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VIA Email at: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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



Re: Comment Letter – 2012 Draft NPDES General Permit for the Discharge of Storm Water Associated With Industrial Activities

Rock-Tenn Company (RockTenn) is one of the largest manufacturers of paperboard and paperboard packaging and the largest U.S. recycler of paper and other recyclable materials. Through its subsidiaries, RockTenn operates 15 facilities in California covered by the current California general permit for storm water associated with industrial activities: six corrugated container, six recycling, and three folding carton plants in the Bay area, Central Valley and the Los Angeles basin. These facilities employ about 1,250 employees with pay and benefits totaling over \$85 million, plus the equivalent of about 190 full-time equivalent employees from temporary agencies. In 2011 we paid approximately \$2.5 million in property taxes and consumed \$8.6 million worth of energy in California. While we appreciate the time and effort the State Water Resources Control Board (Board) has used to develop and improve the draft general storm water permit, we are extremely concerned about the additional cost and staff time that will be imposed on our operations if the current draft is adopted.

In particular, we are concerned about the additional costs and administrative burdens imposed by the following proposed changes in the 2012 draft permit as compared to the existing 1997 general permit:

- Eliminating monitoring groups.
- With certain exceptions, requiring every facility to monitor every storm water outfall that may be affected by industrial activity, four times a year.
- Adding numeric action levels (NALs) and exceedance response actions (ERAs).
- Requiring all facilities in SIC Code 5093 to monitor for Fe, Pb, Al, Zn, and COD.
- Refining the scope of which tasks require a Qualified Industrial Storm Water Practitioner (QISP).

We believe that these impose substantial costs beyond those that can be justified at this stage in the state's storm water program. We understand the Board's concern that its past program has not gathered adequate data to broadly assess the impacts of storm water from industrial facilities. However, especially given current economic conditions, we believe the

next step should be a reasonable increase in the quantity and quality of data collected, followed by additional steps as necessary.

### Eliminating Monitoring Groups

Currently, all of our industrial facilities in California are covered by the existing general permit and are members of the Fiber Box Association (FBA) Monitoring Group. Under the existing permit, monitoring is required twice a year, but only 20% of the Group members are analyzed at any one time. As a result, each facility in the Group is currently only required to monitor two times in five years. The multiple-year monitoring by the FBA Group, other monitoring groups, and individual facilities has provided the Board with substantial data regarding the storm water discharges from facilities in our industry. While the draft Fact Sheet indicates that the data gathered in the past is inadequate for various reasons, there is no analysis of specific industry categories, much less of specific monitoring groups, such as the FBA Monitoring Group managed by AECOM.

The Fact Sheet provides no sound rationale why group monitoring should not be allowed to continue on some basis, for example, requiring four sampling events a year, but allowing the group to continue the practice of monitoring only 20% of the members for any given sampling period. As currently drafted, each of our facilities would have to go from two sampling events in five years to 20 sampling events, a 10-fold increase.

We recognize that numerous parties commenting on the 2011 draft asked the Board to retain monitoring groups. These requests were rejected on the grounds that: "Group monitoring is not included primarily because this Permit requires each discharger to (1) complete compliance training or hire a person to assist with compliance activities, and (2) demonstrate compliance through their own sampling and analysis. This Permit does provide for 'Compliance Groups,' a new concept which will allow dischargers to reduce their cost of compliance."

We request that the Board reconsider its position on group monitoring. Requiring each facility to have an employee, or an outside person, with prescribed storm water training is in no way inconsistent with allowing group monitoring. Moreover, the storm water discharges from each member of the group are monitored on a rotating basis. Monitoring four times a year by each facility is only necessary if the Board is firmly committed to imposing numerical action triggers on each facility and will not consider alternative approaches. However, according to the draft Fact Sheet for the draft permit, the State Water Board, Blue Ribbon Panel of Experts concluded (page 5 of the Fact Sheet): "Current monitoring data sets are inadequate; accordingly, the State Water Board should improve monitoring requirements in order to collect useful data for establishing NALs and NELs." We submit that the Board currently lacks sufficient data to establish "across the board" NALs for all storm water dischargers that will be covered by the general permit and should continue to allow monitoring groups as a means of assembling meaningful data from a

number of similar facilities at a significantly lower cost than requiring each member of the group to monitor four times a year.

