

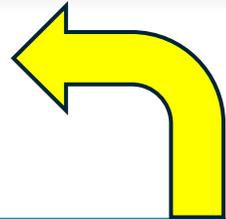
Addressing NPDES Permit Overlap
for Indiana Mining Operations: Rule
12, CSGP, ISGP, and What May
Change in 2026



2026 NPDES Changes in Indiana for Aggregate Mining



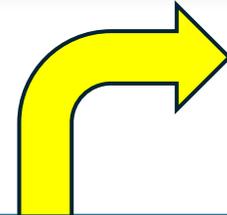
Overview of 3 Main NPDES General Permits applicable to the Mineral Aggregates Industry



327 IAC 15-6 (Rule 6) To be replaced with Industrial Stormwater General Permit (ISGP) early 2026. Draft made available for public comment on 9/20/24 came off on 11/19/2024.



327 IAC 15-12 (Rule 12) Rule repealed, replaced with NPDES Permit ING490000. Most recent permit issued 9/29/25. Set to expire 9/30/30.



327 IAC 15-5 (Rule 5) All subsections of Rule repealed, Rule not repealed. Was replaced with Construction Stormwater General Permit (CSGP), issued 12/9/21. Expires 12/17/26.

The Tim Method Letter — The Overlap



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The **Timothy J. Method (2004)** letter to IMAA resolves overlap between:

- Rule 12 (mining wastewater)
- Rule 6 (industrial stormwater)
- Rule 5 (construction stormwater)

Rule 6 (ISGP) Carve-Out (Clear)

- If stormwater drains to a **Rule 12 outfall**, **Rule 6 coverage is not required**
- **Still valid today** and explicitly preserved in the draft ISGP.

Rule 5 (CSGP) Carve-Out (Not Clear)

- Rule 5 applies **prior to “start-up”**
- Once **operational**, Rule 5 should terminate (what does “operational” apply to? the whole site? the area?)
- This ambiguity was manageable when Rule 5 was backed up by the letter. It is **more problematic under the modern CSGP, because it’s not mentioned.**



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live.

Joseph E. Kernan
Governor

Lori F. Kaplan
Commissioner

100 North Senate Avenue
P.O. Box 6015
Indianapolis, Indiana 46206-6015
(317) 232-8603
(800) 451-6027
www.IN.gov/idem

May 19, 2004

Mr. Robert Jones
Executive Director
Indiana Mineral Aggregates Association
9595 North Whitley Drive, Suite 205
Indianapolis, IN 46240-1308

Re: NPDES General Permit-By-Rules 327 IAC
15-5, 327 IAC 15-6 and 327 IAC 15-12) For
The Mineral Aggregates Industry

Dear Mr. Jones:

The purpose of this letter is provide clarification on interpretation issues related to 327 IAC 15-5 (Rule 5), 327 IAC 15-6 (Rule 6) and 327 IAC 15-12 (Rule 12) as they apply to mineral aggregates operations classified under SIC Code 14.

Relationship Between Rule 6 and Rule 12

The Water Pollution Control Board adopted revisions to Rule 6 in 2003. The rule revisions address overlaps in coverage for the mineral aggregates industry between Rule 6 and Rule 12. Specifically, 327 IAC 15-6-2(e) was revised as follows:

- (e) A sand, gravel, or dimension stone facility classified under SIC code 14 is not subject to this rule if:
 - (1) it is regulated under a general permit issued under 327 IAC 15-12; and
 - (2) all the regulated facility's storm water discharges are addressed by the general permit issued under 327 IAC 15-12.

The above language is intended to clarify that your industry group does not have to separately comply with two (2) different NPDES permit-by-rule programs, which ultimately can regulate the same stormwater runoff. IDEM interprets the rule such that any and all stormwater that drains from a mineral aggregates operation and is ultimately discharged through an outfall regulated by Rule 12, meets the intent of 327 IAC 15-6-2(e)(2). However, should a mineral aggregates facility have "point source (327 IAC 15-6-4-23)", "storm water discharge (327 IAC 15-6-4-29)" that has been exposed to industrial activity (327 IAC 15-6-4-30), that does not pass through a Rule 12 regulated outfall, then that facility will be subject to the requirements of Rule 6.

Relationship Between Rule 5 and Rule 12

Under the revisions to Rule 5, "Construction Activity (327 IAC 15-5-4-4)" includes "Land Disturbing" activities. IDEM recognizes that the nature of the mineral aggregates business is to expand the footprint of an aggregates mining pit by removing vegetative cover that exposes the underlying soil, meeting the definition of land disturbing activity (327 IAC 15-5-4-20). Because of this on-going land disturbing activity, IDEM understands how your industry may be required to obtain coverage under Rule 5 indefinitely, which is really is not the intent of Rule 5.

