



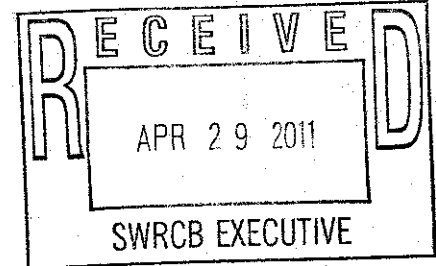
Public Comment
Draft IGP
Deadline: 4/29/11 by 12 noon

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April 29, 2011

Via Electronic Mail: Commentletters@waterboards.ca.gov

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Subject: Comments on the Draft NPDES General Permit for Storm Water Discharges
Associated with Industrial Activities
NPDES No. CAS000001

Dear Ms. Townsend:

Georgia-Pacific LLC (Georgia-Pacific) appreciates the opportunity to submit the following comments on the draft NPDES General Permit for Storm Water Discharges Associated with Industrial Activities, NPDES Permit No. CAS000001 (CA SWGP). Georgia-Pacific has over 300 manufacturing facilities across North America, South America and Europe, ranging from large facilities, such as pulp, paper and tissue operations; to moderately sized facilities, such as gypsum plants, chemical plants, and building products complexes; to small facilities, such as Dixie[®] product plants and corrugated container plants. Georgia-Pacific has several operating facilities in California including two gypsum board plants, a gypsum paper mill and seven corrugated container plants. These facilities possess NPDES storm water permits and will be affected by the proposed changes to this permit.

Georgia-Pacific also operates in a number of states in the U.S. under state-issued and US Environmental Protection Agency (EPA) issued general storm water permits. These permits range from the EPA multi-sector general permit (MSGP), to permits in states such as Louisiana and South Carolina that issue permits modeled after the EPA MSGP, to permits in states such as Wisconsin and Illinois (and formerly California) that have permits modeled and evolved from the original EPA 1992 Industrial General Permit. However, the draft CA SWGP presents a substantial departure from permits issued by EPA and almost every other state in the U.S. The draft CA SWGP will impose a significant economic burden on those businesses still present in California's current business environment. Additionally, we believe these additional burdensome measures and their high cost will only offer marginal improvements in storm water quality.

Therefore, we respectfully request the State Water Resources Control Board abandon the draft CA SWGP in its present form, and instead, adopt a multi-sector permit modeled after the EPA MSGP and supported by EPA's substantial supporting publications and guidance. We are also providing the following specific comments to illustrate the burdens and issues that would be imposed by the draft CA SWGP:

Comments:

Page 2, Paragraph I.A.7 – This item states that the existing permit (97-03-DWQ) will be repealed upon the effective date of the new permit. However, we believe that coverage should continue under the existing permit for an existing permittee until a new Notice of Intent (NOI) is filed (within a specified time period) or until the 90 day period for SWPPP preparation is completed following the issuance of the new permit as described in Paragraph VIII.B.2. There should be no gaps of permit coverage between the existing permit and the time requirement to submit an updated SWPPP with the application for a new permit.

Page 6, Paragraph I.E.39 – We respectfully disagree that Numeric Action Levels (NALs) should be converted to Numeric Effluent Limitations (NELs) following a tiered compliance strategy. NALs, or “Benchmarks”, were developed by EPA for the 1995 MSGP to assess performance of best management practices (BMPs) utilized for storm water. They were never intended to be effluent limitations as described below in this excerpt from EPA’s permit:

The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such. These values are merely levels which EPA has used to determine if a storm water discharge from any given facility merits further monitoring to insure that the facility has been successful in implementing a storm water pollution prevention plan. As such these levels represent a target concentration for a facility to achieve through implementation of pollution prevention measures at the facility. [60 FR 50825]

EPA and most other states set up a compliance strategy that allows for increased scrutiny of BMPs and ultimately, the potential for revocation of the general permit for those dischargers that cannot meet the storm water benchmarks. The use of benchmarks in the manner described by the CA SWGP is an inappropriate use of benchmarks as described above.

