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VIA ELECTRONIC MAIL

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State Water Resources Control Board
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Sacramento, CA 95814

Attention: Ms. Jeanine Townsend

Comment Letter

Draft Amendment to the Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities

The Sanitation Districts of Los Angeles County (Sanitation Districts) operate comprehensive wastewater and solid waste management systems that serve the needs of a large portion of Los Angeles County. The Sanitation Districts own or operate 15 facilities that are currently covered by the Industrial General Permit. This includes wastewater treatment facilities, operating landfills, materials recovery/transfer facilities, and energy recovery facilities. All of these facilities will be affected by the proposed amendment to the Industrial General Permit and the Sanitation Districts appreciate this opportunity to comment on the *Draft Amendment to the Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities*.

The Sanitation Districts recognize and appreciate the efforts of the staffs of the State Water Resources Control Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards) to seek stakeholder input on various elements of the proposed Industrial General Permit Amendment since March 2016. The Sanitation Districts have taken the opportunity to participate in the stakeholder process for the proposed On-Site Compliance Option. Because of our participation in the stakeholder group, the Sanitation Districts had time to evaluate the details of implementation. We are providing the following comments to highlight some of our concerns with the current draft amendment. We request that the State Water Board consider these comments and suggested revisions before adopting the amendment.

Comments and Suggested Revisions

Item 1: The Sanitation Districts appreciate the inclusion of the On-Site Compliance Option and believe it is a necessary compliance tool for many Dischargers that will provide a long term benefit to regional water quality while reducing reliance on imported water sources. Section II.E.3, Footnote 2 from Section II.E.1, and Footnote 10 from Section II.H.2.c of Attachment I describe a 24-hour time period during which the On-Site Compliance Option BMP must recover its capacity. The State Water Board has stated that the 24-hour time period required to recover the BMP's capacity to capture and use the runoff volume

generated up to and including the 85th percentile 24-hour storm event is from 12:00 a.m. to 11:59 p.m. each day. The Sanitation Districts feel this is a restrictive time-frame that would be infeasible to plan for and comply with.

For instance, a Discharger who may be capturing runoff from an intense storm beginning at 11:00 p.m. would need to capture and use the entire runoff volume generated from an 85th percentile 24-hour storm (85th percentile storm) within 1 hour (before the deadline at 11:59 p.m.). At our individual sites, the 85th percentile storm volume ranges between 77,000 and 544,000 gallons. The average, of 300,000 gallons, is equivalent to the volume of 18 backyard pools. That volume is not trivial; our sites cannot feasibly use that much water in a limited amount of time that is arbitrary and holds no bearing on the specifics of the storm.

Stormwater systems have many components that work together to achieve the design goals (e.g., pumps, storage, treatment systems, infiltration systems, etc.). An engineer designing such a system needs to be given the flexibility to adjust for storm size, intensity, timing, and processes to achieve the greatest capture possible while maintaining efficiency in the design. The Sanitation Districts recommend that an option be included in the amendment to allow for a site-specific investigation or model that could demonstrate equivalency with the 24-hour time period for sites that cannot guarantee that they recover their stormwater capacity within 24 hours. For instance, a Discharger may be able to achieve an equivalent annual discharge volume reduction by increasing the storage volume available on-site to make up for capture and use, infiltration, or evapotranspiration restrictions that may exist at the site.

In order to allow for flexibility, the Sanitation Districts propose the following language as replacement language for the following items in Attachment I:

Section II.E.3

“Recover capacity within a 24-hour period (the 24-hour time-period ~~is 12:00 a.m. to 11:59 p.m.~~ begins at the time rainfall starts after at least a 48-hour antecedent dry period) to capture and use, infiltrate, and/or evapotranspire runoff volumes generated up to and including the 85th percentile 24-hour storm event. In the event that the full capacity cannot be met, compliance with the stormwater retention standards may be demonstrated using a continuous simulation model and historic rainfall records. The results of such an analysis must show that on an average annual basis, a system with reduced use, infiltration and/or evapotranspiration rates has the same capacity to prevent offsite discharges as a system that can completely dewater in a 24-hour period.”

Footnote 2 from Section II.E.1

“The BMP has not met the standards if the BMP is not able to recover its capacity through use, infiltration and/or evapotranspiration within a 24-hour period. The BMP will completely dewater and its capacity be fully available within 24 hours should back-to-back rainfall events occur or will meet the alternative design described in Section II.E.3. The 24 hours ~~time-period begins at the time rainfall starts after at least a 48-hour antecedent dry period. is defined as 12:00 a.m. to 11:59 p.m.~~ time-period begins at the time rainfall starts.”