In support of this, group monitoring under the current (1997) general permit has been – and continues to be – subject to requirements to ensure that the monitoring provides meaningful data while spreading the monitoring burden among the group members. Section B.15.a of the 1997 permit requires that the group monitoring plan (GMP) be developed and implemented by a group leader representing a “group of similar facility operators.” If the group members are all within the boundaries of a single Regional Water Board, the GMP must be approved by the Regional Water Board; if the group members were within multiple regions, the GMP must be approved by the State Water Board. Either board is authorized to disapprove individual members of the group or to require an individual group member to conduct additional monitoring. Hence, the 1997 permit gives the State and Regional Water Boards ample authority to ensure that the group members are in fact similar and/or to require additional monitoring of individual facilities to reflect differences. The 1997 permit requires each group leader, among other responsibilities, to (1) conduct at least two on-site inspections of each member facility during each five-year period; and (2) develop and submit to the State and/or Regional Water Board an annual “Group Evaluation Report” that summarizes and evaluates all of the group monitoring data, evaluates the overall performance of the group members in complying with the general permit, and recommends baseline and site-specific BMPs that each member is to consider.

Properly implemented, group monitoring, as established in the 1997 permit, should provide many, if not all, of the same benefits intended by the 2012 draft, but with significantly less cost and administrative burden. We continue to believe that the group monitoring approach is a sound one. If the Board believes that there are problems with the current group monitoring program, the solution should be to improve the existing program rather than eliminating it.

We do not object to the draft permit’s providing for “compliance groups,” which appears to provide that a group (such as the current FBA group) can use the same properly qualified storm water professional (such as AECOM) to assist them in complying. However, we believe this is something a group of dischargers could do in any event. A “compliance group” might be able to negotiate a favorable group rate, but this could be done with or without a provision for “compliance groups” in the draft permit. Bottom-line, in no way does the provision for “compliance groups” balance doing away with the monitoring groups allowed in the current general permit.

We therefore request that the Board reconsider and continue to allow group monitoring in next general permit.

Requiring Every Facility To Monitor Every Outfall Four Times a Year.

1. Sampling. Condition XI.C.3 of the draft permit requires the discharger to sample each location where a regulated storm water discharge occurs unless a Level II or III Qualified Industrial Storm Water Practitioner prepares and documents a “Sampling Location Reduction” (SLR) report that is submitted prior to October 1 of the reporting year. The SLR report must demonstrate and document that the industrial activities and physical characteristics “(grade, surface materials, etc.)” of two or more of the drainage areas within the facility are substantially similar so that it is not necessary to sample each one. If the Regional Water Board rejects the SLR report or requests additional information, the facility cannot reduce the number of sampling locations until it obtains approval from the Regional Board. Until there is actual experience with this process and how much variation each Regional Board will allow between “substantially similar” drainage areas, it should be assumed that each facility will have to sample all of its outfalls in estimating the costs imposed by the draft permit.

2. Analytical. Condition XI.C.4 of the draft permit allows dischargers to authorize their lab to combine equal volume samples from up to four drainage areas if the industrial activities and physical characteristics within each of the drainage areas are substantially similar. Documentation supporting the “substantially similar” determination must be included in the Annual Monitoring Report. Again, until there is actual experience with how the Regional Water Boards will handle such “substantially similar” determinations, there would be substantial risk in combining samples without first analyzing each sample separately.

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

For most of our facilities (our recycling facilities are discussed separately below) the draft permit would impose an “annual” NAL of 100 mg/L for total suspended solids (TSS), 15 mg/L for Oil & Grease (O&G), and a range of 6.0 to 9.0 for pH. It would also impose an “instantaneous” maximum NAL of 400 mg/L for TSS, 25 mg/L for O&G, and the same range for pH. The annual NAL is exceeded if the average of all samples during the reporting year is above the specified annual NAL or, for pH, outside the range of 6.0 to 9.0. The instantaneous maximum NAL is exceeded if any two samples taken within the reporting year exceed the specified maximum NAL value. Exceedances of the NALs are not violations, but trigger “Exceedance Response Actions” (ERAs). ERAs will only be triggered by analyses of samples taken on or after July 1, 2014.

1. The Board should adopt the “benchmark monitoring” approach in the 2008 EPA Multi-Sector General Permit. We appreciate that the Board has taken a significant step by not including Numeric Effluent Limitations, except for a few specified categories, in the draft general permit. We also appreciate that samples taken during the first year under the new permit will not trigger an ERA. However, as discussed in our comments above, we believe the Board does not currently have sufficient data to establish “across the board” NALs for the great variety of facilities that will be covered by the general permit. Given the estimated potential costs of the Level 1 and Level 2 ERAs, we believe a more reasonable course would be for the Board to follow the approach in Sections 6.2.1 to 6.2.1.3 of the