When new facilities are under construction, prior to "start up", they still need to apply for rule 5 coverage, the same as any other industry (if they disturb more than 1 acre). As soon as the facility becomes "operational" the facility should submit a "Notice of Termination" to remove themselves from Rule 5 as appropriate under that rule.

IDEM understands that the nature of the mineral aggregates industry is to implement vegetative cover stripping activities such that storm water runoff from those areas is commonly directed into the mining pit itself. Mining pits with no outfalls are generally private ponds, and by definition, are excluded as "Waters" per IC 13-11-2-265. Mining pits with an outfall must obtain coverage under Rule 12, and have a 30 mg/l TSS effluent limitation. In addition, IDEM recognizes that Rule 5 is designed for facilities that need to implement best management practices (BMPs) in order to meet water quality standards, and that mining pits already are a form of "physical treatment". Requiring facilities to implement BMPs prior to a treatment process with effluent limits is not necessary. Consequently, if a facility directs storm water runoff from areas that have undergone vegetative stripping activities into a mining pit, then the facility will not be required to seek coverage under Rule 5.

We hope that that this letter helps to clarify coverage for your members. If we can be of further assistance, please do not hesitate to call Mr. Jay Davis for Rule 5 at 317/233-1864 or Mr. Craig Lawson for Rule 6 at 317/233-0202 or Mr. Steve Roush for Rule 12 at 317/232-8706.

Sincerely,

Timothy J. Method
Deputy Commissioner
Environmental Results

Why the Overlap Matters for Mining Operations

Overlap consolidates stormwater and simple wastewater requirements.

Rule 12 provides a stable operational anchor.

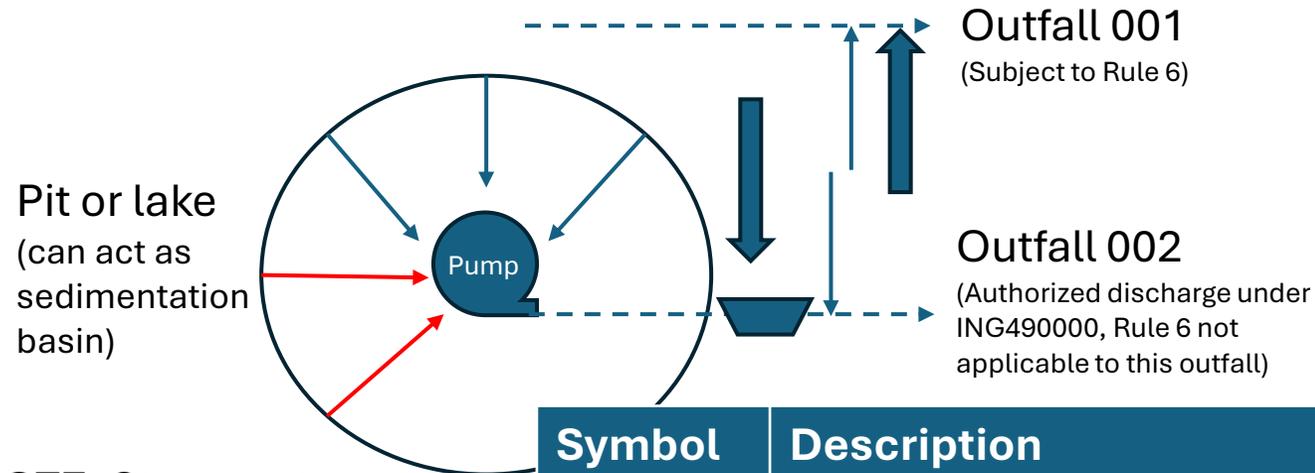
One permit structure
→ one compliance mindset.

Fragmentation increases cost, inconsistency, and enforcement risk.

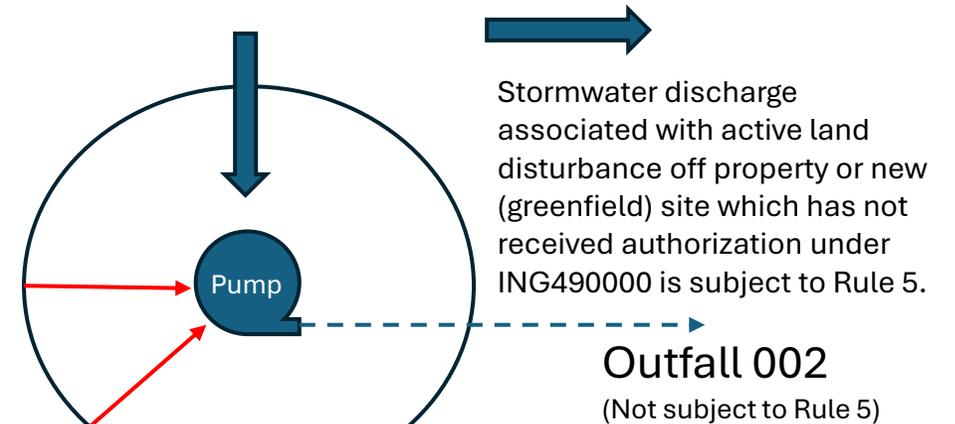
Visual Representation of the Overlap:

(ING490000 = Rule 12, CSGP = Rule 5, ISGP = Rule 6)

Between Rule 12 and Rule 6



Between Rule 12 and Rule 5



NOTE: Stormwater exposures from land disturbing activities from mineral aggregates operations are covered by the draft ISGP.

Symbol	Description
	Mining wastewater
	Industrial Stormwater
	Discharge to Outfall
	Sheet flow from land disturbance
	Additional sedimentation basins as required

NOTE: “Co-mingled with wastewater” language in ING49000, “discharged through outfall regulated by Rule 12” language in guidance letter to IMAA.

Permit	Purpose	Status
Sand, Gravel, Dimension Stone & Crushed Stone ING490000	Regulates mining wastewater and stormwater	Active until 2030. I will sometimes refer to this as “Rule 12.”
CSGP (INRA00000)	Regulates construction stormwater	Active (expires 12/17/2026). Will be updated with a new permit.
ISGP (INRM/INRX number to be issued)	Regulates industrial stormwater	Draft replacement for Rule 6
EPA MSGP	Federal baseline permit for industrial stormwater	Directly related to the ISGP. 2026 update uncertain

Permits in Play

- Regulatory pressure for NPDES is still increasing, not decreasing.
- Most of that is residual from the previous EPA administration.
- Indiana sits in “cooperative federalism.” (what’s that ?)
- Executive Order 25-38 constrains Indiana’s ability to go beyond EPA

with a written report provided to the Governor and the Legislative Council 31, 2025, providing an explanation for why the current rule or regulation is stringent than federal standards, and whether maintaining this higher standard necessary to protect human health or the environment, or otherwise benefit community being regulated. The report should include specific justification for the need for maintaining more stringent regulation or recommend change agency's regulatory framework in line with federal requirements, if appropriate.



IN TESTIMONY WHEREAS
Mike Braun, have hereunto
my hand and caused to be
Great Seal of the State of Indiana
this 12th day of March, 2025

Mike Braun
Mike Braun Governor of Indiana

Diego Morales

ATTEST: Diego Morales
Secretary of State

EO-25-38

Preamble talks about:

- Cooperative federalism
- Policies supporting business development
- Stable, predictable and fair environment.

Indiana will not adopt rules that:

- Are more stringent than federal requirements (unless deemed necessary).
- Are unduly burdensome.

Those rules exceeding federal requirements must be reviewed.

STATE OF INDIANA

EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER 25-38

FOR: CREATING OPPORTUNITY THROUGH REDUCTION OF EXCESSIVE ENVIRONMENTAL REGULATION

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

- WHEREAS,** the State of Indiana has long championed laws and policies that support business development, job creation, and economic growth, while also striving to ensure responsible environmental protection and stewardship;
- WHEREAS,** the State of Indiana recognizes the importance of regulatory consistency in providing a stable, predictable, and fair environment for businesses and industries that contribute to the prosperity of our State;
- WHEREAS,** federal environmental laws like the Clean Air Act and Clean Water Act operate through cooperative federalism, with the federal government establishing certain baseline national standards while states implement those standards within their borders;
- WHEREAS,** state regulatory consistency with federal standards can ensure smoother business operations, greater economic stability, and more efficient governance;
- WHEREAS,** the existence of state environmental regulations that are more stringent than federal regulations can cause confusion, increase costs, and force State of Indiana businesses to devote resources to ensuring compliance with different sets of rules; and
- WHEREAS,** the State of Indiana is committed to promoting streamlined environmental policies consistent with federal policies to provide regulatory certainty and avoid overregulation that could harm our State's business environment and economic competitiveness;

NOW, THEREFORE, I, MIKE BRAUN, by virtue of the authority vested in me as the Governor of the State of Indiana, do hereby order that:

1. The State of Indiana shall not adopt any new environmental rules, regulations, or programs that are more stringent than an applicable federal requirement or limitation, unless explicitly required by Indiana state law or deemed necessary by the Governor's Office to address specific, unique needs within our State.
2. In addition, agencies responsible for enforcing environmental regulations in the State of Indiana are hereby directed to ensure that any proposed rulemaking or regulation does not impose unnecessary burdens on businesses, communities, agencies, or industries operating in our State.
3. Agencies responsible for environmental regulations should identify state environmental regulations and policies that are unduly burdensome, significantly raise the cost of living for Hoosiers, are not supported by current law and the best available science, or do not benefit Indiana's environment. These Agencies should report opportunities to revisit or rescind such state environmental regulations to the Governor's Office no later than July 1, 2025.
4. Any environmental rules or regulations currently in place in the State of Indiana that exceed an applicable federal requirement or limitation without explicit direction to do so in Indiana Code must be reviewed. The review shall be completed by October 31, 2025.