Page 7, Paragraph I.E.44 – We agree that certain minimum BMPs may be appropriate for all facilities. However, as described later in the permit, we believe that the slate of minimum BMPs specified in the CA SWGP is unreasonable, and does not give facilities (ranging from large to small facilities, and simple to complex facilities) sufficient flexibility in tailoring the most effective BMPs to their site-specific conditions.

Page 7, Paragraph I.E.47 – This paragraph asserts the imposition of Mandatory Minimum Penalties (MMPs) for those facilities that fail to take “appropriate corrective action.” While “appropriate corrective actions” are not defined here, it is extremely disconcerting that minimum penalties may be automatically applied to dischargers who may have attempted in good faith to address storm water quality issues, but do not meet a subjective opinion of being “appropriate.” We believe that such automatic penalties will present a problem for both dischargers and regulators in either assisting dischargers in unique storm water situations or in dealing with the very, very few dischargers at which this part appears to be aimed.

Page 8, Paragraph I.F.49 – This paragraph states that dischargers to impaired waters are required to “evaluate potential industrial pollutants that are related to the impaired receiving waters and to analyze for additional sampling parameters.” We believe this statement is vague and should only require an evaluation for the pollutant for which the water is impaired, or if it is a water quality standard such as dissolved oxygen that is impaired, only those pollutants that could

directly contribute to the impairment (i.e., biochemical oxygen demand and total nitrogen) should be evaluated and sampled.

Page 8, Paragraph I.G.49 – We completely disagree with the SWRCB that a special role of Qualified SWPPP Developer (QSD) is required. EPA has long recognized that the operator possesses the best people to develop and certify the SWPPP [60 FR 50819], and that the involvement of professionals such as Professional Engineers (P.E.) is not required even for facilities handling higher risk 313 water priority chemicals. Based on our experience with developing plans internally versus using consultants, it will cost an average of \$7,000 for each of the 11 GP plants in California (which are small operations) for a total of \$77,000 to utilize a QSD. Furthermore, we have found that external preparation of plans often leads to inaccuracies in the plans themselves due to consultants' unfamiliarity or misconceptions with site operations. We believe this requirement should be completely removed.

We also disagree that external government-led training for the role of Qualified SWPPP Practitioner (QSP) is necessary as a required component. We have found that training specific to GP operations is the most relevant and the most pertinent to compliance with permits and regulations. Considering the demands on environmental professionals' time by all media, additional training requirements and exams will only increase the time away from the day to day compliance attention required at a facility. If the SWRCB wishes to offer optional training to dischargers that do not have other training options, then that is certainly understandable and would be supported.

Page 8, Paragraph I.L.59 – The requirement for a P.E. to certify that a site does not discharge storm water associated with industrial activity is unprecedented and overly burdensome to a number of small businesses and small facilities throughout the state that simply do not have activity outside but register as required to certify no exposure. Neither EPA nor any of the other states require this excessive step. While we are not aware of the number of small businesses in California that will be compelled to take this step **because they are not causing an impact**, the overall cost for this step to business will be quite large and will provide little environmental benefit. This requirement should be removed from the permit.

Page 11, Paragraph II.P.3 – The Permit Registration Document (PRD) submittal requires the submittal of the SWPPP. We do not believe the submittal of the SWPPP with the NOI provides any additional environmental benefit. Neither EPA nor most other states require this provision in their permits, and only require the SWPPP to be available upon request to the agency and/or public. The SWRCB can require a 48 hour submittal of a SWPPP if requested by the SWRCB for its or the public's use. Furthermore, we believe that the 90 day requirement to prepare an accurate SWPPP incorporating the new and many requirements of the draft permit using a QSD who must also schedule and take specific, new training courses and exams is certainly not enough time to prepare an appropriate plan. We believe that the time period needed to prepare a revised SWPPP to meet the myriad of new requirements is six months. We request the removal of this requirement to submit a SWPPP with the NOI for reapplication.

