



Riverside County  
**Waste Management Department**

Hans W. Kernkamp, General Manager-Chief Engineer

October 19, 2012

#75



Victoria A. Whitney, Deputy Director  
c/o Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

**RE: Comments Regarding 2012 Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities and Fact Sheet**

Dear Ms. Whitney:

The Riverside County Waste Management Department (Department) is a local municipality that would be regulated under the provisions of the 2012 Draft National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (IGP) and Fact Sheet. The subject permit shall be referred to as the 2012 Draft IGP throughout the remainder of this letter.

The purpose of this letter is to provide the State Water Board with the Department's comments and concerns regarding specific provisions of the 2012 Draft IGP and accompanying Fact Sheet. The referenced section of the 2012 Draft IGP and Fact Sheet is italicized, immediately followed by the Department's comments and/or concerns. Where appropriate, the Department also provides recommendations or alternative language for use in the IGP and Fact Sheet.

### 2012 Draft IGP Comments

*Section I.A.7., Page 2 – "Following adoption and upon the Effective Date of this General Permit (July 1, 2013), the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards) (collectively, Water Boards) can enforce the provisions herein and can conduct inspections of each Discharger's industrial facility. The Regional Water Boards can also adopt individual NPDES permits for industrial storm water discharges."*

The effective date of the IGP is referenced in numerous places in the 2012 Draft IGP. The Department suggests <sup>1</sup> that the effective date of the IGP be contingent upon the adoption date of the IGP. The Department recommends that the IGP effective date be one calendar year from the date of IGP adoption or July 1 the year following IGP adoption, whichever occurs later. This will allow permittees sufficient time to plan, change or modify operations/procedures, and allocate resources to comply with the IGP. In addition, a new training requirement is part of the 2012 Draft IGP. The State Water Board will be required to prepare IGP training curriculum under a limited timeline in order to meet the requirements of the IGP.

*Section I.A.14., Page 2 – "This General Permit requires the Discharger's Legally Responsible Person (LRP) to electronically certify and submit all documents through the State Water Board's Storm Water Multi-Application and Report Tracking System (SMARTS) website to reduce the state's reliance on paper, to improve efficiency, and to make such General Permit documents more easily accessible to the public and the State and Regional Water Boards."*

The Department <sup>2</sup> suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability to submit Permit Registration Documents (PRDs) on behalf of the LRP. Thus the Section would read as follows: This General Permit requires the Discharger's Legally Responsible Person (LRP), or Duly Authorized Representative, to electronically...

*Section I.K.58., Page 9 – "...To comply with this General Permit the Discharger shall: electronically self-report any discharge violations via SMARTS, comply with the Level 1 and Level 2 ERA requirements, when applicable, and adequately address and respond to any Regional Water Board comments on the Discharger's compliance reports."*

*Section I.N.66., Page 11 – "The NALs are not intended to serve as technology-based requirements, numeric effluent limitations, or water quality-based limitations. The NALs are not derived directly from either BAT/BCT requirements or receiving water limitations. NAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit. A Discharger that does not fully comply with the Level 1 and Level 2 ERA requirements, when required, is in violation of this General Permit."*

Section K utilizes the term "discharge violations" and Section N specifies that NAL exceedances are not permit violations. The Department <sup>3</sup> requests that Section K be edited to specify the exact discharge violations being considered. The current wording indicates that discharge violations are synonymous with NAL exceedances since Level 1 and 2 Exceedance Response Action (ERA) requirements are specified immediately following discharge violations. The Department strongly believes that NAL exceedances should not trigger a permit violation.

*Section II.A.1., Page 15 – "The Discharger shall designate a Legally Responsible Person (LRP) to register for coverage under this General Permit by certifying and submitting Permit Registration Documents (PRDs) via the Stormwater Multi-Application Reporting and Tracking System (SMARTS) (<http://smarts.waterboards.ca.gov>), which consist of:"*

The Department suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability to submit PRDs on behalf of the LRP. Thus the Section would read as follows: The Discharger shall designate a Legally Responsible Person (LRP), or Duly Authorized Representative, to register...

*Section II.C.1., Page 16 – "Existing or new Dischargers shall designate an LRP to register for NOI or NEC coverage under this General Permit by certifying and submitting PRDs in SMARTS in accordance with the schedule provided in this Section II.D-E below."*

The Department suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability to submit PRDs on behalf of the LRP. Thus the Section would read as follows: Existing or new Dischargers shall designate an LRP, or Duly Authorized Representative, to register...

