

# **“When It Rains, It Pours”**

## **Learning to Comply with California’s New Industrial Storm Water Permit**

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- **Ryan Waterman**, Brownstein Hyatt Farber Schreck, LLP

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# Who We Are, Who You Are

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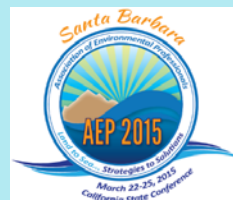
## Who You Are

## Who We Are

**David Innis**, Central Coast RWQCB

**Joe King**, Sespe Consulting

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Farber Schreck, LLP



# Presentation Goals

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1. Start your compliance efforts **now**
2. Anticipate compliance over **multiple** years
3. Highlight **key** Industrial General Storm Water Permit (IGP) changes

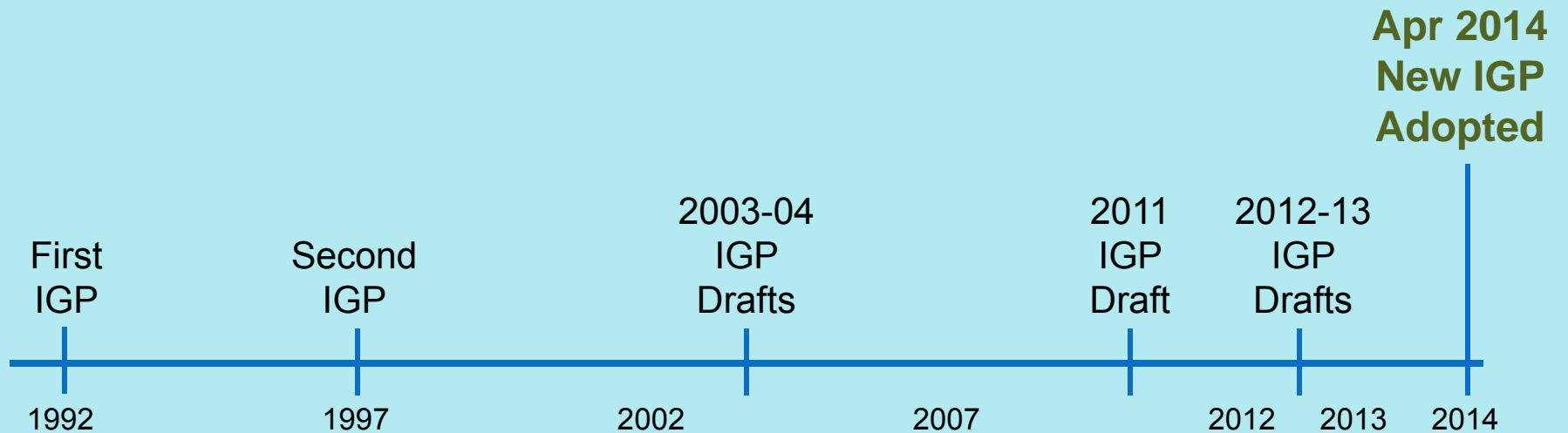


# Legal Basis of Permit

# History of the New IGP

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## Background/Context



# What triggers IGP coverage?

- Legal basis for IGP coverage
  - Clean Water Act (Federal)
  - California Water Code (Porter Cologne Water Quality Act)
- Designated dischargers and SIC codes
  - Recertification of existing permittees by July 1, 2015