Page 12, Paragraph II.Q.1-3 – Please refer to the comment for Paragraph I.A.7. It appears there is a potential for a gap in coverage if the effective date of the permit and the 90 day allowance to prepare a SWPPP are not well coordinated and thought out. Also, please reference the above comment as to the inadequacy of the 90 day allowance for preparation of a revised SWPPP.

Page 15, Paragraph V.D. – Please refer to the comment for Paragraph I.E.39. We do not believe that NALs should be converted into NELs.

Page 15 and 16, Paragraphs VII.A and VII.B – Please refer to the comments for Paragraph I.G.49. We are also puzzled by the inclusion of licensed professionals such as geologists and landscape architects as potentially qualified to be a QSD when certain unlicensed professionals, such as environmental scientists or chemists that are not allowed would likely have more relevant knowledge of the interactions involved in controlling pollutants in storm water management. Additionally, if a QSD must develop a compliant plan that is to be submitted within 90 days of the effective date of the permit, yet the QSD does not have to take the training and exam for one year after the effective date of the permit, it appears that the SWRCB will have received a number of plans with NOIs that will appear noncompliant to the SWRCB and public. We believe the requirement for a QSD using licensed professionals and specific training and exams is not well conceived and will lead to much confusion and problems with the development of a revised SWPPP.

Page 17, Paragraph VIII.B.2 – Please refer to the comment for II.P.3.

Page 18, Paragraph VIII.D.1 – The preparation of a SWPPP checklist is redundant to the preparation (and required submittal under this permit) of an accurate SWPPP. While we believe the availability of such a checklist as a resource to the SWPPP preparer would be helpful, we do not believe the submittal of yet another item to the SWRCB will provide any additional assurance of compliance that the SWPPP itself does not provide.

Page 19, Paragraph VIII.D.3.b – Federal rules regarding Spill Prevention Control and Countermeasure (SPCC) plans do not address spills of hazardous materials. These plans are required under 40 CFR 112 to address required measures for oils, not hazardous materials.

Page 20, Paragraph VIII.G.1 and 2 – The requirement to describe the “approximate quantity of significant materials” in the SWPPP will be difficult for many sites since the amount of materials (whether raw, intermediate or finished) stored can change dramatically depending on a number of factors. The description requirement also does not differentiate between materials stored inside versus those stored outside or exposed. In Paragraph 1, we suggest that “approximate quantity” should be replaced by “locations of materials that are stored in areas exposed to storm water”. In Paragraph 2, we suggest that “quantity of significant materials” should be replaced by “locations of materials that are stored in areas exposed to storm water”.

Page 22, Paragraph VIII.H.1 – The minimum requirement to perform weekly inspections in Paragraph 1.a.i is unnecessary and excessive. Other regulatory inspections, such as required monthly inspections under the Steel Tank Institute Specification SP001 for aboveground tanks used extensively in SPCC plans, are focused on monthly inspections. SPCC and storm water inspections are often conducted jointly since they consider many of the same features. In separating the two inspections, the CA SWGP has now dramatically increased the inspection recordkeeping requirements in these areas. This requirement for the CA SWGP will also necessitate changing SPCC plans if a different inspection checklist or time frequency must be used that changes the way inspections are currently performed. We believe the frequency should not be specified, since site specific conditions would dictate the most appropriate inspection frequency.

Page 23, Paragraph VIII.H.1.bii – We believe the requirement to inspect weekly each of the systems for preventative maintenance, regardless of the equipment or operation, is overly prescriptive. This requirement should only be periodic with a frequency established in the plan based on a consideration of the equipment and activity.