Footnote 10 from Section II.H.2.c

“The BMP will completely dewater and its capacity be fully available within 24 hours should back-to-back rainfall events occur or will meet the alternative design described in Section II.E.3. The 24 hours ~~is defined as 12:00 a.m. to 11:59 p.m.~~ time-period begins at the time rainfall starts.”

Item 2: Requiring BMP(s) implemented by the Discharger to include all flows from all areas associated with industrial activity implies capturing flows beyond the daily 85th percentile, 24-hour storm.

Section II.E.2 of Attachment I requires BMP(s) implemented by the Discharger to “*include all flows from all areas associated with industrial activity at the facility...*” This condition requires that all pumped systems be designed to capture of flows up to and including the maximum storm on record. The Sanitation Districts recommend that Attachment I, Section II.E.2 include the following revision:

“Include all ~~of the~~ flows that would result from the daily 85th percentile, 24-hour design storm from all areas associated with industrial activity at the facility for the following discharges...”;

Item 3: The current language in Section II.B of Attachment I implies that if capture and diversion is selected to meet compliance, all 85th percentile, 24-hour storm volume needs to be diverted to a single use. The Sanitation Districts request revisions to this section to allow Dischargers to achieve the diversion volume through a combination of allowable stormwater management strategies. In addition, the Sanitation Districts request that the amendment requires that connections to the sewer be permitted for the stormwater discharge and that the allowable management strategies be expanded to include a permitted connection to a reclaimed water system. The Sanitation Districts recommend that Attachment I, Section II.B include the following revision:

“Discharger may include the BMPs that capture and divert the required storm water runoff volumes to a publicly-owned sanitary sewer treatment facility, ~~or~~ to an on-site facility for on-site use, to a regional reclaimed water distribution system, or a combination thereof. Proposed discharges to a publicly-owned sanitary sewer or reclaimed water distribution system shall be supported by a permit or will-serve letter that specifically allows the proposed stormwater flow rates. The minimum required storm water volume to be diverted shall be in accordance with the Section E.1 and E.2 below...”

Item 4: Collecting analytical samples of all bypass/overflow from BMP(s) may not be feasible.

Attachment I, Section II.H.1.a requires Dischargers with implemented and operational On-Site Compliance Option BMP(s) to conduct analytical sampling of all bypass/overflow from the BMP(s). However, this requirement is in conflict with Section XI.C.6.a.ii of the Order, which states that “*sample collection and visual observations are not required... outside scheduled facility operating hours.*”

It is also important to note that staff will not be present during outside operating hours to analyze for pH and dissolved oxygen to comply with the 15 minute holding time. For these reasons, the Sanitation Districts believe this language should be modified to indicate that analytical sampling of bypass/overflow is only required during scheduled facility operating hours.

In addition, bypasses that occur because the flow rate is greater than the peak flow from the 85th percentile 24-hour design storm may be very short in duration and could occur multiple times during a day as bands of intense rain pass a facility. This provision should be limited to sampling bypass flows once per day during facility operating hours.

The Sanitation Districts recommend the following revisions:

“Conduct analytical sampling of ~~all~~ bypass/overflow from the BMP(s) in compliance with the Sampling and Analysis Section XI.B.65-11 of this General Permit and Attachment H⁸, with the comparing monitoring results to NALs in Section XI.B.7;”

Item 5: The Sanitation Districts believe that the following requirements in Attachment I should be specific to Dischargers that intend to implement infiltration BMP(s):

- Section II.H.1.d and II.H.2.b requires Dischargers with implemented and operational On-Site Compliance Option BMP(s) to conduct representative analytical sampling of the influent entering the BMP(s). The Sanitation Districts believe that analytical sampling should be specific to infiltration BMPs because Dischargers diverting to a sanitary sewer or reclaimed water system will most likely have separate required sampling to satisfy the requirements of the associated permit.
- Section II.H.3.a.v requires Dischargers complying with the On-Site Compliance Option to update their SWPPP with “*applicable information on any preexisting contamination in the soil or groundwater for any industrial pollutants at the facility that may be discharged or mobilized at the facility through infiltration.*” The Sanitation Districts believe that this requirement should only apply to Dischargers who intend to implement infiltration BMP(s).

Item 6: The influent sampling requirement should specify a sampling frequency.