ATTACHMENT A FACILITIES COVERED BY NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES (GENERAL PERMIT)	
1. <u>Facilities Subject To Storm Water Effluent Limitations</u> <u>Exclusions: Non-Storm Water Pollution Discharges, or</u> <u>Non-Industrial Point Sources, Listed in 40 Code of</u> <u>Federal Regulations, Chapter I, Subchapter I,</u> <u>(Subchapter I)</u>	status or a general permit under Subtitle C of the Federal Resource, Conservation, and Recovery Act.
2. <u>Manufacturing Facilities</u> Facilities with Standard Industrial Classifications (SICs) 2000 through 3900, 4201 through 4205. (This category covers categories 2 and 10 of the previous general permit.)	Landfills, land application sites, and open dumps that receive or have received industrial waste from any facility within any other category of this Attachment, including facilities subject to regulation under Subtitle D of the Federal Resource, Conservation, and Recovery Act, and facilities that have accepted wastes from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance).
3. <u>Oil and Gas Mining Facilities</u> Facilities classified as SICs 1300 through 1400, including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 Code of Federal Regulations, 434.111) because the performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act authority has been released, or except for areas of non-coal mining operations which have been released from appropriate State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with any construction, raw material, intermediate products, finished products, by-products, or waste products located on the site of such operations. Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator. Inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined material, or sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.	Landfills, land application sites, and open dumps that receive or have received industrial waste from any facility within any other category of this Attachment, including facilities subject to regulation under Subtitle D of the Federal Resource, Conservation, and Recovery Act, and facilities that have accepted wastes from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance).
4. <u>Hazardous Waste Treatment, Storage, or Disposal</u> <u>Facilities</u> Hazardous waste treatment, storage, or disposal facilities, including any facility operating under interim Order 2014-0057 (DWQ)	Landfills, land application sites, and open dumps that receive or have received industrial waste from any facility within any other category of this Attachment, including facilities subject to regulation under Subtitle D of the Federal Resource, Conservation, and Recovery Act, and facilities that have accepted wastes from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance).
5. <u>Landfills, Land Application Sites, and Open Dumps</u>	Landfills, land application sites, and open dumps that receive or have received industrial waste from any facility within any other category of this Attachment, including facilities subject to regulation under Subtitle D of the Federal Resource, Conservation, and Recovery Act, and facilities that have accepted wastes from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance).
6. <u>Recycling Facilities</u>	Facilities involved in the recycling of materials, including metal scrapyards, battery recyclers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5010 and 5090.
7. <u>Steam Electric Power Generation Facilities</u>	Any facility that generates steam for electric power through the combustion of coal, oil, wood, etc.
8. <u>Transportation Facilities</u>	Facilities with SICs 4000 through 4000 (except 4201- 25) and 5017 with vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility involved in vehicle maintenance (including vehicle rehabilitation, mechanical repair, painting, fueling, and lubrication) or other operations identified under this Permit as associated with industrial activity.
9. <u>Sludge or Wastewater Treatment Works</u>	Facilities used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge, that are located within the confines of the facility, with a design flow of one million gallons per day or more, or required to have an approved pretreatment program under 40 Code of Federal Regulations part 403. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and are not physically located in the confines of the facility, or areas that are in compliance with Section 402 of the Clean Water Act.



# When Does Permit Apply and to Whom?

# Discharges Covered by IGP

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- **Notice of Intent Coverage (NOI)**
  - July 1, 2015
- **Inactive Mining Operation**
  - July 1, 2015
- **No Exposure Certification Coverage (NEC)**
  - October 1, 2015



# Permit Applicability

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**Permit only applies to certain “industrial activities”**

- **Facilities subject to federal Storm Water Effluent Limitations Guidelines, New Source Performance Standards, or Toxic Pollutant Effluent Standards**
- **Manufacturing Facilities**
  - **With SIC Codes 20XX through 39XX and 4221 through 4225**
- **Oil and Gas / Mining Facilities**
- **Hazardous Waste Treatment, Storage, or Disposal Facilities**

# Permit Applicability

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**Permit only applies to certain “industrial activities”  
(cont.)**

- **Landfills, Land Application Sites, and Open Dumps**
- **Recycling Facilities**
- **Steam Electric Power Generating Facilities**
- **Transportation Facilities**
- **Sewer or Waste Water Treatment Works**



# Permit Applicability

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## **“Industrial activities”**

**Must consider the industrial activities of the facility**

- **A school district’s primary activity is teaching students in schools (not subject to the IGP)**
- **However, the school district’s bus garage may be subject (due to vehicle maintenance activities)**



# Permit Applicability

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## Waters of the U.S.

- Permit only applies to subject industrial facilities that discharge storm water to “Waters of the United States”
- If no discharge to Waters of the U.S., do not need Permit Coverage:
  - The site does not discharge storm water; or
  - Storm water discharges do not reach Waters of the U.S.