Page 24, Paragraph VIII.H.1.d.v – We believe the requirement to clean daily any outdoor material or waste handling equipment is unnecessary in many cases. Some equipment is completely sealed and does not require regular cleaning. Other equipment, depending on the material being handled (such as forklifts handling rolls of corrugating material) do not quickly become dusty or dirty from this operation. This requirement should only require a periodic cleaning based on a consideration of the activity with the frequency established in the plan by the SWPPP developer.

Page 26, Paragraph VIII.H.1.g.5 – We believe the requirement to control run-on to within NALs cannot be legally accomplished since we cannot control off-site operations. We request the removal of the section of the paragraph which states, "... or shall collectively not exceed the NALs in this General Permit."

Page 27, Paragraph VIII.I. – The requirement allows 90 days for revising and implementing revisions to the SWPPP. There may be circumstances that may require letting of bids, purchasing, staging and construction that could easily exceed 90 days. We suggest the phrase, "...implement the revisions within 90 days of the evaluation" be modified to "implement the revisions within 90 days of the evaluation, or establish a schedule in the SWPPP within 90 days for items that may require additional time to complete."

Pages 28 and 29, Paragraph IX.B.1 through 4 – The SWRCB has already specified weekly site inspections for housekeeping and in this section, the CA SWGP specifies an additional quarterly inspection for non-storm waters. We believe that regular site inspections, which are typically done on a monthly schedule at many facilities and specified by other states in their state permits, serve as the appropriate time to inspect a number of areas, including the presence of non-storm waters. Several states also require annual certification of the presence of non-storm waters. This requirement is another example of an additional burden that will not provide any environmental benefit. This requirement should be removed.

Page 29, Paragraph IX.C.4 – This requires inspections of storm water prior to any anticipated storm events. Regular site inspections, as described above, are sufficient as designed by the storm water preparer for the specific site. A failure to conduct this inspection prior to a storm event would be a violation of the permit, regardless of the time of day at which the storm is anticipated to occur. Additional records must then also be kept of this inspection, which increases the recordkeeping burden. This requirement should be removed.

Page 30, Paragraph X.A – This requires all dischargers to sample the first event of each quarter. If this event is not sampled then this provision requires all subsequent events in the quarter to be sampled. It is unclear if this is the intent or this provision is misworded (should "events" be "event"). We also believe the requirement to sample the first event of the quarter is not consistent with EPA or other states' permits and should be a simple requirement to sample a qualifying event in the quarter.

Page 30, Paragraph X.B. and C. – These sections require Level 2 and 3 dischargers to sample the first two events of each quarter and every event in the quarter, respectively. We also believe the requirement to sample designated event of the quarter is not consistent with EPA or other states' permits and should be a simple requirement to sample one qualifying event in the quarter. The requirement to sample every event for a Level 3 discharger may lead to the collection of unnecessary data and expense if a long-lead time capital modification is being implemented.

Page 30 and 31, Paragraph X.E. and F. – These sections do not provide for storm events that may meet the criteria presented in these paragraphs, yet do not result in a discharge from an outfall. We suggest the inclusion of language in this section that clarifies it is not a violation of the permit if a sample is not collected when a discharge is not present.

Page 31, Paragraph X.G. – This section does not allow for the use of representative outfalls for similar drainage areas in which the activities are similar. This is a common feature of the EPA MSGP and other states' general storm water permits. This is another example of an increase of the regulatory burden by adding additional sampling costs with no real environmental benefit.

Page 31, Paragraph X.H. – The inclusion of specific conductance as a monitoring parameter is unwarranted and unreasonable. This monitoring requirement should only be targeted at dischargers that are located on impaired streams with documented conductivity impairments. The broad requirement to conduct this monitoring statewide will lead to the collection of meaningless data in most cases. This is not a required sampling parameter in the EPA MSGP or other states' general storm water permits. This requirement should be removed.

Page 32, Paragraph X.H, Table 1 – EPA methods 160.2 and 413.2 are no longer 40 CFR 136 approved methods and should be replaced by the appropriate approved 40 CFR 136 methods in Table 1.

