

THE CITY OF SAN DIEGO

February 14, 2018

VIA EMAIL: commentletters@waterboards.ca.gov

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Subject: Comment Letter – Industrial General Permit Amendment

Dear Ms. Townsend:

The City of San Diego (City) appreciates the opportunity to provide comments on the proposed amendment to the Statewide Storm Water Industrial General Permit, Order 2014-0057-DWQ as amended by Order No. 2015-0122-DWQ (Industrial General Permit). The City understands that the State Water Resources Control Board (State Board) is proposing the revisions to include statewide compliance options to allow compliance with water quality objectives through onsite and regional storm water capture best management practices (BMPs), and including Total Maximum Daily Load (TMDL)-related requirements. The City supports the use of statewide compliance options to incentivize storm water capture and use and storm water infiltration.

The City purveys drinking and recycled water, operates fixed industrial facilities (e.g., wastewater and landfill operations) covered under the Industrial General Permit, and manages and operates a vast municipal separate storm sewer system (MS4) that receives flow from other industrial facilities. The City's interests align with the benefits of this amendment including 1) improving groundwater recharge; 2) reducing pollutant loads discharged to surface waters; and 3) incorporating transparent compliance options for National Pollutant Discharge Elimination System (NPDES) permittees (Responsible Parties). The City's primary comments are discussed in the body of this letter, and detailed comments and recommendations are provided in Attachment A.

- The City supports efforts by Responsible Parties covered under the Industrial General Permit to responsibly infiltrate storm water and supports the language to incentivize infiltration, where feasible. The City recommends removing overly restrictive requirements that may prevent Responsible Parties from proposing infiltration BMPs that pose a low risk to receiving groundwater quality. The City's detailed comments table includes some of the overly restrictive language with recommended changes.



- The City supports the addition of offsite compliance options that use the 85th percentile design storm. If this option is included in the Industrial General permit, the City requests that equivalent compliance options with identical design storm sizes be incorporated into all NPDES storm water permits so there is equal accountability for all permittees.
- The City recommends adding language indicating TMDL-specific permit requirements do not apply to Responsible Parties that meet the no exposure certification (NEC) coverage requirements for the applicable TMDL-specific parameter(s), for Responsible Parties that do not have industrial pollutants related to the receiving waters with the approved TMDLs, or for facilities that do not drain to receiving waters with approved TMDLs.
- The City recommends additional effort be made to differentiate and define TMDL-Numeric Action Levels (TNAL), Numeric Effluent Limitations (NELs), and TNAL and NEL exceedances. There were several inconsistencies and missing table references (i.e. General Permit TMDL Compliance Table) throughout the Industrial General Permit amendment documents.

Thank you for your time and consideration of these comments. If you have questions, please contact Ruth Kolb at (858) 541-4328 or at rkolb@sandiego.gov.

Sincerely,



Drew Kleis
Deputy Director

Attachment: 1. IGP Amendment Comment Table

cc: Paz Gomez, Deputy Chief Operating Officer, Infrastructure/Public Works
Patrick Bouteller, Director of Government Relations, Office of the Mayor
Alejandra Gavaldon, Director of Infrastructure and Water Policy, Office of the Mayor
Vic Bienes, Director, Public Utilities Department
Kris McFadden, Director, Transportation & Storm Water Department
Mario Sierra, Director, Environmental Services Department
Alex Garcia, Deputy Director, Environmental Services Department
Peter Vroom, Deputy Director, Public Utilities Department
Amanda Guy, Deputy City Attorney, City Attorney's Office
Ray Palmucci, Deputy City Attorney, City Attorney's Office
Davin Widgerow, Deputy City Attorney, City Attorney's Office
Craig Fergusson, Senior Civil Engineer, Environmental Services Department
Ruth Kolb, Program Manager, Transportation & Storm Water Department
Rachel Davenport, Biologist III, Public Utilities Department

Proposed Amendments to IGP
Section-Specific Comments:

#	Page	Section	Comment
1	9	IGP I.F. Item 50	<p>Total Maximum Daily Loads (TMDL)-specific permit applicability needs to be modified. The Industrial General Permit (IGP) does not clearly identify/link TMDL applicability to the Pollutant Source Assessment in the IGP, to industrial sources, or exposure to industrial sources.</p> <p>Recommendation Recommend adding language indicating TMDL-specific permit requirements do not apply to Responsible Parties with IGP coverage that meet the NEC coverage requirements for the applicable TMDL-specific parameter(s) or for Responsible Parties that do not have industrial pollutants related to the receiving waters with approved TMDLs, or for facilities that do not drain to receiving waters with approved TMDLs.</p>
2	9	IGP I.F. Item 51	<p>Item 51 references the General Permit TMDL Compliance Table, but the table location is not provided.</p> <p>Recommendation Recommend including the location of the table and reference it consistently throughout the document. The reference is for the second table in Attachment E, which should be referenced as Table E-2 in Attachment E.</p>
3	9	IGP I.F. Item 51	<p>Item 51 states TNALs and NELs are found in the General Permit TMDL Compliance Table. The differences between the TNALs and NELs is unclear and needs to be explained in detail.</p> <p>Recommendation NEL exceedances should be defined in the Glossary. Recommend differentiating between TNALs and NELs.</p>
4	9	IGP I.F. Item 55	<p>NELs are not defined in Section XII.A.2 as described in Item 55.</p> <p>Recommendation Section XII.A.2 should reference NELs (see Comment 6 within this table).</p>
5	9	IGP I.F. Item 56.	<p>Attachment I Compliance Options should be applicable to NALs, TNALs, and NELs. The statement complying with the applicable NALs infer that the NALs are effluent limits.</p> <p>Recommendation Revise the language in Item 56 as follows:</p>

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			“The State Board allows Responsible Parties statewide to comply with the alternative compliance options below instead of complying with applicable NALs/TNALs/NELs or demonstration requirements under the ERA process, Discharge Prohibitions Section III.C, TMDL waste load allocations (WLAs), and Receiving Water Limitations. Responsible Parties are still required to comply with the applicable Subchapter N effluent limitations.”
6	13	IGP I.M. Item 76	The IGP amendments need to improve the descriptions/definitions of the TNALs and NELs. Recommendation 1) Revise section to include instantaneous maximum TNALs and NELs in the initial paragraph and separate TNALs and NELs within their own section (76.c and 76.d). 2) Include language on how the TNALs and NELs were established. 3) References should be included for the second table in Attachment E, Table E-2.
7	25	IGP VII.A.3	There is an incorrect reference in the text. Recommendation Revise reference to Table X to Table E-2 in Attachment E.
8	25	IGP VII.C.1 and 2	There is an incorrect reference in the text. Recommendation Table X is not in Attachment E. Recommend changing Table X to Table E-2, as described in comment 7 above.
9	26	IGP VII.E	The IGP amendments need to clarify distinction between NEL exceedances and TNAL exceedances. Recommendation Add reference to Table E-2. Clarify this only applies to NEL exceedances and not TNAL exceedances.
10	51	IGP XI.C.7.g	This section needs to incorporate NELs. Recommendation Include NELs in statement.
11	52	IGP.XII.A	The IGP amendments need to improve the descriptions/definitions of the TNALs and NELs. Recommendation Revise section to include instantaneous maximum TNALs and NELs in the initial paragraph and separate TNALs and NELs within their own section (3 and 4).