# Coverage Types, Deadlines, and Compliance Obligations

# **Notice of Intent (NOI) – “Regular” Coverage**

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**Most subject facilities will have to obtain coverage under the permit:**

- **Facility Must be in compliance with the new permit by July 1, 2015:**
  - **SMARTS registration**
  - **Upload SWPPP**

# No Exposure Certification (NEC)

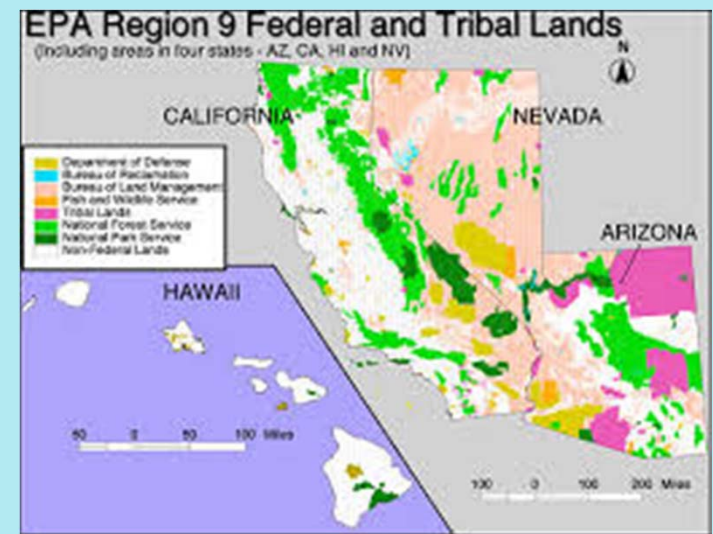
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- Storm water discharges not exposed to industrial activity
- Filing in SMARTS by October 1, 2015
  - No Exposure certification + Site Map + \$200 fee
- Annually: inspect, recertify, update, pay annual fee



# Discharges Not Covered by IGP

- Notice of Non-Applicability (NONA)
- Other examples



# Notice of Non-Applicability (NONA)

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1. Facility must contain *maximum historic precipitation event*, without discharge to waters of U.S., OR
2. Be located in area *not hydrologically connected* to waters of U.S.



# Summary of Major Changes in the Permit

# Significant Changes

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## #1 – Conditional Exemption

**Many light industries that conducted operations indoors were exempt from the previous permit:**

- Did not have to register, pay fee, or prepare a SWPPP**

**The new permit requires registration and payment of an annual fee (usually for NECs)**

# Significant Changes

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## #2 – New Qualifications

**New storm water qualifications created by IGP:**

- **Qualified Industrial Storm Water Practitioner (QISP)**
- **Trainer of Record (ToR)**



# Significant Changes

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## #3 – BMPs

**BMPs were suggested in previous permit**

**New IGP contains Minimum and Advanced BMPs that must be implemented “to the extent feasible”**

**New Treatment Control BMPs must be designed to meet specified standards in the permit**

- **Volume-based standard**
- **Flow-based standard**

# Significant Changes

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## #4 – SMARTS

**All storm water compliance activities will be documented in “SMARTS” - Storm Water Multiple Application and Report Tracking System**

- **SWPPPs, sample results, annual reports, etc. will be filed in this online system**
- **No more paper submittals**



# Significant Changes

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## #5 – NALs / ERAs

### Numeric Action Levels (NALs) and Exceedance Response Actions (ERAs)

- NALs are action levels not discharge limits:
  - Exceeding NALs is not a permit violation
- NAL Exceedances trigger actions
  - Not completing the required actions is a permit violation

# Significant Changes

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## #6 – Monitoring

- “Rainy Season” eliminated
  - Samples collected all year long
- Four samples required per year:
  - 2 in first half of year; and
  - 2 in second half of year



# Significant Changes

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## #7 – Monitoring

**Samples must be collected within:**

- **The first 4 hours of discharge; or**
- **The first 4 hours of facility operation (if discharge began in the previous 12 hours)**

**(Previous permit: samples collected within the first hour of discharge)**



# Significant Changes

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## #8 – Monitoring

**pH samples must be analyzed within 15 minutes of collection:**

- **Will require dischargers to analyze samples in the field**



# Significant Changes

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## #9 – Discharges to Special Waters

**Discharges to water bodies with special status comes with additional requirements, including:**

- **303(d) and Total Maximum Daily Load (TMDL) listed waters**
- **Direct discharge to Pacific Ocean and**
- **Areas of Special Biological Significance (ASBS)**

# Storm Water Pollution Prevention Plan (SWPPP)

# SWPPP

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**SWPPPs must be prepared and uploaded to SMARTS:**