Section II.H.1.d requires Dischargers with implemented and operational On-Site Compliance Option BMP(s) to conduct representative and analytical sampling of the influent entering BMP(s) in compliance with the Sampling and Analysis Section XI.B.6-11 and Attachment H of the General Permit. However, neither of the mentioned sections specifies the number of samples that need to be collected within each reporting year. Notwithstanding our comment in Item 5 that this requirement not apply to discharges to sewer systems, the Sanitation Districts recommend that Attachment I include sampling requirements similar to those already adopted in the Order for discharges to systems other than sewers and reclaimed water systems.

Specifically, the Sanitation Districts propose that similar language, as provided below, be considered for Section II.H.1.d:

*“Conduct representative analytical sampling of the influent entering the **infiltration** BMP(s) in compliance with the Sampling and Analysis Section XI.B.~~6-11~~ and Attachment H of this General Permit, with the exception of comparing monitoring results to NALs in Section XI.B.7;”*

Item 7: Define or state the number of analytical results required within a reporting year for an instantaneous NEL exceedance to occur.

Section I.F.55 of the tentative Order references Section XII.A.2 for the requirement of a Numeric Effluent Limit (NEL) exceedance. However, Section XII.A.2 does not define instantaneous NEL exceedance; only “*instantaneous maximum NALs/TNALs exceedance*” is described. The Sanitation Districts recommend that the Order be revised to clearly define an instantaneous NEL exceedance and proposes that the definition for instantaneous maximum NEL exceedance be the same as instantaneous maximum NALs/TNALs exceedance, as follows:

“Instantaneous maximum NEL exceedance: The Discharger shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NEL values in the TMDL Compliance Table in Attachment E. An instantaneous maximum NEL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NEL value in the TMDL Compliance Table in Attachment E.”

The State Water Board should include this definition for NEL and NEL exceedance in the Glossary in Attachment C.

Item 8: The proposed Amendment should clearly define guidance for Dischargers to determine if their facilities are subject to TMDL-specific permit requirements.

Section I.F.49 of the tentative order indicates: *“Dischargers that are subject to TMDL-specific permit requirements are referred to as “Responsible Dischargers.”*

The tentative order does not clarify the procedure for Dischargers to determine if they are subject to TMDL-specific permit requirements in Attachment E of the tentative order. The tentative order should clearly state that a Discharger is subject to a TMDL permit requirement only if their facility is an industrial source of the TMDL pollutant as determined through the facility source assessment. In addition, a Discharger must determine that their facility discharges stormwater either directly or indirectly through a municipal separate storm sewer system (MS4) into the impaired water body or tributary that was assigned a Waste Load Allocation in that TMDL. This clarification would reduce the current level of confusion about which TMDLs apply to a facility.

As a result, the Sanitation Districts propose that similar language, as provided below, be considered for Section I.F.49:

Dischargers shall be determined to be subject to TMDL-specific permit requirements if a) the Discharger has conducted a source assessment and determined their facility is an industrial source for the TMDL pollutant, and b) their facility discharges stormwater either directly or indirectly through a municipal separate storm sewer system (MS4) to the impaired water body or upstream reach or tributary that was assigned a Waste Load Allocation in the TMDL. Dischargers that are subject to TMDL-specific permit requirements are referred to as “Responsible Dischargers.”

Item 9: Section II.E.6 should clarify whether a Discharger is responsible for all MCLs specified in Table A or just MCLs for which the Discharger is a potential pollutant source.

Section II.E.6 states that all influent entering the infiltration BMP(s) must meet applicable MCL criteria for industrial pollutants at the facility, as specified in Table A. The MCL criterion in Table A refines secondary MCLs to focus on pollutants associated with industrial activities, but list all primary MCLs. Since many of the primary MCLs are not industrial stormwater pollutants, the primary MCLs should also be refined to focus on pollutants associated with industrial activities or additional language should be provided to require Dischargers to conduct a pollutant assessment and monitor only for primary MCLs that have been identified as applicable industrial parameters.

The Sanitation Districts recommend the following modifications to Section II.E.6.a:

*“The Discharger shall ensure that all influent entering the infiltration BMP(s) meets applicable Maximum Contaminant Level (MCL) criteria **identified by the Discharger on facility-specific basis that serve as indicators of the presence of** ~~for~~ industrial pollutants at the facility, as specified in Table A below. If the influent does not meet applicable MCLs on an instantaneous basis, the Discharger shall have a California licensed professional engineer...”*

Item 10: The proposed Amendment should more clearly identify what the “TMDL Compliance Table” refers to.

Reference is made to the “TMDL Compliance Table” or “TMDL Compliance Table X” in Attachment E throughout the Order and the Fact Sheet. As written, it is unclear which table in Attachment E this refers to. For clarity, the Sanitation Districts suggest adding the title “TMDL Compliance Table” to the appropriate table in Attachment E.

