



425 S. Palos Verdes Street Post Office Box 151 San Pedro, CA 90733-0151 TEL/TDD 310 SEA-PORT www.portoflosangeles.org

Eric Garcetti

Mayor, City of Los Angeles

Board of Harbor
Commissioners

Ambassador Vilma S. Martinez
President

David Arlan
Vice President

Patricia Castellanos

Anthony Pirozzi, Jr.

Edward R. Renwick

Eugene D. Seroka

Executive Director



February 14, 2018

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000
Via email: commentletters@waterboards.ca.gov

Dear Ms. Townsend:

SUBJECT: COMMENT LETTER – INDUSTRIAL GENERAL PERMIT AMENDMENT

The City of Los Angeles Harbor Department (Harbor Department) appreciates the opportunity to submit comments on the proposed amendment to the General Permit for Stormwater Discharges Associated with Industrial Activities (IGP), implementing total maximum daily load (TMDL) requirements.

The Harbor Department operates the Port of Los Angeles, which includes 7,500 acres of land and water. The Harbor Toxics TMDL and Bacteria TMDL apply to water bodies in the Port of Los Angeles.¹ As a responsible party in both TMDLs, the Harbor Department has a vested interest in the incorporation of the proposed TMDL-specific requirements into the existing IGP. In addition, as a landlord port, the Harbor Department has numerous tenants that are covered under the IGP. For these reasons, we offer detailed comments for your consideration and review. We hope our comments will facilitate more thorough understanding and clarity of the proposed language, which we believe will be essential to enable all parties to successfully implement this proposed amendment.

In addition, the Harbor Department supports comments submitted by the California Stormwater Quality Association on overall issues in the proposed amendment. Our comments below are specific to the applicable TMDLs in our region.

¹ Harbor Toxics TMDL refers to the Total Maximum Daily Load for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters; Bacteria TMDL refers to the Los Angeles Harbor Bacteria TMDL (Inner Cabrillo Beach and Main Ship Channel).

The Harbor Department would like the State Water Resource Control Board (State Water Board) to consider incorporating the following key concerns and recommendations into the proposed amendment:

1. The IGP should provide clarity for TMDL applicability to an IGP permittee.
2. Proposed Numeric Effluent Limitations (NELs) are inconsistent with the existing IGP iterative approach and should be removed. The current compliance pathway for Numeric Action Levels (NALs) should be applied to the proposed NEL pollutants.
3. The Harbor Toxics TMDL is a sediment TMDL. Proposed TMDL Numeric Action Levels (TNALs) and NELs for the Harbor Toxics TMDL are not consistent with the current methods for TMDL attainment, nor are they relevant to the protection and restoration of sediment quality. The proposed TNALs should be derived from the current IGP method for NALs, and NELs should be removed.
4. The IGP should allow compliance with a TMDL to be demonstrated via an alternative and adaptive process which should be consistent with the Harbor Toxics TMDL Basin Plan Amendment.
5. On-site and off-site options proposed as alternative compliance in Attachment I should be workable, flexible and account for facility-specific conditions.

Details on each item are provided below.

1. The IGP should provide clarity on TMDL applicability to an IGP permittee.

The proposed amendment is not clear on which TMDL an industrial permittee may be subject to. The proposed amendment also does not clearly link TMDL requirements to sources related to industrial activities and the current IGP pollutant source assessment process. The Harbor Department recommends that the IGP be amended to clarify that (1) an applicable TMDL is the TMDL in a water body to which the IGP facility's point of discharge is most proximate, (2) the facility will conduct a pollutant source assessment for TMDL pollutant(s) specific to the applicable TMDL, and (3) the facility should only be identified as a Responsible Discharger pursuant to the TMDL if the pollutant source assessment identifies the TMDL pollutant(s). This approach is consistent with the basis for the other IGP requirements.

2. Proposed NELs are inconsistent with the existing IGP iterative approach.

The current IGP includes NALs because "[it] is infeasible for the State Water Board to develop numeric effluent limitations using the best professional judgment approach due to lack of sufficient information...NELs must be developed with consideration of what is economically achievable for each industrial sector...The State Water Board does not have the information...necessary to promulgate NELs at the time of adoption of this General Permit" (pages 18 through 20 of IGP Fact Sheet).