- **By July 1, 2015**
- **Within in 30 days of a significant revision**
- **Every three (3) months if there are revisions that are not significant**

**Keeping SWPPPs up-to-date will be important under the new permit!**

# SWPPP

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**Anyone can prepare a SWPPP**

- **No special certification required**

**If the facility enters Level 1 Status, the SWPPP must be reviewed by a Qualified Industrial Storm Water Practitioner (QISP) and modified as necessary**

# SWPPP

## Required Elements

- Name / Contact Information
- Pollution Prevention Team
- Site Map
- List of Industrial Materials
- Description of Potential Pollution Sources
- Assessment of Potential Pollution Sources
- Minimum BMPs
- Advanced BMPs
- Monitoring and Implementation Plan
- Date of Preparation and Amendment



# SWPPP

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## Scheduled Operating Hours

- SWPPP must document “Scheduled Operating Hours”
- Storm water sampling not required outside “Scheduled Operating Hours”
- “Scheduled Operating Hours” trigger the start of the sample collection window

### Business Hours

Monday	9:00 - 5:00
Tuesday	9:00 - 5:00
Wednesday	9:00 - 5:00
Thursday	9:00 - 5:00
Friday	9:00 - 5:00
Saturday	Closed
Sunday	Closed

# BMPs



# CWA compliance standards

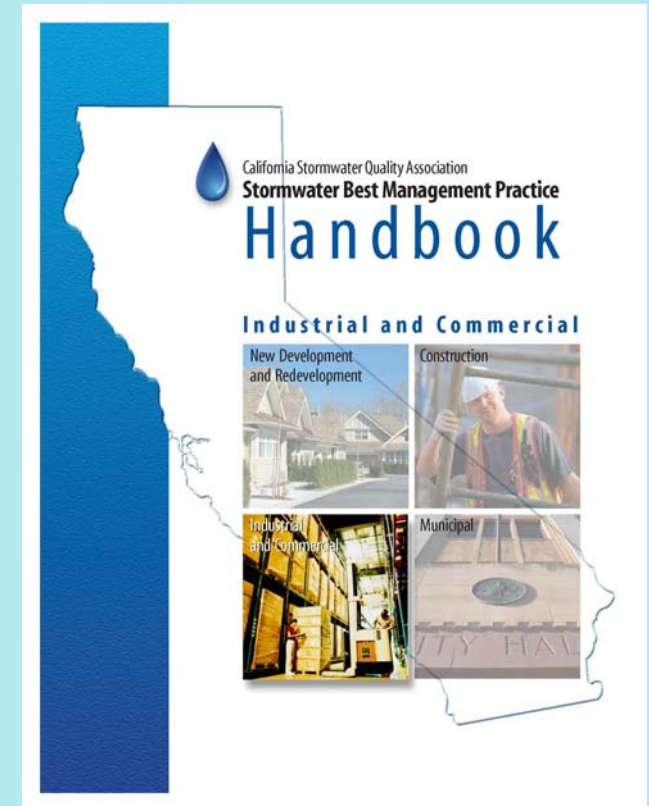
- **BCT - best practicable control technology**
  - For conventional pollutants
- **BAT – best available technology economically achievable**
  - For toxic and non-conventional pollutants



# IGP best management practices

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- **Minimum BMPs – best practicable control technology**
- **Advanced BMPs – to be implemented “to extent feasible” and in keeping with BCT / BAT**



# BMPs

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- **Minimum BMPs**
  - **Good Housekeeping**
  - **Employee Training Program**
  - **Preventive Maintenance**
  - **Spill and Leak Prevention and Response**
  - **Material Handling and Waste Management**
  - **Erosion and Sediment Controls**
  - **Quality Assurance and Record Keeping**



# BMPs

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- The Minimum BMPs are suggested in the old permit, but now they must be implemented “to the extent feasible”
- If any one of them is not “feasible,” clearly state the rationale in the SWPPP



# BMPs

## Advanced BMPs

- **Standard**
- **Examples**
  - **Exposure Minimization**
    - **Storm resistant shelters**
  - **Containment / Discharge Reduction**
    - **Divert, infiltrate, reuse, contain, retain, or reduce the volume of storm water runoff**
  - **Treatment Control**
    - **Mechanical, chemical, biologic treatment**



# BMPs

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- Can a SWPPP reject minimum BMPs?
- Can substitutes be used in place of minimum BMPs?