*Section II.C.2., Page 16 – "The Discharger shall designate an LRP to certify and submit all PRDs and other required compliance documents via SMARTS, with the exception of annual fees, which must be mailed."*

The Department suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability to submit PRDs on behalf of the LRP. Thus the Section would read as follows: The Discharger shall designate an LRP, or Duly Authorized Representative, to certify and submit...

*Section II.C.3., Page 16 – "New PRDs shall be certified and submitted via SMARTS by the Discharger's LRP whenever there is a change to either the ownership of the facility operations or the location."*

The Department suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability

to submit PRDs on behalf of the LRP. Thus the Section would read as follows: New PRDs shall be certified and submitted via SMARTS by the Discharger's LRP, or Duly Authorized Representative, whenever there is a change...

*Section II.G., Pages 18 through 20.*

There are numerous documents in the referenced section that requires the LRP's certification and submittal. The Department suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability to submit PRDs on behalf of the LRP.

*Section IX., Pages 23 through 24.*

This Section specifies the training requirements for personnel designated by the Discharger to perform IGP compliance activities. The Department concurs that training or licensure as a Professional Engineer or Geologist allows an individual to become designated as a Qualified Industrial Storm Water Practitioner (QISP).

The Department 4 supports the training or licensure requirement to function as a QISP. However, the Department does not agree that three different levels of QISP are necessary. This causes unnecessary confusion regarding the differing roles and responsibilities of the QISP. The Department suggests that training be consolidated into a single QISP designation and that the different levels should be eliminated. Thus, all the roles specified in Table 1, except for those that require a Professional Engineer, should be completed by a QISP.

*Section XI.B.9., Page 40.*

The Department suggests that this section be amended to include the Duly Authorized Representative. The Duly Authorized Representative is similar to the Approved Signatory specified in the NPDES Construction General Permit and the Approved Signatory has the ability to submit PRDs on behalf of the LRP. Thus the section would allow the LRP or Duly Authorized Representative to submit field and analytical results via SMARTS.

*Section XII., Pages 45 through 51.*

The 2008 Draft IGP included the concept of a Compliance Storm Event and the current NPDES Construction General Permit also includes such a concept. The Department recommends that the concept of a Compliance Storm Event be incorporated into current IGP as a Design Storm Event.

The 2012 Draft IGP, Section X.H.7. includes the concept of a design storm event to design treatment control BMPs. Treatment control BMPs shall be designed to treat storm water flows or volumes up to the design storm event. Treatment control BMPs are not designed nor expected to be effective for storm events that exceed the design storm event. Accordingly, it is reasonable to expect that discharge from storm events greater than the design storm event to regularly exceed the 2012 Draft IGP specified NALs. This does not mean that the BMPs are not functioning adequately; rather, the BMPs are not designed to treat storm water discharge in excess of the design storm event.

Thus, storm events greater than the design storm event will likely result in NAL exceedances, which will in turn result in IGP required ERAs even though the treatment control BMPs could be functioning as designed. Unnecessary work would be required by the Discharger and the local Regional Water Quality Control Board to prepare and review ERAs for sites that were functioning as designed and in compliance with the IGP.

**5** The Department recommends that NALs only be applicable to storm events less than or equal to the Design Storm Event, that is the 85<sup>th</sup> percentile 24-hour storm event. ERAs would only then be triggered for storm events that are less than or equal to the Design Storm Event.

The Department also recommends that sampling should continue to be completed for all rain events that meet the definition of a Qualifying Storm Event. This will enable the State Water Board to better assess the appropriate use of questionable historic data as the State Water Board continues the ongoing evaluation of NALs and future NELs.

*Section III.K.1. and 2., Page 68.*

**6** The Department does not have a clear understanding regarding the documents that the LRP alone is required to submit and those documents that a Duly Authorized Representative can submit. The Department recommends that the preceding sections of the 2012 Draft IGP be amended as recommended by the Department, and that the subject sections be amended as follows:

1. All Permit Registration Documents (PRDs) for NOI and NEC coverage shall be certified and submitted by via SMARTS by the Discharger's LRP.
2. Other than PRDs, the LRP may designate a Duly Authorized Representative to certify and submit via SMARTS Notices of Termination (NOTs), Annual Monitoring Reports, Level 1 ERA Report, Level 2 ERA Technical Reports, Level 2 ERA Demonstration Technical Reports, or any other document on the behalf of the LRP that are required by this General Permit or requested by the Regional Water Board, State Water Board, US EPA, or local MS4.