In contrast to the current IGP approach, the proposed amendment includes NELs despite the lack of technology to achieve the NELs. Stormwater capture and reuse or infiltration is not feasible for facilities located in the lower portion of a watershed where the groundwater table is high and does not replenish fresh water aquifers. Numerous industrial facilities, such as those in the Port of Los Angeles, are geographically, hydrologically, operationally, and spatially restricted, i.e., there are no locations in which to place capture and reuse or infiltration Best Management Practices (BMPs). If the proposed TMDL-based NELs are adopted, numerous IGP permittees, including those in the Port of Los Angeles, will be forced to implement unproven and very expensive treatment technology in efforts to comply with the NELs without a guarantee of compliance with the NELs or the IGP.

The Harbor Department recommends that NELs be removed from the proposed amendment and strongly supports the incorporation of a BMP-based iterative approach, consistent with the compliance pathways for NALs currently in the IGP.

3. Proposed TNALs and NELs calculated from the Harbor Toxics TMDL are not appropriate for the protection and restoration of sediment quality, are unachievable, and need to be reconsidered.

- a. The proposed IGP amendment includes Harbor Toxics TMDL–based TNALs and NELs for metals and bioaccumulative compounds (e.g., DDTs, PCBs) in the Dominguez Channel Estuary and Greater Los Angeles and Long Beach Harbor Waters. These water bodies are impaired for sediment quality and not for water column (page 3 of Basin Plan Amendment²). Consequently, sediment-based TMDLs were established for these water bodies “to protect and restore fish tissue, water and sediment quality...by remediating contaminated sediment and controlling the sediment loading and accumulation of contaminated sediment in the Harbors” (page 2 of Basin Plan Amendment; emphasis added). Loading capacities for these water bodies were calculated as the estimated sediment load multiplied by the sediment quality target (page 9 of Basin Plan Amendment). Compliance with this sediment-based TMDL can be demonstrated via multiple means:
 - i. For metals and PAHs, meeting (1) TMDL Waste Load and Load Allocations (WLA/LA), (2) Sediment Quality Objectives (SQOs), or (3) sediment targets in bed sediment.
 - ii. For bioaccumulative compounds, meeting (1) fish tissue targets, (2) TMDL WLA/LA, (3) sediment targets associated with fish tissue targets, or (4) sediment quality conditions protective of fish tissue.

² Attachment A to Resolution No. R11-008 Amendment to the Water Quality Control Plan – Los Angeles Region to Incorporate the Total Maximum Daily Load for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters.

The proposed TNALs and NELs are based on California Toxics Rule (CTR) criteria.³ The CTR criteria are to protect beneficial uses in receiving water and are not relevant to the determination of sediment quality conditions associated with the attainment of fish tissue and benthic health in the TMDL water bodies. Further, CTR criteria are for receiving water and should not be applied directly at end-of-pipe.

- b. The proposed TNALs for copper, lead, and zinc are based on Criteria Chronic Concentration (CCC) for saltwater chronic exposure conditions and should not be applied to stormwater discharges, which are transient and episodic pulsed events.
- c. The proposed TNALs and NELs are exceedingly low. It will be extremely difficult (if not impossible) to comply with the proposed values when no proven BMP technology has been demonstrated to achieve such low levels in stormwater.
 - i. In an effort to demonstrate difficulties in meeting the proposed metal TNALs, a review of data obtained from the International Stormwater BMP Database for sites in California was conducted.⁴ Only 34% of media filter BMPs were able to meet the copper TNAL, while no infiltration basins studied were able to meet the copper or zinc TNAL. These results show that infiltration basins have very poor performance in potentially meeting TNALs. While media filters showed better performance for lead and zinc, the overall ability of all BMPs available showed that one-fourth to one-third are still unable to meet TNALs (Table 1).

Table 1

Percent of samples from BMPs located in California that exceed the proposed metal TNALs from the International Stormwater BMP Database

Pollutant (total recoverable)	TNAL (mg/L)	Media Filter % Exceed	Infiltration Basin % Exceed	All BMPs % Exceed
Copper	0.00373	66%	100%	84%
Lead	0.00853	5%	70%	32%
Zinc	0.0856	11%	100%	23%

- ii. Furthermore, the proposed TNALs for chlordane, 4,4'-DDT, dieldrin, and PCBs are based on CTR human health risk for consumption of organisms and are lower than or very close to method detection limits typically achieved

³ TNALs and NELs for copper, lead, zinc, chlordane, DDT, dieldrin, PCBs, and PAHs in Dominguez Channel Estuary, Greater Los Angeles Harbor waters, Consolidated Slip, and Fish Harbor.