FINAL SBLRC Comments

May 19, 2025 (I.A and I.B)

- Due to the burdensome nature of both the 2021 MSGP and the proposed 2026 MSGP, the SBLRC (which includes the NSSGA) recommended withdrawal of the 2026 MSGP and deregulation of the 2021 MSGP, reverting to the 2015 MSGP.
- 2015 MSGP followed EO 12866 (Bill Clinton) and EO 13497 (Barack Obama). Both EOs were meant to prevent:
 - Regulatory creep
 - One-size-fits-all escalation
 - Data collection without purpose
 - Costly requirements with unclear benefits
- The 2021 MSGP did not avoid the above points. The SBLRC It did not follow EO 12866 like the 2015 MSGP.
- The 2026 MSGP ignored EO 12866 and provided key information one (1) day before the comment period ended.
- EPA saying it's a "Permit" and not a "Rule" and therefore not subject to administrative review and public notice is, at first glance, a weak argument according to a common-sense interpretation. EO 14192 reinforces that idea.

A. Withdraw the Proposed 2026 MSGP.

As stated by the SBLRC in previous correspondence, this proposal is deeply flawed and unsupported by evidence.² Therefore, we again urge the Agency to withdraw the proposal, which was developed under the previous Administration, and engage the regulated community in a series of discussions to align on the best approach going forward.

We remind the Agency that there is no reason to rush the development of a 2026 MSGP because existing permittees will be governed by the 2021 MSGP permit well after the February 2026 expiration under the Clean Water Act provision implemented by 40 CFR §112.6. For new permittees, it is common EPA practice to issue a "no enforcement" policy to protect new permittees from enforcement if they follow the requirements of the expired permit.³

B. Place the 2021 MSGP Permit on the EO 14219 Deregulation List.

Moreover, we continue to advocate that the current 2021 MSGP permit be included in the Administration's Executive Order 14219 list of regulations to consider for deregulation.⁴ The 2021 MSGP suffers from flaws similar to this proposal and requires substantial revision.

The 2021 MSGP is significantly more burdensome than its predecessor, the 2015 MSGP. After careful review of previous MSGP permits, we conclude that the 2015 MSGP permit without the analytical monitoring requirements⁵ is the best permit upon which to base the core requirements of the 2026 MSGP. The 2015 MSGP was built on three successive refinements of the original 1995 framework that struck a practical and commonsense approach consistent with law without imposing undue regulatory burdens. It is based on a combination of best management practices, inspections, reporting, and corrective actions, like other EPA regimes governing construction sites, industrial sites, hazardous waste facilities, and underground storage sites.⁶ In addition, the 2015 MSGP underwent a thorough review under Executive Order 12866 by the Office of Management and Budget (OMB) and the interagency community.⁷

Unlike all previously proposed MSGP permits, the proposed 2026 MSGP was not subject to Executive Order 12866 review by the OMB's Office of Information and Regulatory Affairs (OIRA). As a result, the Agency did not receive input from interested Federal agencies, the business community, or the affected public, a collaborative process that has yielded significant improvements in final permits on multiple occasions since 1995.

² See Jan. 8, 2025, SBLRC letter to Acting Administrator Nishida.

³ See the policy issued for the expired 2015 MSGP. <https://19january2021snapshot.epa.gov/enforcement/no-action-assurance-national-pollutant-discharge-elimination-system-stormwater-multi.html> (June 3, 2020).

⁴ See Feb. 28, 2025, SBLRC letter to Administrator Zeldin.

⁵ Analytical monitoring refers generally to monitoring of specific parameters (such as pH or COD) or chemicals with benchmarks (benchmark monitoring) or without benchmarks ("report only" or indicator monitoring).

⁶ An extensive description of current inspection, reporting, and certification requirements is found in the 2020 SBLRC Comments at 21-22. A summary of the requirements alone occupied nearly the full page.

⁷ Under EO 12866, the Agency must consider the costs and benefits of multiple regulatory alternatives that achieve the statutory goals, instead of proposing a single approach, as EPA did with the 2026 Proposed MSGP.



Federal Pressure Points

MSGP Uncertainty, Is it Government overreach?