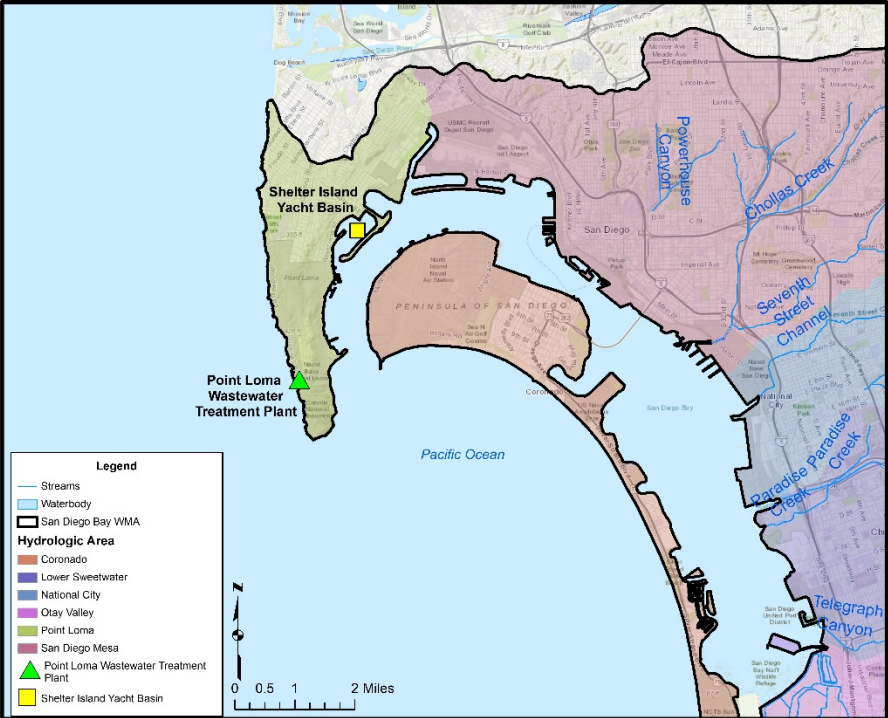
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			<p>Item 3 should be added to Section XII.A as follows: “Instantaneous maximum TNAL exceedance: The Discharger shall compare sampling and analytical results from each distinct effluent sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum TNAL value in Table E-2 in Attachment E. An instantaneous maximum TNAL exceedance occurs when two (2) or more analytical results from samples taken from any single parameter within a reporting year exceed the instantaneous maximum TNAL value. An instantaneous maximum TNAL exceedance requires Water Quality Based Corrective Actions as specified in Section XX.B.”</p> <p>Item 4 should be added to Section XII.A as follows: “Instantaneous maximum NEL exceedance: The Discharger shall compare sampling and analytical results from each distinct effluent sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NEL value in Table E-2 in Attachment E. An instantaneous maximum TNAL exceedance occurs when two (2) or more analytical results from samples taken from any single parameter within a reporting year exceed the instantaneous maximum NEL value. An instantaneous maximum NEL exceedance requires Water Quality Based Corrective Actions as specified in Section XX.B.”</p>
12	1	Attachment C/ Glossary	<p>The IGP amendments need to use consistent terminology throughout the document when referring Alternative Compliance Options. The term should be added to the glossary. Recommendation Add definition of Alternative Compliance Options (see comments re: Attachment I).</p>
13	6	Attachment C/ Glossary	<p>Responsible Discharger should be limited to the discharge of industrial-sourced pollutants and identified in the respective TMDL for purposes of IGP Implementation. Recommendation A Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges <u>pollutants</u> associated with industrial activities <u>in storm water</u> and Authorized NSWDS to impaired waterbodies or to an upstream reach or tributary to impaired waterbodies either directly or through a municipal separate storm sewer system (MS4) and is included in a U.S. EPA approved TMDL as a potential industrial source of pollutants contributing to the impairment.</p>
14	8	Attachment C/ Glossary	<p>The TNAL exceedance definition is not properly defined. Recommendation</p>