⁴ International Stormwater BMP Database (<http://www.bmpdatabase.org/>). Data collected in California included 10 infiltration basin samples and 346 media filter samples. 'All BMPs' refers to all BMP categories in the BMP Database located in California for which total copper, lead and zinc were sampled (844 samples).

at commercial laboratories (Table 2). Therefore, it is uncertain how an IGP facility would be able to demonstrate compliance with the TNALs.

Table 2

Harbor Toxics TMDL TNALs and Method Detection Limits

Pollutant	TNAL (mg/L)	Method Detection Limit (mg/L) [Analytical Method]
Chlordane	5.9×10^{-7}	2.5×10^{-6} [EPA 608]
4,4'-DDT	5.9×10^{-7}	5.0×10^{-7} [EPA 608]
Dieldrin	1.4×10^{-7}	5.0×10^{-7} [EPA 608]
PCBs	1.7×10^{-7}	1.7×10^{-7} to 1.2×10^{-6} [EPA 8270C SIM]

- d. Finally, the proposed TNALs and NELs at the end-of-pipe of industrial discharge are an incorrect application for the attainment of the sediment quality in the TMDL water bodies and are unachievable. The Harbor Department participates in a Regional Monitoring Coalition and conducts receiving water monitoring and SQO assessment as part of compliance with the Harbor Toxics TMDL, which is sufficient for receiving water and sediment monitoring in the Harbor waters. We will continue focusing on reduction and removal of near-shore pollutant loads to further improve receiving water quality and sediment quality. The Harbor Department recommends that a Responsible Discharger for the Harbor Toxics TMDL be allowed to demonstrate compliance by (1) monitoring a TMDL pollutant (TNAL) where other IGP pollutants are monitored (generally at the catch basin), and those numbers should remain the current NALs, and (2) addressing exceedance(s) via the same iterative process applied to NALs in the current IGP. This alternative compliance approach is consistent with compliance approaches of the Harbor Toxics TMDL and the current IGP. The Harbor Department recommends that any necessary TNALs should be based on the methods used for NALs in the IGP.

4. The IGP should allow compliance to be demonstrated via an alternative and adaptive process.

Infiltration BMPs are not feasible for IGP facilities in the Port of Los Angeles due to geographical, hydrological, and spatial restrictions. Driving IGP facilities to install structural and treatment BMPs that have not been proven effective at removing the pollutants to the proposed TNALs and NELs is inconsistent with the Best Available Technology Economically Achievable/Best Conventional Pollutant Control Technology (BAT/BCT) Exceedance Response Action (ERA) Level II process in the IGP. Most IGP permittees in the Harbor areas are currently in the ERA Level II process and will be moving towards treatment BMPs for the first time. Requiring additional unproven and expensive technology for the proposed TNALs and NELs is inconsistent with the current ERA process. The Harbor Department recommends that instead compliance can be achieved through an adaptive management approach consisting of implementing

Regional Water Quality Control Board approved BMPs that constitute BAT/BCT for a specific industrial site. This approach could be implemented within the framework of the existing IGP ERA process.

With the understanding that there are significant regional monitoring efforts under way to better understand the receiving water impairment and the scientific basis for the TMDL, we recommend that the State Water Board build flexibility into the proposed amendment which is consistent with what will be required of other dischargers with WLAs in TMDL watersheds.

5. On-site and off-site options proposed as alternative compliance in Attachment I should be workable and flexible and account for facility-specific conditions.

As proposed in Attachment I, the on-site and off-site alternative compliance options are limited to stormwater capture and reuse or infiltration BMPs. These options are not available for most industrial facilities in the Port of Los Angeles. The Harbor Department recommends adding treatment BMPs to on-site and off-site BMP options. Furthermore, the current off-site option proposes directly piping water from the IGP facility to a treatment BMP. This is infeasible. Therefore, the Harbor Department recommends the inclusion of an off-site option that facilitates funding an upstream regional project in the same watershed in partnership with a local Municipal Separate Storm Sewer System (like a "cap and trade") rather than directly infiltrating pre-treated industrial discharge upstream. The Harbor Department also recommends offering a partnership with Publicly Owned Treatment Works as a viable off-site treatment option. So long as the discharger complies with the IGP iterative process and installs on-site treatment as part of a Level 2 ERA process, reducing pollutant sources upstream should be a viable option.

We greatly appreciate the opportunity to provide our comments and look forward to continuing working closely with the State Water Board and other stakeholders on effective approaches to improving water quality and achieving TMDL compliance in the Port of Los Angeles.

For additional information, please contact Rachel McPherson at (310) 732-0314 or via email at rmcpherson@portla.org.

Sincerely,



CHRISTOPHER CANNON
Director of Environmental Management