# Monitoring and Implementation Plan (MIP)

# MIP

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## Preparation Requirements

**The Monitoring and Implementation Plan (MIP) is part of the SWPPP**

**Describes how monitoring (inspections and sampling) will be performed**



# MIP

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## Monthly Visual Observations

- **Conduct monthly visual observations:**
  - **During daylight hours of scheduled facility operating hours**
  - **On days without precipitation**
- **Replaces quarterly inspections required by the old permit**

# MIP

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## Monthly Visual Observations

Visually observe each drainage area for the following:

- **Unauthorized non-storm water discharges (NSWDs)**
- **Authorized NSWDs, sources, and associated BMPs**
- **Outdoor industrial equipment and storage areas, outdoor industrial activities areas, BMPs, and other potential source of industrial pollutants**



# MIP

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## Sampling Event Visual Observations

- Observe the discharge of storm water at each location where a sample is obtained
- Observe storm water discharges for:
  - Floating and suspended materials, oil and grease, discolorations, turbidity, odors, trash/debris



# MIP

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## Sampling

**Collect and analyze samples from four (4) qualifying storm events per year:**

- **Two (2) in the first half of the reporting year**
  - **July - December**
- **Two (2) in the second half of the reporting year**
  - **January - June**



# MIP

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## Sampling

**Samples must be collected within four (4) hours of:**

- **The start of discharge; or**
- **The start of facility operations if the discharge began within the previous 12 hours**



# MIP

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## QSE

**A Qualifying Storm Event (QSE) is a precipitation event that:**

- **Produces a discharge for at least one drainage area; and**
- **Is preceded by 48 hours with no discharge from any drainage area**

**Note: this is different than the definition in the current permit (three working days without storm water discharge)**

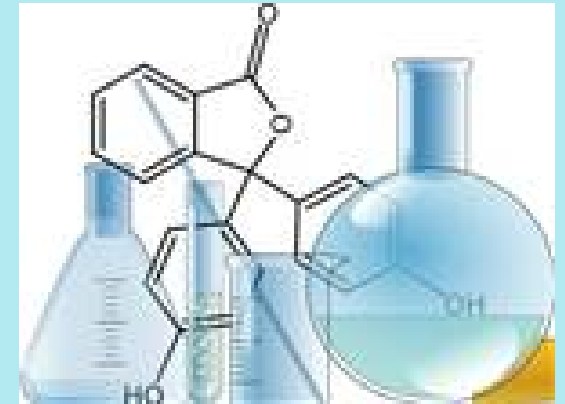
# MIP

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## Sample Analysis

All storm water samples must be analyzed for:

- Total Suspended Solids (TSS)
- Oil and Grease (O&G)
- pH
- “Table 1” Parameters
  - Determined based on SIC Code



# MIP

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## Sample Analysis

**All storm water samples must be analyzed for (cont.):**

- **Additional parameters identified by dischargers**
- **Parameters related to receiving water with 303(d) listed impairments or TMDLs**
- **Additional parameters required by the Regional Water Board**

# MIP

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## pH Analysis

**Storm water samples must be analyzed for pH within 15 minutes of collection**

- **Wide range litmus paper can be used if the facility has never entered Level 1 status**
  - **Or subject to Subchapter N ELGs**
- **Otherwise a calibrated portable meter**



# MIP

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## Sampling

**Storm water sample results must be entered in SMARTS within 30 days of receipt**

**If the results of four (4) consecutive QSEs did not exceed a Numeric Action Level:**

- **Sampling reduced to two (2) per year: one (1) in first half, one (1) in second half**
- **Must certify in SMARTS**

# Numeric Action Levels and Exceedance Response Actions



# NALs

PARAMETER	UNITS	ANNUAL NAL	INSTANTANEOUS MAXIMUM NAL
pH*	pH units	N/A	<6.0 or >9.0
Suspended Solids (TSS)*, Total	mg/L	100	400
Oil & Grease (O&G)*, Total	mg/L	15	25
Iron, Total	mg/L	1	
Nitrate + Nitrite Nitrogen	mg/L	0.68	