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			<p>TNAL Exceedance – Recommend revising the definition using the NAL Exceedance language.</p> <p>“The Responsible Discharger shall compare sampling and analytical results from each distinct effluent sample (individual or composite) to the corresponding Instantaneous maximum TNAL values in Table E-2 in Attachment E of this General Order. An instantaneous maximum TNAL exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum TNAL value.”</p>
15	--	Attachment C/ Glossary	<p>NEL and NEL exceedance are not defined in the glossary. Recommendation Include definition of NEL and NEL exceedance in the glossary.</p>
16	8	Attachment C/ Glossary	<p>Clarify that waste load allocations are allocated through TMDLs. Recommendation The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution <u>through a TMDL</u>.</p>
17	E-3	Attachment E/ List of Existing TMDLs Applicable to Industrial Storm Water Discharges	<p>When reading this section, it would be helpful to cite the table number when referencing. Recommendation For clarity, we recommend adding “Table E-2” to the table title.</p>

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18	E-44, E-46	Attachment E/List of Existing TMDLs Applicable to Industrial Storm Water Discharges	<p>Implementation of applicable TMDLs (and 303-d list impairments listed in SMARTS) should be more accurately represented both in the inclusion of TMDLs and application of 303(d) listings in the SMARTS annual reporting. This should be based on specific areas, facilities, and sources that drain to the impaired water body and not based on general hydrologic area delineations (i.e. simply being located in the larger watershed), and allocations for non-specific industrial sources.</p> <p>For example, some facilities are downstream from or do not drain to impaired water bodies with a TMDL or 303(d) listing even though they are in the same hydrologic sub-area. A specific example of this is the Point Loma Wastewater Treatment Plant (PLWTP), which has been identified by SMARTS as being subject to the Shelter Island Copper TMDL requirements because it is an industrial Discharger. Industrial Discharges are identified as a source in the TMDL, and it is located in the Pueblo Hydrologic Sub-area (908.1) or the “Shelter Island Yacht Basin watershed”. However, p.75 of the fact sheet identifies the industrial Responsible Parties and activities associated with the source of copper for this TMDL and does not identify wastewater treatment; nor does the TMDL. This is application of the TMDL to PLWTP inappropriate because:</p> <ol style="list-style-type: none"> 1. The PLWTP does not drain to Shelter Island or to San Diego Bay, which is on the eastern side of Point Loma (it drains to the Pacific Ocean on the western side of Point Loma); and 2. The industrial activity/Responsible Parties identified in the TMDL are associated with boating operations, hull cleaning, and copper antifouling paint used on watercraft, not wastewater treatment. <p>Recommendation Add an exception for PLWTP for all Shelter Island TMDLs because the PLWTP does not drain to this water body and was not identified as a contributing source in the TMDL, refer to the figure provided on the next page.</p>

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			 <p>The map displays the San Diego Bay Watershed Management Area (WMA) with various hydrologic areas color-coded: Coronado (orange), Lower Sweetwater (blue), National City (purple), Otay Valley (green), Point Loma (light green), and San Diego Mesa (pink). Key features include the Shelter Island Yacht Basin (yellow square) and the Point Loma Wastewater Treatment Plant (green triangle). Major waterways shown are Powerhouse Canyon, Chollas Creek, Seventh Street Channel, Paradise Creek, and Telegraph Canyon. The map also shows the Pacific Ocean, San Diego Bay, and the Peninsula of San Diego. A legend, scale bar (0 to 2 miles), and north arrow are included.</p>
19	1	Attachment I Title	<p>The title “Compliance Options” should be changed as Responsible Parties have other compliance options not specified in Attachment I. “Alternative compliance options” was used on Item 56, Page 9.</p> <p>Recommendation Recommend revising the attachment title and any other applicable references to “Alternative Compliance Options.”</p>
20	1	Attachment I Section I.B. and C	<p>Support this update.</p> <p>Recommendation Add equivalent compliance options into other storm water permits so that there is equal accountability for all permittees.</p>