EPA may:

- Finalize 2026 MSGP (more stringent)
 - Hold off (2021 MSGP will still apply)
 - Revert to 2015 MSGP (industry-preferred)
- (see FINAL SBLRC Comments May 19, 2025)

Why it's important: 2021 MSGP is the basis for the ISGP.

Why IDEM Can't Ignore This

- Indiana permits **derive from EPA structure (MSGP)**
- EO 25-38** restricts Indiana from exceeding federal requirements without justification.
- EO 25-38 and EO 14192** may still provide leverage for industry when discussing the **ISGP**, even though the public comment period ended **11/19/24**.

The way **cooperative federalism** can work along with **EO 25-38** is through **consolidation and clarification**, not **unnecessary expansion**, of permit requirements.

Why saying “a permit is not a rule” might not be a weak argument (legally)

Although general permits operate as **sector-wide regulatory instruments** and create strong incentives that shape behavior, they are treated as *optional* compliance mechanisms implementing existing rules. General permits were attractive to agencies because they sat in a procedural gray zone. They are:

- Binding
- Enforceable
- Scalable; and,
- Largely insulated from APA, EO 12866 or any other legislation or order that would make them subject to legislative review (except for EO-14192)

Different approaches to the problem of permit creep.

Goal: Prevent general permits from becoming impractical on the ground

Friendly Approach

- **State-Level Engagement (ISGP)**
 - Direct input during drafting and reissuance
 - Get them to write policy memos
- **Industry Consensus (IMAA) a prerequisite**
 - Define for ourselves what is workable vs. permit creep

Less Friendly Approach

- **EO 14192 – Form-Neutral Review (showing the cards)**
 - Broad definition of “regulation” can reach general permits at the EPA level (MSGP)
- **Litigation / Courts (really showing the cards)**
 - Backstop when permits exceed authority

More about the ISGP Draft –vs- Rule 6

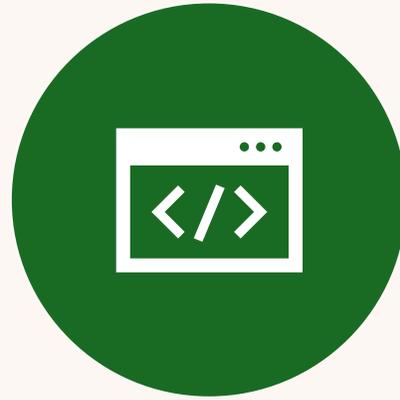


- ISGP good with respect to the overlap with Rule 12
- ISGP has a flexible (but more frequent) sampling schedule for the first 8 quarters after issuance/renewal.
- ISGP only includes pertinent analytes for a specific industry to sample for.
- More streamlined, accurate, and secure electronic CROMERR compliant CDX Reporting.
- Annual check of that IDEM's current 303(d) list of impaired waters and US EPA-approved Total Maximum Daily Loads (TMDLs) have been reviewed.
- Overspecified Performance Criteria and Standards.
- Duplicates many existing requirements such as SPCC.
- Complicated, over-specified "Corrective Action" procedures. Escalation tools to increase burden.
- More SWP3 Content Requirements.

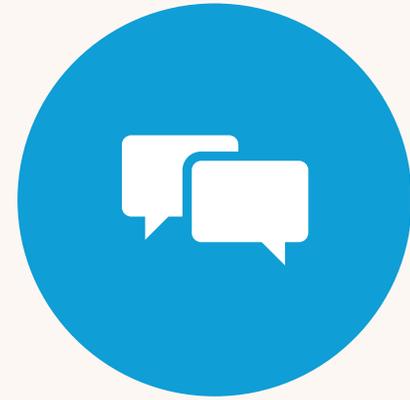
ISGP –vs- Rule 6 Analysis



PURPOSE:



LOOK AT THE ADDITIONAL
RULES COMING WITH THE ISGP.



COME TO A CONSENSUS ABOUT
WHAT WE SHOULD BE TALKING
TO IDEM ABOUT.



ISGP Draft — With
regards to the overlap.

Sector J Is the Key to the Overlap.

ISGP Appendix A, Sector J (SIC 14) states:

“Coverage under this permit is **not required** if stormwater discharges are included and/or required under an **alternative permit.**”

This is the Rule 6 carve-out from the letter, carried forward verbatim.