- **pH, TSS, O&G required for all facilities**
- **Other NALs listed for facilities in specific SIC Codes: Iron and Nitrate + Nitrite presented as examples**

# NAL Exceedances

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## Annual Exceedance

- Compare the average concentration for each parameter using all effluent sampling results from the entire facility for the reporting year
  - If there are multiple discharge locations, average all of the results
- Exceedance occurs when the annual average is higher than the Annual NAL



# NAL Exceedances

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## Instantaneous Exceedance

- Compare the results from each distinct sample to the Instantaneous Maximum NAL
- Exceedance occurs when two (2) or more sample results of the same parameter exceed the Instantaneous Maximum NAL value (or are outside the pH range)

# NAL Exceedances

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An NAL Exceedance is not a violation of the permit

Additional actions are required when an NAL Exceedance occurs

Failure to complete the additional actions is a permit violation

**VIOLATION**

# Discharger Status

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**Baseline Status**

**Level 1 Status**

**Level 2 Status**

**Exceedances and Status are determined for each individual parameter**

**For example, a facility could be:**

- **Baseline Status for TSS**
- **Level 1 Status for pH**
- **Level 2 Status for Oil & Grease**

# Discharger Status

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## Baseline Status

- At the beginning of the NOI coverage, all facilities start at Baseline Status for all parameters
- July 1, 2015 for existing facilities



# Discharger Status

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## Level 1 Status

- **Baseline Status is increased to Level 1 Status for any given parameter if there is an NAL Exceedance for that parameter**
- **Level 1 Status starts on July 1 following the reporting year during which the Exceedance occurred**
- **Must complete a Level 1 Exceedance Response Action (ERA) Evaluation and a Level 1 ERA Report**

# Level 1 Status

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## Level 1 ERA Evaluation

- Due Oct. 1
- Complete an evaluation of the pollutant sources related to the Exceedance
  - With the assistance of a QISP
- Evaluate all drainage areas
- Identify the BMPs in the SWPPP and any additional BMPs or SWPPP revisions necessary



# Level 1 Status

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## Level 1 ERA Report

- Due Jan. 1
- Revise the SWPPP and implement any additional BMPs identified
- QISP must prepare a report including:
  - Summary of the Level 1 ERA Evaluation
  - Description of SWPPP revisions and additional BMPs implemented
- Submit in SMARTS



# Level 1 Status

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**Status will return to Baseline for a parameter once:**

- **Level 1 ERA Report has been completed**
- **All identified BMPs have been implemented**
- **Results from four (4) consecutive QSEs sampled indicate no NAL Exceedances of that parameter**

# Level 2 Status

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## Level 2 Status

- Status changes to Level 2 if there is an NAL Exceedance for that same parameter while in Level 1 Status
- Level 2 Status starts on July 1 following the reporting year during which the Exceedances occurred
- Must complete a Level 2 ERA Action Plan and a Level 2 ERA Technical Report

# Level 2 Status

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## Level 2 ERA Action Plan

- Due Jan. 1
- Must be prepared by a QISP
- Identify which of the Technical Report options the discharger has selected to perform



# Level 2 Status

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## Level 2 ERA Technical Report

- Due Jan. 1 of the reporting year after the Action Plan is submitted
- Prepared by a QISP
- 3 Demonstrations:
  - Industrial Activity BMPs
  - Non-Industrial Pollutant Source
  - Natural Background Pollutant Source

# Level 2 ERA Technical Report

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## 1. Industrial Activity BMPs Demonstration

Description of industrial pollutant sources and corresponding pollutants that are or may be related to NAL Exceedances



# **Level 2 ERA Technical Report**

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## **1a. Industrial Activity BMPs Demonstration**

**If the current BMPs and additional BMPs identified in the report:**

- **Achieve effluent limitations of the IGP; and**
- **Are expected to eliminate future NAL Exceedances**

**The facility can return to Baseline Status after 4 consecutive sample results meet the NAL**

# **Level 2 ERA Technical Report**

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## **1b. Industrial Activity BMPs Demonstration**

**If the implemented BMPs are not expected to eliminate future NAL Exceedances:**

- Evaluate additional BMPs**
- Estimate costs of the additional BMPs**
- Analyze BMPs implemented vs. BMPs listed above but not used**