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21	2	Attachment I Section II.B	The last sentence of this section should be revised for consistency, and to clarify that storm water that is diverted or captured and used on site is not authorized to discharge to a receiving water, but may be allowed to discharge to waters of the state under Section J. Recommendation The diverted or used volume of storm water is not authorized to discharge <u>to a receiving surface water body or to the MS4</u> from the industrial facility.
22	2	Attachment I Section II.D	What constitutes groundwater “degradation” is not defined, and therefore Responsible Parties cannot ensure non-degradation. Meeting other requirements of Attachment I is more than necessary to document that the infiltration BMPs pose low risk to receiving groundwater quality. Recommendation Recommend striking entire paragraph.
23	2	Attachment I Section II.E.1 Footnote 2	The more stringent compliance storm standard requirement to capture, infiltrate, and/or use storm water for a specific daily storm volume will be challenging for most facilities to achieve. For example, recovery of capacity within 24 hours is overly restrictive for evapotranspiration (ET) BMPs and infiltration BMPs constructed in hydrologic soil group (HSG) C and D soils. ET BMPs cannot meet this standard as written, and is likely economically infeasible for sites with HSG C or D soils. A site that meets NONA exemption using ET only will not meet this standard, as currently written. Recommendation Provide an additional option for a Discharger to run a continuous simulation model. A Discharger should be deemed in compliance if the BMP meets a standard such as retaining at least 90% of the annual average runoff. If this option is selected, the Discharger should provide annual flow data demonstrating they met this compliance option.
24	2	Attachment I Section II.E.2	Responsible Parties should be provided options based on tributary areas. All flows from “all areas” associated with industrial activity at the facility is overly restrictive. Responsible Parties may not have the ability to meet these requirements in certain areas of their property, while complying with the options at others. Other options may be implemented such as preventing exposure. Recommendation Revise the language as follows:

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			“2. Include all flows from areas associated with industrial activity covered under the Alternative Compliance Options at the facility for the following discharges:”
25	2	Attachment I Section II.E.2.c	For consistency with Section XII.D.2.b, this should be clarified as run-on within the facility and not from run-on from adjacent properties. Recommendation “Non-industrial run-on <u>from within the facility</u> that commingles with the industrial storm water flowing into the BMP(s).”
26	2	Attachment I Section II.E.3	Same as comment 23 for II.E.1, Footnote 2. Recommendation Provide an additional option for a Discharger to run a continuous simulation model and retain at least 90% of the annual average runoff.
27	3	Attachment I Section II.E.6.a	Applicability of MCLs for infiltration BMPs should be limited to areas with the groundwater recharge or municipal/domestic supply beneficial uses and to areas where drinking water wells are within a specified range downstream. Recommendation “a. The Discharger shall ensure that all influent entering the infiltration BMP(s) meets applicable Maximum Contaminant Level (MCL) criteria for industrial pollutants at the facility <u>with groundwater recharge or municipal/domestic supply beneficial uses or in close proximity to drinking water wells</u> , as specified in Table A below.”
28	3	Attachment I Section II.E.6.a.ii	Lysimeters monitor soil moisture, not groundwater. Monitoring devices could include lysimeters or monitoring wells. Recommendation Remove the word “groundwater.”
29	3	Attachment I Section II.E.6.b	Evaluate removal of more restrictive requirements for drywells. Drywells can be monitored similarly to other infiltration BMPs. They are installed in the vadose zone, not the saturated zone. Drywells can be monitored using downgradient monitoring wells, or lysimeters installed between the bottom of the drywell and historical high groundwater elevation. Recommendation Delete entire entry.