Practical Meaning

- **If industrial stormwater outfalls ≡ Rule 12 outfalls → No ISGP**
- **If separate stormwater outfalls exist → ISGP required for those outfalls**

ISGP Analysis: Monitoring and Inspections

Regulated item	Rule 6	ISGP	Explanation
During first eight quarterly monitoring periods, select four quarterly periods to conduct benchmark monitoring (sampling). If the average of 4 periods is greater than benchmark, sample 4 periods during the next eight quarterly monitoring periods.	N	Y	This is a more frequent sampling requirement than before, but with less parameters to monitor. Rule 6 monitoring requirements were defined 327 IAC 15-6-7.3 and required everyone to monitor O&G, CBOD5, COD, TSS, TKN, Phosphorus, pH, NO3/NO2*.
Permittees are required to conduct quarterly facility inspections to assess stormwater measures, operations, management, etc. and one such inspection should take place when stormwater discharge is occurring.	Y	Y	This was always required.
Permittees are required to conduct visual assessment of stormwater discharge quarterly during a storm event discharge which occurs at least 72 hours from the previous discharge.	N	Y	This was not always required and will require someone onsite to perform each quarter during a storm event.

- O&G = Oil and Grease, CBOD5 = Carbonaceous Biological Oxygen Demand (5 day), COD = Chemical Oxygen Demand, TSS = Total Suspended Solids, TKN = Total Kjeldal Nitrogen, NO3/NO2 = Nitrate, Nitrite

Analysis: Reporting and Renewals

Regulated item	Rule 6	ISGP	Explanation
A confirmation that IDEM's current 303(d) list of impaired waters and US EPA-approved Total Maximum Daily Loads (TMDLs) have been reviewed to determine if the facility discharges to any listed impaired waters.	N	Y	The annual report has always been required. This is a new requirement to check 303(d) list and TMDLs for the annual report.
Discharge Monitoring Reports (DMRs) are required to be submitted on USEPA's NetDMR portal on the 28 th day of the month following the end of the sampling period.	N	Y	This is a new requirement. Be sure to register with the CDX and NetDMR.

ISGP Analysis: Performance Criteria and Standards

Regulated item	Rule 6	ISGP	Explanation
All structural measures should be installed within 6 months, and measures that are not functioning properly must be identified, replaced, maintained or repaired within 7 days.	N	Y	This is a new performance standard in the ISGP.
Detailed spill prevention and response plan	N	Y	This is a new performance standard in the ISGP.
Minimize dust generation and vehicle tracking.	N	Y	This is a new performance standard in the ISGP.

Rule 6 Corrective Actions



SWPPP narrative descriptions of areas that generate stormwater discharges had to include remedial actions and if a corrective action plan was developed, the type of action and date should be referenced.



Annual report needed to include corrective measures.



No principle of ESCALATION, just take care of the problem.

ISGP Analysis: Corrective Actions-ESCALATION

Regulated item	Rule 6	ISGP	Explanation
<p>If an unauthorized release or discharge, benchmark exceedance, visual assessment not passing, etc. then corrective actions must be initiated within 14 calendar days. It must be completed within 45 days. If the SWP3 is required to be corrected, it must be within 14 days after completing the corrective action. A corrective action report must be started within 24 hours of becoming aware of such a condition.</p>	N	Y	This is a new corrective action requirement.

ISGP Corrective Action Procedures: Immediate Response -ESCALATION

Take all reasonable steps as soon as practicable to minimize pollutant discharge

1



Clean contaminated surfaces to prevent future discharges

ISGP Corrective Action Procedures: Timing Requirements-ESCALATION

01

INITIATE
CORRECTIVE
ACTION: WITHIN 14
DAYS OF DISCOVERY

02

COMPLETE
CORRECTIVE
ACTION: AS SOON
AS PRACTICABLE,
BUT NO LATER THAN
45 DAYS

03

SWP3 UPDATE:
WITHIN 14 DAYS OF
COMPLETING
CORRECTIVE
ACTION

04

IF INFEASIBLE,
JUSTIFICATION MUST
BE DOCUMENTED.

ISGP Corrective Action Procedures: Report (Mandatory)-ESCALATION

Begin report within 24 hours of discovery

Must include:

- Triggering condition
- Date discovered
- Immediate actions taken
- Schedule for corrective actions
- SWP3 modifications (if any)

Maintain on-site with SWP3

Submit to IDEM within 48 hours of request

ISGP Corrective Action Procedures: Substantially Similar Outfalls-ESCALATION

Evaluate all substantially
similar outfalls



Apply corrective actions
across all affected outfalls

ISGP Analysis: Stormwater Pollution Prevention Plan (SWP3) Content

Regulated item	Rule 6	ISGP	Explanation
“Types of Soils” information required in SWP3, unless entire area is impervious.	Y	Y	In Rule 6 this is a requirement, and this carries over in the ISGP. This requirement is not in all states. Most of the other requirements of the SWP3 are standard in all states.
An index is required that identifies the location of plan elements.	N	Y	This is a new requirement for SWP3 in the ISGP.
Location map at 1:24,000 Scale or Larger	N	Y	This is a new requirement for SWP3 in the ISGP.
Location of stormwater control measures and spill kits	N	Y	This is a new requirement for SWP3 in the ISGP.
Inventory of materials handled and stored, inventory of pollutants and potential pollutants	N	Y	This is a new requirement for SWP3 in the ISGP.
Summary of stormwater discharge sampling data	N	Y	This is a new requirement for SWP3 in the ISGP.



MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY
Water Resources Division

Industrial Stormwater Program Quarterly Visual Assessment Report

This Visual Assessment Report form can be used by permittees to meet the visual assessment documentation requirements of the National Pollutant Discharge Elimination System (NPDES) Wastewater Discharge General Permit for Industrial Stormwater Discharges or NPDES Individual Permits. Once completed it is required that this document be retained for three (3) years. This report form and other compliance assistance materials can be found at the Water Resources Division (WRD), Industrial Stormwater webpage: Michigan.gov/IndustrialStormwater.

Each section below should be completed to ensure the appropriate information is gathered and recorded during the visual assessment activities.

Section 1: General Information

- → Facility Name: _____
- → Certificate of Coverage (COC) Number or NPDES Individual Permit Number: _____
- → Discharge point or sampling point location (unique ID/label from site map e.g. 001): _____

Section 2: Qualifying Storm Event and Stormwater Sample Collection Information

Permit conditions to consider when completing this section:

- ❖ → The stormwater sample shall be collected during normal hours of operation by an Industrial Stormwater Certified Operator, Qualified Personnel as defined in the permit, or automatic sampling device.
- ❖ → The stormwater sample shall be collected within the first 30 minute time period of a discharge resulting from a qualifying storm event as defined in the permit. If it is not possible to collect the sample within the first 30 minutes of discharge, the sample shall be collected as soon thereafter as practicable. In the case of snowmelt, samples shall be collected during a period with measurable discharge from the site.

- → What type of storm event was sampled? Snowmelt Rainfall

For a rainfall event include the information below:

Duration of the rain event expressed in hours: _____

How many inches of rain fell during the event? _____

- → The last qualifying storm event was at least 72 hours prior to start of this event: Yes No
If "No", explanation is required: _____

- → What was the date and time the stormwater discharge began? _____
- → What was the date and time the stormwater sample was collected? _____
- → How was the stormwater sample collected? Automatic Sampler Manually
If "Manually", list name(s) of personnel that collected the water sample: _____
- → Was the stormwater sample collected within the first 30 minutes of discharge? Yes No
If "No", explanation is required: _____
- → Describe any notable observations of the discharge while the stormwater sample was collected (A response to this question is not required if the stormwater sample was collected with an automatic sampler): _____

Section 3: Visual Assessment Information

Permit conditions to consider when completing this section:

- ❖ → The visual assessment of the stormwater sample shall be performed and documented by an Industrial Stormwater Certified Operator.

- → What date and time was the visual assessment of the stormwater sample performed? _____
- → Were any of the following characteristics identified in the stormwater sample when performing the visual assessment?
 - Color: No Yes (describe): _____
 - Oil Sheen: No Yes (describe): _____
 - Turbidity: No Yes (describe): _____
 - Floating Solids: No Yes (describe): _____
 - Suspended Solids: No Yes (describe): _____
 - Settleable Solids: No Yes (describe): _____
 - Foam: No Yes (describe): _____

Describe any other characteristics that could not be adequately described above: _____

- → An unaltered, full-color photograph of the stormwater sample was taken against a white background and will be saved/filed with this form when complete: No Yes

Section 4: Visual Assessment Results Summary

- → Based on the results of the visual assessment, are there unusual characteristics associated with the discharge that require corrective actions? No Yes
If "Yes", then describe the corrective actions taken and include the corrective action completed date: _____

Get Real!

- Here's interstate 70 with a 55-mph sign, right before you get into the beltway from the east. If you drive 55-mph on this road it's likely you will get yourself run over.
- This is an example of an enforcement risk that is almost unavoidable.



The CSGP Gap — Where Industry Is Exposed

What Changed

Rule 5 → **CSGP**

- **CSGP does NOT reference Rule 12**
- Coal mining is excluded, so they have overlap.
- The Overlap is in jeopardy for mineral aggregate mining.
- Aggregates are **not explicitly excluded**.

Why This Matters

The industry still relies on the **Tim Method interpretation**, but:

- The letter predates the CSGP
- IDEM has **never re-issued formal clarification**

Why This Is a Problem

- **CSGP is administratively heavy**
- Compliance depends on **IDEM discretion**, not clear text
- Conflicting expectations across inspectors due to ambiguity.