**If this option is chosen, the facility cannot return to Baseline Status**

# Level 2 ERA Technical Report

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## 2. Non-Industrial Pollutant Source Demonstration



The Exceedance is attributable solely to non-industrial sources:

- Run-on from adjacent properties
- Aerial deposition from manmade sources
- Generated onsite by non-industrial sources

If this option is chosen, the facility cannot return to Baseline Status

# **Level 2 ERA Technical Report**

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## **3. Natural Background Pollutant Source Demonstration**

**The Exceedance is attributable solely to the presence of the pollutant in the natural background that has not been disturbed by industrial activities.**

**If this option is chosen, the facility cannot return to Baseline Status**



# Return to Baseline

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**Only possible for Industrial Activity BMP  
Demonstration that expects to achieve compliance  
with effluent limitations and eliminate NAL  
Exceedances**

**Results from four (4) consecutive QSEs sampled  
indicate no NAL Exceedances**

**If in Baseline Status and another Exceedance  
occurs for the same parameter, return to Level 2  
(skip Level 1)**

# Professional Registrations

# Professional Registrations

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## Qualified Industrial Storm Water Practitioner (QISP)

A QISP is required to perform certain tasks if the facility enters Level 1 or Level 2 status

To become a QISP, one must pass a specified training program. Current thoughts:

- 16 hours on-line (with quizzes)
- Online exam
- One day classroom training by Trainer of Record (ToR)



# Professional Registrations

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## QISP

There will be a fee for the training

Recertification will likely be required

Expect training rollout in Fall 2015

QISP Enrollment will begin in Winter 2015

# Professional Registrations

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**Trainer of Record**

**Required to teach QISPs**

**Also required to be a Compliance Group Leader**

**Specialized training:**

- **Must apply and be accepted**
  - **Due Date: April 9, 2015**



# Discharges to Special Waters

# Special Waters

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## Total Maximum Daily Load (TMDLs)

- New facilities opened after July 1, 2015, must comply
- Permit will be reopened in 2016 to include TMDLs



# **Discharges to Special Water Bodies**

**California Ocean Plan (Pacific Ocean)**

**Areas of Special Biological Significance**



# Compliance Groups

# Groups

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**The new Industrial General Permit allows for the creation of “Compliance Groups”**

**Similar to “Storm Water Monitoring Groups” under the current permit**

**Dischargers must be of the same industry type**

# Group Intent

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**“To allow industrial facilities to efficiently share knowledge, skills and resources towards achieving General Permit compliance”**

- **Compliance Group Leader provides sampling training and guidance to Group Participants**
  - **Increased sampling data quality**
- **Water Board intends to use data for evaluating sector-specific permitting approaches and NALs in the next version of the IGP**

# Group Structure

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## Compliance Group Leaders

- **Must complete a State Water Board sponsored / approved training program for Compliance Group Leaders**
- **Register as a Compliance Group Leader in SMARTS**
- **Assist Group Participants in compliance activities**

# Group Structure

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## Register

- **Each Group Participant must register as a Group Member in SMARTS**
- **Each Participant is responsible for compliance with the Permit**



# Group Benefits

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## Reduced Sampling

- **Facilities not in a Compliance Group:**
  - Two (2) samples in first half of year
  - Two (2) samples in second half of year
  - Four (4) total samples per year
- **Facilities in a Compliance Group**
  - One (1) sample in first half of year
  - One (1) sample in second half
  - Two (2) total samples per year



# Group Benefits

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## Exceedance Response Actions (ERA) Reports

- **Compliance Group Leaders (CGL) prepares Consolidated Level 1 ERA Reports for all Participants**
- **CGL prepares Level 2 Action Plans and Reports specific to each facility**

# Group Cost

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- **Compliance Group Leader must inspect all of the facilities of the Compliance Group Participants once per reporting year**



# Legal Considerations

# IGP Violations

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- **Numeric Action Level (NAL) exceedance?**
  - Not a violation *per se*, but . . . .
  - NAL exceedance triggers Level 1 or Level 2 exceedance response action (ERA)