**7** The Department also recommends that the Data Entry Person designation, currently allowed for in the Storm Water Multi-Application and Report Tracking System (SMARTS), be continued in the current form. The responsibility for the submittal and certification of information should remain with the LRP and/or Duly Authorized Representative, but data entry or information upload can be delegated to other appropriate individuals (e.g. employees, consultants, labs). The SMARTS system may need to be modified to differentiate between information that is uploaded to SMARTS (e.g. laboratory data), and when the information is formally submitted by the LRP or Duly Authorized Representative since the 2012 Draft IGP requires submittals in addition to the annual report.

**Fact Sheet Comments**

*Section I.A., Page 3 – “The State Water Resources Control Board (State Water Board) concludes that it is infeasible to require compliance with NELs at this time.”*

*Section I.B., Pages 4 through 8.*

*Section II.D.4., Pages 20 through 21.*

The Department agrees with and supports the State Water Board's conclusions that “it is infeasible to require compliance with NELs at this time.” The Department recognizes that the methodology the EPA utilizes to establish effluent limit guidelines is comprehensive and that the State Water Board does not have sufficient data to complete a similar methodology to establish NELs. The Department supports the continued collection of meaningful storm water discharge data to enable the future establishment of NELs, when technically feasible and economically reasonable.

*Section I.D.5., 6., 8. and 9., Pages 10 and 11*

Please refer to the Department's comments regarding the 2012 Draft IGP Section XII.

*Section II.A.3., Page 15*

Please refer to the Department's comments regarding the 2012 Draft IGP Section I.A.7.

*Section II.H., Page 23.*

Please refer to the Department's comments regarding the 2012 Draft IGP Section IX.

*Section II.I.3., Page 29 – "This General Permit specifies a design storm standard for use when treatment control BMPs are installed. This shall give Dischargers certainty as to the minimum storm water volumes and flows subject to treatment that will be presumed to satisfy compliance with BAT/BCT. Dischargers who treat less volume or flow, or have installed treatment and/or structural controls which do not prevent exceedances of the NAL values, are required to complete an ERA Level 2 Technical Report justifying that treatment BMPs that do not satisfy the design standards are compliant with BAT/BCT. This General Permit does not necessarily require a Discharger to retrofit existing treatment and/or structural controls that do not meet the design storm standard, unless the Discharger is required to do this in order to meet either the technology or water-quality based limitations in this General Permit."*

Please refer to the Department's comments regarding the 2012 Draft IGP Section XII.

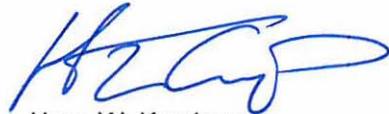
In addition, the subject section of the Fact Sheet further supports the Department's assertion that the Design Storm Event should be the upper limit of NAL applicability. Treatment BMPs designed to the Design Storm Event "shall give Dischargers certainty as to... satisfy compliance with BAT/BCT." Therefore, it seems inconsistent that Dischargers are required to perform ERAs when treatment BMPs designed for the Design Storm Event, which satisfy compliance with BAT/BCT, result in discharge that exceeds NALs when a storm event is greater than the Design Storm Event.

The Department commends the State Water Board on their effort and persistence to create the 2012 Draft IGP. The Department supports the Regional Board's effort to minimize adverse impacts to storm water quality from industrial facilities in California.

While the 2012 Draft IGP is a good start to that end, and the Department supports many changes from the existing IGP to the 2012 Draft IGP, the Department's comments in this letter convey our opinion that portions of the 2012 Draft Permit should be clarified or changed. The Department's comments are submitted with the intent to create an IGP that is clear in meaning, can be reasonably complied with, and creates a known water quality benefit with justifiable resource expenditure.

If you have any questions regarding the information provided herein, please feel free to contact Todd Shibata of my staff at (951) 486-3200.

Sincerely,



Hans W. Kernkamp  
General Manager–Chief Engineer

HWK/JRM/ACMD:tds

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