



Western States Petroleum Association  
Credible Solutions • Responsive Service • Since 1907

[Kevin Buchan](#)

Senior Coordinator, Bay Area and State Water Issues

September 12, 2007

Lila Tang  
Chief, NPDES Permits Division  
San Francisco Regional Water Quality Control Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Re: Watershed Permit Implementing the Mercury TMDL

Dear Ms. Tang,

The Western States Petroleum Association (WSPA) is a trade association that represented the majority of petroleum related interests in the five western states. We thank you for the opportunity to comment on the mercury watershed permit (Permit) implementing the mercury TMDL.

WSPA is encouraged that the TMDL has been adopted by the State Water Board, and the Regional Board is taking steps to finalize and adopted this Permit. The Permit implements the concepts and waste load allocations of the TMDL, and complies with all applicable laws and regulations as well as the goals of restoring and maintaining water quality. We appreciate the level of stakeholder engagement the staff have facilitated over the past several years to achieve this end.

We are concerned, however about the requirement for monthly concentration-based limits. Concentration based limits are not integral to the TMDL and seem to incorporate unnecessary enforceable requirements on the discharger community who make up less than 2 percent of the mercury loading to the Bay.

The Fact Sheet (p. F-16) seeks to justify the concentration based limits as indicated:

*"...concentration limits...ensure mass loads to San Francisco Bay are reduced."*

*"These limitations are intended to minimize the potential for adverse effects in the immediate vicinity of discharges and to ensure that wastewater facilities maintain proper operation, maintenance, and performance."*

The concentration limits should be stricken from the permit because they are unnecessary, unjustified, and inappropriate. We support this request with the following:

- The TMDL by definition and by statute must be consistent with achieving the water quality standards and protecting the beneficial uses. If there was a need for additional water quality protection as suggested by the Fact Sheet, that need would have been addressed during TMDL development and adoption by the Regional Board.
- The concentration-based triggers, Part V.C.1.a, Tables 10 and 11 of the Permit, are set well below the concentration-based limits. These triggers require specific actions to be taken if exceeded, and incorporate enforcement measures to ensure such actions are conducted. The concentration limits, therefore, are redundant and unnecessary with respect to protecting water quality.
- The Fact Sheet does not reference any evidence of potential adverse effects in the immediate vicinity of discharges, or how these concentration limits were set to prevent such undescribed effects. As noted above, if there were water quality concerns in the immediate vicinity of discharges, the TMDL itself would have recognized and addressed them.

WSPA requests the Regional Board remove the concentration based limits from the Tentative Order. Thank you.