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30	3	Attachment I Section II.E.6.b	There is an incorrect reference. Recommendation Item II.E.6.b. should refer to II.E.6.a.i, not II.E.5.a.i
31	4	Attachment I Section II.E, Table A	The water quality objectives in this table should reference the respective regional basin plan objectives, if they exist, because those objectives better reflect and are more applicable to local conditions. Recommendation Add a footnote to state these limits apply if the regional basin plans do not specifically address that pollutant and that, if addressed in a basin plan for the water body and pollutant, the local basin plan limits supersede the IGP.
32	4	Attachment I Section II.F.1	Clarify that this section applies to all Responsible Parties that are not being elevated to a higher status because current permit requirements do not require ERA reports or action plans unless their status is elevated after the amendment effective date. Recommendation “A Discharger with Baseline Status <u>for all pollutants as of (insert amendment effective date) or that is already at Level 1 status as of (insert amendment effective date) or subsequently returns to baseline status before selecting to implement an alternative compliance option...</u> ”
33	4	Attachment I Section II.F.2	Clarify that this section requires Responsible Parties to be raised to Level 1 status for any constituent after the effective date. If a Discharger is already at Level 1 status and remains there or returns to baseline, they will not be submitting an ERA report. Recommendation “A Discharger with <u>raised to Level 1 Status for any pollutant as of after</u> (insert amendment effective date).”
34	5	Attachment I Section II.F.3	Clarify that this section requires Responsible Parties to be raised to Level 2 status for any constituent after the effective date. If a Discharger is already at Level 2 status or if BMPs implemented bring their status down, they will not be submitting an ERA action plan and technical report. Recommendation “A Discharger with <u>raised to Level 2 Status for any pollutant as of after</u> (insert amendment effective date).”
35	6	Attachment I Section II.H.1.d	The term “representative” is subject to interpretation in terms of sample frequency. Also, Table A should be referenced for the constituent list for infiltration BMPs as well as the

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			<p>applicable monitoring frequency. In addition, please clarify this section does not apply to sewer diversions.</p> <p>Recommendation <u>“Conduct one annual representative analytical sampling of the influent... Infiltration BMP influent samples should also be analyzed for the constituents listed in Table A annually. Although separate monitoring and permitting may be required by a sewer agency, sampling is not required under this permit for diversions to a sanitary sewer system.”</u></p>
36	7	Attachment I Section II.H.3.b	<p>SWPPP upload requirements should be consistent with permit SWPPP upload requirements for major modifications, allowing for 30 days to upload after initial operation. This provides Responsible Parties an opportunity to test, operate, and troubleshoot the BMP on a short-term basis, if necessary, before the BMP is considered implemented and officially seeking an alternate compliance option.</p> <p>Recommendation “The updated SWPPP shall be available at the facility 7-30-days prior after to the initial operation of the BMP(s). The Discharger shall certify and submit the updated SWPPP via SMARTS 7 days prior to the initial operation of the BMP(s).”</p>
37	8	Attachment I Section II.K.4	<p>The wrong tense is used in this sentence.</p> <p>Recommendation Change authorized to “authorize”.</p>
38	8	Attachment I Section II.K.4	<p>Metrics should be added to provide Responsible Parties clarity on when infiltration would not be considered a threat.</p> <p>Recommendation Add metrics to identify when infiltration is not a threat to groundwater such as removal after four (4) consecutive QSEs that were sampled subsequent to BMP implementation indicating no additional MCL exceedances have occurred and are not anticipated to occur for that parameter.</p>
39	6	Fact Sheet	<p>The Fact Sheet needs improved descriptions/definitions of the TNALs and NELs.</p> <p>Recommendation Modify Fact Sheet with recommendations on TNAL and NEL definitions above.</p>

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40	25	Fact Sheet Section II.E.2.b	The IGP amendments also provide TNALs and NELs which needs to be clear in the Fact Sheet. Recommendation “This General Permit requires compliance with receiving water <u>and effluent</u> limitations. Responsible Parties may be deemed in compliance with those limitations through compliance with the On-Site Compliance Option or the Off-Site Compliance Option.”
41	25	Fact Sheet Section II.E.2.b	References to the MSGP should clarify that the EPA document is used as guidance only and compliance requirements set forth in that permit may differ from the IGP, in which case the IGP is the primary authority to determine compliance. Recommendation Add a footnote to each reference to the MSGP, “In any case that the MSGP may differ from the IGP, the IGP is the primary authority to determine compliance.”
42	25	Fact Sheet Section II.E.2.b	The State Board can encourage, but should not require a Discharger to enter into an agreement with a local jurisdiction. Recommendation “The Alternative Compliance Options in this General Permit require <u>encourage</u> the Discharger to: • Enter into agreements with local jurisdictions to utilize off-site BMPs for compliance with specific General Permit requirements described in Attachment I.”