Corona Plant
3M Industrial Mineral
Product Division

18750 Minnesota Road
Corona, CA 92881
909 737 3441

SPECIAL HEARING
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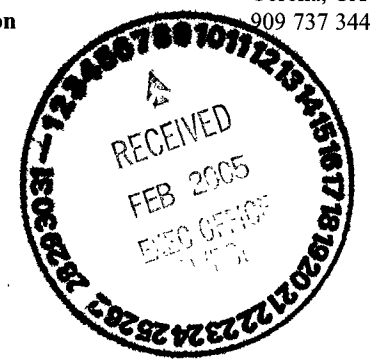

3M

Ms. Debbie Irvin
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Post Office Box 100
Sacramento, California 95812-0100

January 31, 2005

RE: Reissuance of NPDES General Industrial Stormwater Permit

I have reviewed the draft of the proposed updated General Industrial Permit for Stormwater and would like to offer the following comments:

1. Page 12 discusses good housekeeping as one of the minimum BMPs to be implemented. It further states that "dischargers shall inspect...perimeter areas impacted by off-facility materials or stormwater run-on to determine housekeeping needs."

   It appears that the intention is that facility operators are responsible for inspection and clean up of remote areas that may be the result of poor housekeeping by another facility that may or may not be required to comply with this permit, or due to other non-industrial off-site reasons. For large facilities this may not be feasible. For example, in a facility with several hundred or more acres, particularly when a large portion of that facility is buffer and is not used for industrial activities, inspecting perimeter areas may not be possible due to both size and access issues.

2. Spill Response Procedures on page 13 require identification and training of appropriate spill response personnel. The feasibility for this may vary greatly, depending on the type of facility, type of materials potentially spilled, and number of employees. Because of the strict requirements for spill clean up personnel under the HAZWOPER regulations (29 CFR 1910.120), many facilities are limited to only the most basic on-site spill response activities and must rely on off-site responders to handle many emergencies. Most facilities simply do not have the manpower and expertise to handle the training required at the HAZWOPER level, and as such, spill response teams and training must be limited largely to spills of non-hazardous materials and very small spills of hazardous materials only when they can be considered to be expected as part of normal day to day operations.

3. Material Handling/Waste Management Procedures on page 13 requires facilities to "cover waste disposal containers when not in use." Many facilities use full size roll off bins (typically 30 cubic feet) that either do not have covers or when they do, the facility does not have the equipment to manipulate the opening and closing of them. Covering these containers may not be possible from an engineering and/or employee safety standpoint.

4. Sampling exceptions are allowed for dangerous weather conditions such as flooding or electrical storms. It should be noted that some facilities may be subject to dangerous conditions which are not directly weather related. As an example, the 3M Corona facility is a surface mining operation with all discharge points on Temescal Wash, which bisects the property. At night, there is no lighting and the creek may be fast flowing. In addition, wild animals may be present. Samples are taken right at the creek bank in remote areas away from actual production activities. All sampling taking place during dark is considered dangerous; therefore, no samples are taken during that time. Exceptions should also be granted for unique situations such as this.

5. Page 19 states that if samples exceed the USEPA benchmark values, samples must also be collected from the next two consecutive qualifying events. In areas of limited rainfall, such as most of Southern California, it may be very difficult to get two more qualifying events unless you include events into the next storm season.

6. Page 21 states that all samples must be received by the laboratory within 48 hours of physical sampling. Under most circumstances this is not an issue. However, for samples taken between late afternoon on Fridays up to approximately 8 or 9 am on a Saturday morning, it will be impossible to get samples to the lab within 48 hours because most labs are closed for business until about 8 am Monday morning. For employers that ship samples, rather than hand delivering them, it is unlikely they could get delivery before 10 am and do not have the ability to dictate the delivery schedule to shipping companies. Exceptions to the 48 hour requirement will need to be granted during weekends and holidays, or there must be an exemption from sampling during those times.

7. Page IV of the Fact Sheet states "This General Permit also includes benchmarks for these parameters. The benchmarks are derived from USEPA's multi-sector permit. USEPA allows dischargers to discontinue sampling if the discharges are below the benchmarks, and instructs dischargers to 'consider' inclusion of improved BMPs if the discharges are 'considerably above' the benchmark levels. In this General Permit, there is no reduction in sampling based on benchmark levels, and, if the discharges are above one or more benchmarks, the discharger must revise its SWPPP to improve BMPs and must sample the next two consecutive qualified storm events."

   The SWRCB appears to be using these benchmark levels in a manner that is markedly different from USEPA. It would be useful to understand the source of the EPA benchmarks, to better understand how they were established.

   EPA asks dischargers to consider improved BMPs if discharges are "considerably above" benchmarks; yet, the SWRCB requires a series of activities for **any** incursion over these benchmark levels. Further, no evidence is provided to show that these benchmark levels are reasonable to attain for all types of facilities and in all circumstances. No information is provided to show if any industrial facilities are currently able to maintain these levels.

Without this information, it is impossible to determine the feasibility or reasonability of achieving these levels.

It would also be useful to know if these levels can be achieved in non-industrial circumstances such as parking lots of non-industrial facilities, normal landscape activities, or even residential homes. If they cannot be achieved in these environments, it is highly unlikely that they can be achieved and maintained in the majority of industrial settings.

The SWRCB states in the draft permit that "Based on the SWRCB's review of baseline analytical results collected over the next five years...it is the SWRCB's intent to determine whether numeric effluent limitations can be scientifically supported in the next general permit." Whether the SWRCB agrees or not, use of these benchmark levels in the manner described will indeed have the effect of establishing numeric effluent limitations on industrial facilities. The statement "determine if they can be scientifically supported" clearly indicates that such an evaluation has not been made with these benchmark levels. Thus, to establish this requirement without this information and without adequate evaluation can be construed as arbitrary and capricious. This level of compliance may be impossible to attain due to a variety of circumstances, and could result in extraordinary effort, extreme financial impact, a requirement to sample all storm events, and may not result in any actual improvement to the environment. I strongly encourage the SWRCB to re-evaluate this requirement and provide the public with appropriate research and evidence to prove that this is an even remotely feasible requirement.

Thank you for the opportunity to comment on this document. Please continue to keep me informed of further activity on the proposed permit. Should you have any questions regarding these comments, I may be reached at (951)737-3441, extension 149.

Sincerely,

Roberta A Reed

Roberta A. Reed
Environmental Health and Safety Engineer