Page 32, Paragraph X.H.I – This section requires the use of analytical test methods listed in *Table 4 – Parameter NAL Values, Test Methods, Detection Limits, and Reporting Units*. Limiting facilities to using these test methods is overly restrictive. The EPA, in 40 CFR 136, approves the use of many different test methods, in addition to those methods prescribed in *Table 4*. By eliminating the option of using approved, alternative methods to those listed, this permit presents great potential for a facility to fail to comply with permit requirements since many labs currently may use the one or more of the alternative methods. This overly restrictive requirement provides no environmental benefit and should be removed.

Page 32, Paragraph X.K. – Field testing of TSS is not possible. This requirement should be removed from the permit.

Page 32, Paragraph XI.B. – Receiving waters cannot always be easily accessed by a discharger. The requirement to sample the receiving waters for hardness should be removed. This requirement is not consistent with EPA or other states' permits.

Page 34, Table 4 – EPA methods 9040, 160.2 and 413.2 are no longer 40 CFR 136 approved methods and should be replaced by the appropriate approved 40 CFR 136 methods in Table 4.

Page 35, Paragraph XII.B. – This section allows for the combination of samples from separate outfalls. The EPA MSGP and most other states' general permits call for sampling of separate

outfalls and the use of representative outfall monitoring. The combination of outfall sampling will present problems (e.g., no discharge from certain outfalls for certain storm events). We believe the use of representative outfalls as conceived by EPA is still the best method.

Page 35, Paragraph XII.C. – This section requires a separate Monitoring Implementation Plan (MIP). This is yet another recordkeeping burden for a separate plan. The requirements for sampling are typically specified in the SWPPP. The requirement for a separate MIP does not provide any environmental benefit and increases costs.

Page 36, Paragraph XIII.B. – The requirement to sample additional days of a storm event for facilities with land disturbances is unprecedented in storm water general permits for industrial activity. This requirement will cause these facilities to have substantially increased costs with no clear intent for the reason for this sampling. This requirement should be removed from the permit.

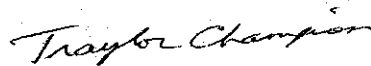
Page 37 and 38, Paragraph XVI.A. – The requirement for a discharger to conduct 10 consecutive quarters of monitoring with no exceedances of the NALs is much more stringent than the EPA MSGP, which only requires four consecutive quarters of sampling in the second year, and allows averaging of the NALs. The use of the NALs in this manner is functionally equivalent to a limit, since a single exceedance puts a discharger into the Tier 2 corrective action, rather than allowing correction of a minor issue. We suggest the SWRCB adapt EPA's approach of monitoring 4 quarters in the second year of the permit, with the average being used to determine if additional monitoring is required in the fourth year of the permit.

Page 38, Paragraph XVI.C. – The requirement for the QSD to certify a Sampling Reduction Request is another unnecessary cost. Sampling results must be provided by laboratories that certify the results, or by on-site personnel that certify the data measured. The use of a QSD for an additional certification presents another time-consuming and costly step that adds no environmental benefit. This requirement should be removed from the permit.

Page 38 through 43, Paragraph XVII. – The Corrective Action system described in this section is overly burdensome due to the numerous steps and added recordkeeping steps to meet benchmarks levels. We urge the SWRCB to study and utilize the approach that EPA has developed and used in the EPA MSGP, which is a much more reasoned and logical approach to BMPs and benchmarks. The final level (Level 3) in which the NAL are converted into Numeric Effluent Limits is counter to the basis and rational behind EPA MSGP benchmarks. We urge the SWRCB to delete this approach and follow the EPA MSGP methodology for corrective actions.

We appreciate the opportunity to submit comments on the above proposed permit. If you have any questions regarding our comments, please contact me at (404) 652-4776.

Sincerely,



Traylor Champion
Vice President – Environmental Affairs
Georgia-Pacific LLC

