action trigger determinations for storm water run on or parameters that are outside the operator's control (e.g. atmospheric deposition at facilities that are located near freeways). The IGP needs to be revised to address this issue.

In addition, the natural background concentration of pollutants may be above the NALs. The report prepared by the "Blue Ribbon Panel" states the following:

"An important consideration in setting Numeric Limits or Action Levels is that in many locations in California the natural background turbidity and/or TSS levels in stormwater runoff are quite high. This is particularly true in semi-arid or arid regions, which tend to have less vegetative cover. ... Therefore, it is important to consider natural background levels of turbidity or TSS in setting Numerical Limits or Action Levels..."

Southern California is an arid region and many locations (especially in desert areas) lack vegetative cover. The IGP does not address these background conditions. This is especially problematic for large sites such as mines that are thousands of acres in size: even though an area may not be disturbed, the background concentration of pollutants in storm water discharges could exceed the NAL. Additionally, other requirements that are promoted by the State Water Board (Low Impact Development [LID], MS4 permit conditions, water conservation [requiring the use of native plant species]) require that a certain portion of sites be "natural."

The Fact Sheet issued with the IGP states that "[t]he values used as NALs in the General Permit provide a quantitative indicator that storm water discharges have reduced those particular pollutants using BAT/BCT. Therefore, effluent that results in a corrective action trigger as defined by this General Permit indicates that the discharger may not be employing BAT/BCT." It certainly may be possible that a facility's discharges exceed NALs because the operator is not using BAT/BCT. It is also possible that a facility is using properly functioning BAT/BCT, but the pollutant load from background sources or run on is more than the BAT/BCT can handle. In these cases, it is unfair to penalize the discharger for sources of pollutants that are naturally occurring or come from offsite sources.

The IGP must have a mechanism that allows operators to account for the incoming water pollutant load from their discharge.

5.2 Time to Implement Additional BMPs

The IGP states that when a Regional Water Board provides written comments to an NAL Exceedance Evaluation Report, "[n]o later than 90 days after receiving comments from the Regional Water Board or October 1 of the next reporting period (whichever is later), dischargers shall implement additional BMPs and SWPPP implementation measures, and revise the SWPPP in response to the Regional Water Board comments."

Depending on the nature and complexity of the comments received from the Regional Water Board, installing additional BMPs within 90 days may not be feasible. This is especially true in cases where building permits or other regulatory approvals must be obtained before the BMPs can be installed. The time limit should be removed.

5.3 No "Reset" Mechanism

The "Corrective Actions" section of the IGP outlines three (3) levels of corrective actions that a facility may have to take if an NAL Corrective Action Trigger is exceeded. This includes the provision that "if in any subsequent report year, the sampling results meet an NAL corrective action trigger" the facility must comply with a higher level of corrective action. There is no mechanism in the IGP for a discharger to "reset" to the base level (Level 0).

Consider the following scenario:

- A facility has an NAL Corrective Action Trigger in the first year of the Permit (and takes the appropriate corrective actions);
- The facility has an NAL Corrective Action Trigger again in the second year of the Permit (and takes the appropriate corrective actions);
- The facility does not exceed an NAL Corrective Action Trigger for the next 10 years;
- The following year, the facility has an NAL Corrective Action Trigger.

In this scenario, the facility would be subject to Numeric Effluent Limits (and associated fines and penalties) even though they were in compliance with the Permit for 10 consecutive years. This is an onerous requirement that is an unnecessary burden on facilities. A mechanism must be developed to avoid such a punitive result.

5.4 Suspension of Numeric Effluent Limitation (SNEL) Request

The IGP contains a provision that allows a discharger to submit a Suspension of Numeric Effluent Limitation (SNEL) request. However, there is no requirement in the Permit that the State or Regional Board act on the request within any specified period of time. Given the current response time of some of the Regional Boards, it could take years before a response is received (if ever). The Permit should be modified so that any SNEL request that is not acted on within 45 days is considered accepted.

6.0 OTHER ISSUES

The following other issues should also be addressed in the IGP.

6.1 Conditional Exclusion – No Discharge Certification Requirements

We welcome the inclusion of the "No Discharge" conditional exclusion in the Permit. However, the way that this condition is currently written, it only applies to facilities where there is no discharge from entire site.

At many mining facilities, there are hundreds of acres that do not discharge and smaller areas that do discharge storm water. This exclusion should be modified so that any portion of a facility that does not discharge storm water is not subject to the IGP. This will significantly reduce the cost of compliance for facilities that have large areas that do not discharge storm water.

6.2 Annual Report

The Permit requires that dischargers prepare and submit Annual Reports to the Regional Water Board no later than July 15 of each year. This is an extremely short time period (approximately 9 working days in a typical year) to compile all of the information necessary and prepare an annual report. Given that operators could have to review as many as 500 inspection reports and dozens of analytical reports, this is a brief period.

We request that the Annual Report deadline be moved to September 1.