# IGP Violations (cont'd)

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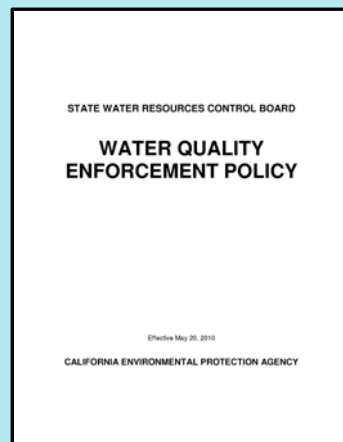
- **Many opportunities to violate IGP**
  - Sampling, monitoring, record-keeping, etc.
  - Short deadlines
  - Differing reporting obligations depending on contaminant discharges



# IGP Violations (cont'd)

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- **Permit violations**
  - **Water Boards:** informal / formal administrative enforcement
  - **Potential referral to Attorney General for prosecution**
- **Penalties**
  - **Civil & Criminal**



# IGP Violations (cont'd)

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- **Water Board enforcement perspective**
  - **Federal CWA § 309 covers all NPDES violations**
  - **State CWC § 13385 = \$10,000 per day**
  - **If referred to Attorney General = \$25,000 per day**
  - **Fines usually moderated based on seriousness of violation and cost avoided by violation (cost of SWPPP, BMPs)**
  - **Pursuing non-filers identified by MS4 review of commercial-industrial facilities, DMV, Weighmaster**

# Citizen Suits

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- CWA provides for citizen suits in federal court
  - “Any citizen” can sue for alleged violation of IGP
  - Process
  - Observations



# Citizen Suits (cont'd)

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- **Citizen suits likely to increase with new IGP**
  - SMARTS – information more readily available
  - Growing pains with new IGP
  - Many more covered entities



# **SMARTS and Legally Responsible Person**

- **SMARTS – storm water documents go public!**
  - **All IGP compliance documents to be filed electronically**
  - **Trade secret information can be redacted**



# SMARTS and Legally Responsible Person (cont'd)

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- **Observations about SMARTs**
  - Online public access to all storm water filings (i.e., NOI, SWPPPs, Annual Reports, etc.)
  - Compliance information more readily available than ever before



# Take Aways

## (Your Company's Action Plan)

# Action Plan

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- **Review historical storm water sampling data**
  - **Do samples consistently meet the NALs?**
  - **If no, determine if additional data/sampling is necessary**
- **Evaluate BMPs to see if they meet BAT/BCT**
  - **If BMPs are deficient, start addressing them now**

# Action Plan

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- **Evaluate internal resources**
  - **Pollution prevention team**
  - **SWPPP preparation (internal or external)**
  - **Sample collection and pH analysis**
- **Determine compliance path:**
  - **NOI / SWPPP**
    - **Compliance Group?**
  - **No Exposure Certification (NEC)**
  - **Notice of Non-Applicability (NONA)**
  - **Inactive mine**

# Action Plan

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- **Register in SMARTS (now)**
  - **Obtain SMARTS Accounts for appropriate personnel**
    - **Legally Responsible Person (LRP)**
    - **Duly Authorized Representative (if applicable)**
    - **Data Entry Persons**
- **Recertify Existing NOI (now)**
  - **Notices were sent out in January**
- **Prepare and Upload SWPPP (by July 1)**

# Action Plan

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- **Train Staff**
  - **SWPPP Requirements**
  - **BMP Implementation**
  - **New Definition of QSE**
  - **Visual Inspections**
  - **Sample Collection**
  - **pH Monitoring**



# Action Plan

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- **Develop tracking systems**
  - **Feedback (BMP, operations, personnel changes)**
  - **SWPPPs**
    - **SWPPPs must be kept current**
    - **Current version is at the facility**
  - **Training records**
  - **Monitoring and Inspection records**
    - **Who / when to upload to SMARTS**
    - **Track discharges?**



# Conclusions

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**Sites must be registered (and SWPPPs uploaded) by July 1, 2015**

**Significant review and evaluation will be necessary to meet this - and subsequent compliance - deadlines**

**The time to start is now!**



# Questions?

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## **David Innis**

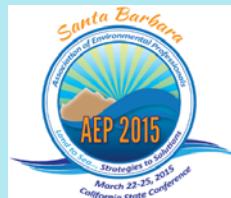
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# New Industrial Storm Water Permit Link

[http://www.swrcb.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2014/wqo2014\\_0057\\_dwq\\_revised](http://www.swrcb.ca.gov/board_decisions/adopted_orders/water_quality/2014/wqo2014_0057_dwq_revised)