2008 EPA Multi-Sector General Permit (2008 MSGP). Among other differences, the 2008 EPA MSGP only imposes “benchmark monitoring concentrations,” which are the equivalent of the annual average NALs, for selected types of industrial facilities, which do not include those operated in California by RockTenn. We request that the draft permit be revised so that the NALs only apply to those categories of industrial facilities required to do benchmark monitoring in the EPA 2008 MSGP. Also, O&G is not a benchmark monitoring pollutant for any of the categories in the 2008 MSGP. Especially since O&G is common in the runoff from roadways and parking areas, the Board should follow the 2008 MSGP and, at a minimum, drop the NALs for O&G. Similarly, in the 2008 EPA MSGP, pH is a benchmark monitoring parameter only for certain metal mining activities and airport deicing. We request that the NALs for pH also be dropped from the general permit that will apply across the board to industrial facilities such as ours.

2. Instantaneous maximum NALs. Even if the Board retains the general approach for NALs in the draft permit, we believe it has not justified the values in the draft permit for the “instantaneous maximum” NALs. The instantaneous maximum NAL for TSS could be justified on the grounds that it is four times annual average NAL, which would mean that the average for four quarterly samples could not be less than the 100 mg/L annual average NAL. However, this is not the case for O&G and pH. First, O&G is not “benchmark monitoring” pollutant in the 2008 EPA MSGP and should not be included as a “NAL” pollutant in the draft permit. Furthermore, the proposed instantaneous maximum NAL for O&G is 25 mg/L compared to the annual average NAL of 15 mg/L. Especially since O&G is a common in runoff from roadways and parking areas, including O&G as NAL has not been justified, much less such a narrow difference between the instantaneous maximum and the annual average.

For pH, the draft permit specifies the same range – 6.0 to 9.0 – for both the instantaneous maximum and the annual average NALs. As requested above, we believe the Board should delete the NALs for pH in the draft permit. In any event, it should not include an instantaneous maximum for pH in storm water until it has developed a data base that will enable it on an industry specific basis to determine an appropriate range for an instantaneous maximum.

3. Where benchmark monitoring or NALs are retained for specific industry categories, follow the approach in the 2008 EPA MSGP rather than the structured Exceedance Response Action (ERA) Level 1 and Level 2 in the draft permit. Exceedance of the NALs should trigger a general evaluation of the cause and whether the facility’s Storm Water Pollution Prevention Plan should be revised, without the formal ERA program in Part XII of the draft permit. The Board should evaluate the need for such a more detailed and formal program after receiving several years of monitoring data under the new general permit.

Requiring All facilities in SIC Code 5093 To Monitor for Fe, Pb, Al, Zn, and COD.

Condition XI.B.5&6 and Tables 4 and 5 require all facilities is SIC Code 5093 to monitor for Fe, Pb, Al, Zn, and COD. These have no specified instantaneous maximum NALs, but have annual average NALs of 1.0 mg/L for iron (Fe), 0.262 mg/L for lead (Pb), 0.75 mg/L for aluminum (Al), 0.26 mg/L for zinc (Zn), and 120 mg/L for chemical oxygen demand (COD). These track the benchmark values in Sector N of the EPA 2008 MSGP, but with a very significant difference: The 2008 MSGP excludes “source-separated recycling” facilities such as those we operate in California; the draft permit does not make this distinction. Especially given the high value placed on recycling, the Board should revise the draft permit to exclude “source-separated recycling” facilities from the additional monitoring requirements in the draft permit and from the associated requirements for ERAs if one of the additional pollutants were to exceed an NAL in Table 5 of the draft permit.

Based on the Board’s cost estimates, we estimate that the initial cost to be in compliance at all 15 RockTenn operated facilities will be approximately \$125,000 and 350 man-hours of training. This does not include any costs that may have to be incurred to ensure there are adequate sampling stations. The annual cost thereafter will be approximately \$50,000 and 400 man-hours. This does not include any of the potential costs if the NALs/ERAs in the current draft are retained and there is a monitored exceedance of an NAL. It also does not include the additional monitoring costs at our recycling facilities if they are not excluded from the additional monitoring the draft permit would require for all facilities in SIC Code 5093. It also does not include the possible costs of providing QISP training to multiple employees each year. Hence, these estimates probably substantially underestimate the actual costs that will be incurred, especially if our requested changes are not made. The impact of this regulation comes at a difficult time in our industry and in these poor economic times. It is increasing difficult to compete at our businesses in California with paper converters in other states.

In summary, we support continuing the existing storm water permit, but support decreasing the sampling frequency in the draft permit and studying the impacts of stormwater runoff on the quality of receiving waters.



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