Industry has historically relied on IDEM's interpretation that operational mining activities covered by Rule 12 do not require separate construction stormwater coverage; however, this interpretation is not expressly stated in the current CSGP.



The Importance of ING490000 (the Overlap)

What Would Likely Happen

If ING490000 (Rule 12) didn't exist or was modified:

- For Stormwater ISGP Sector J could absorb:
 - Industrial stormwater
 - Mining-related land disturbance **if IDEM aligns with EPA MSGP structure.**
 - Clearing & grubbing currently under CSGP
- Wastewater for mining would require a separate individual permit. No more general permit applicability (see note below).

This mirrors **EPA MSGP logic**, which allows mining construction to remain under one permit (for stormwater).

Why IDEM May Hesitate

Eliminating Rule 12 also eliminates:

- A-SO operator requirement
- Explicit wastewater performance limits
- Sediment pond operational accountability

Rule 12 still **does real compliance work.**

Note: EPA's MSGPs authorize *stormwater only* and do not address mining or process wastewater. As a result, a separate wastewater permitting mechanism would still be required, which is one reason Rule 12 may continue to serve an important regulatory role.

Rule 12 (ING490000) in its current form

saves us a lot of problems.



Decision Framework

TODAY (Most Sites)

- ✓ Discharges to ING490000 outfalls only → **Only ING490000 applies**
- ✓ If discharges to a separate industrial stormwater outfall exist → **ISGP required**
- ✓ Clearing before operation → **CSGP may apply (gray area due to the “operational” ambiguity in letter)**
- ✓ ING490000 includes **A-SO oversight**, reinforcing wastewater accountability at operational sites.

AFTER ISGP Implemented

Letter to IMAA may lose interpretive value if not tied to any applicable rules (Rule 6 is the last one to go).

AFTER 9/30/30 (If ING490000 not renewed or if is narrowed in applicability)

- ISGP could become the primary stormwater permit for mining and active clearing sites.
- Individual wastewater permits may be required for mining wastewater, increasing site-specific complexity and allowing requirements to expand non-uniformly across facilities.



Wrap-Up: Key Takeaways for Mining Operators

Letter to IMAA Remains the anchor, but we need a replacement.

- **Tim Method's 2004 letter to IMAA** continues to anchor mining wastewater regulation and limit overlapping stormwater permitting.
- Its intent is preserved in the draft ISGP but not clearly reflected in the current CSGP.

The ISGP issuance is a pressure point for our industry.

- The new requirements are not easy to follow.
- Further procedural complication does not equal a better environment.

The CSGP renewal is a critical point for our industry.

- With the **CSGP** up for renewal in **2026**, key elements of the **Method Letter** should be **explicitly incorporated**. Once all 3 rules are replaced with general permits, the letter could lose its relevance. The CSGP is also hard to follow.
- IDEM should clarify in the revised CSGP when **sheet flow from land disturbance may be subsumed by ING490000—and when it cannot**.

Federal trend = stormwater consolidation, not wastewater consolidation, and not stormwater/wastewater consolidation either.

- The **draft ISGP and EPA MSGP** trend toward consolidating stormwater (industrial + land disturbance).
- **Wastewater is not being consolidated**—ING490000 still performs that function and should continue to do so.

Industry still has leverage. The MSGP is a pressure point for the regulators

- Although the public comment period closed **11/19/24, EO 25-38**, ongoing coordination with IDEM, and engagement through IMAA and ECOS provide meaningful avenues to shape outcomes.
- Procedural inconsistencies between the **2015 MSGP** and **2021 MSGP** in conforming with non-partisan executive orders and rules for public comment and review introduce questions to the durability of the current and proposed MSGP. **Durability = consistency over time = consensus in succession = permanent enforceability = INTEGRITY.**

Be cautious asking for changes to ING490000.

- Future revisions should **clarify flexibility** (e.g., averaging to meet discharge limits). **–but–**
- **Sweeping changes could lead to narrowed applicability** could lead to:
 - Individual permits
 - Greater site-specific variability
 - Non-uniform requirements across facilities.

It's the regulatory principle that matters for compliance, not collecting more data.

- Effective environmental regulation depends on **clarity, predictability, and proper regulatory review**.
- When rules are **well-defined, appropriately vetted, and consistent with cooperative federalism**, compliance becomes **simpler, more consistent, and more reliable**—benefiting both **environmental outcomes** and **regulated entities**.
- By contrast, **unnecessary data collection, over-specified SWPPPs, repetitive plans within plans, and complex corrective-action procedures** add burden **without demonstrated environmental benefit**.

Bottom Line: The real risk to ALL is not more or less regulation — it is **regulation that is fragmented, repetitive, overly complicated, and/or disconnected from context.**