Item 11: The proposed Amendment does not adequately define sufficiently sensitive methods.

The EPA Final Rule for “NPDES: Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting” (2014)¹ provides a multipart explanation of sufficiently sensitive methods as follows:

“The new and revised sections indicate that an EPA-approved method is sufficiently sensitive where:

- A. The method minimum level is at or below the level of the applicable water quality criterion or permit limitation for the measured pollutant or pollutant parameter; or*
- B. In the case of permit applications, the method minimum level is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility’s discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or*
- C. The method has the lowest minimum level of the EPA-approved analytical methods.*

The requirement to use a “sufficiently sensitive” EPA-approved method does not apply where no EPA-approved method exists. When no analytical method is approved under 40 CFR part 136 or required under subchapter N or O, and a specific method is not otherwise required by the Director, an NPDES applicant may use any suitable method; however, the applicant shall provide a description of the method.”

As written, the language in the proposed Amendment regarding sufficiently sensitive methods only references part A of the above. For consistency with the Final Rule, the Sanitation Districts suggest parts B and C also be incorporated into the General Permit to clarify what “sufficiently sensitive” means by adding the following language to Attachment C (Glossary):

Sufficiently Sensitive Test Methods

An EPA-approved test method is sufficiently sensitive where:

- a. The method minimum level is at or below the level of the applicable water quality criterion or permit limitation for the measured pollutant or pollutant parameter; or*
- b. In the case of permit applications, the method minimum level is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility’s discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or*
- c. The method has the lowest minimum level of the EPA-approved analytical methods.*

Additionally, the Sanitation Districts suggest that language be included to provide guidance for Dischargers regarding what to do if no EPA-approved method exists, consistent with the Final Rule. This can be done by including a footnote for Section XI.B.10 of the Order, as follows:

“The Discharger shall ensure that all laboratory analyses are performed according to sufficiently sensitive test procedures and conducted according to test procedures under 40 Code of Federal Regulations part 136, including the observation of holding times, unless other test procedures have been specified in this General Permit or by the Regional Water Board¹.”

¹ The requirement to use a “sufficiently sensitive” EPA-approved method does not apply where no EPA-approved method exists. When no analytical method is approved under 40 CFR part 136

¹ Environmental Protection Agency. “National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting.” Federal Register, Vol. 79, No. 160, Rules and Regulations, p. 49004. August 19, 2014.

or required under subchapter N or O, and a specific method is not otherwise required in this General Permit or by the Regional Water Board, the Discharger may use any suitable method; however, the Discharger shall provide a description of the method to their Regional Water Board.

Item 12: The proposed TMDL-related language and requirements may not be consistent with the adopted Basin Plan Amendments.

The Sanitation Districts are concerned that some of the TMDL Wasteload Allocations (WLAs) have been translated into TNALs or NELs in Attachment E that are inconsistent with the adopted TMDL Basin Plan Amendments. Although the Sanitation Districts have not had time to review each TMDL translation proposed, examples of inconsistencies are provided in Items 13 and 14, below. The Sanitation Districts would like to request more time to fully review the proposed translations of the TMDL WLAs into the General Permit to ensure that the TMDL-related requirements are consistent with the requirements and assumptions of the respective TMDLs.

Item 13: WLAs from the Machado Lake Toxics TMDL have been incorrectly translated.

Section II.F.6.f.vi of the Fact Sheet translates the WLAs from the Machado Lake Toxics TMDL to instantaneous maximum NELs. As written, the translation of the WLAs to NELs is inconsistent with the TMDL, since the TMDL states that WLAs are applied with a 3-year averaging period² and allows compliance through mass reduction.

The Sanitation Districts request that the State Water Board provide additional justification for the direct translation of the WLAs, which were not intended to be applied as instantaneous maximum values, to instantaneous maximum NELs.

In addition, for a site that cannot retain sufficient stormwater to meet the proposed On-Site Compliance Option in Attachment I, the Machado Lake Toxics TMDL includes compliance determination procedures for stormwater dischargers that fully divert the discharge from any single storm. The compliance determination procedures in the TMDL allow a discharger to document the full diversion of any single storm a pollutant concentration of zero, which may be combined with other measured sample concentrations from discharges that are not fully diverted when demonstrating compliance with the WLA over the 3-year averaging period. The Sanitation Districts' request that the following TMDL language be included in the IGP TMDL amendment:

“Stormwater dischargers that fully divert a stormwater event to the sanitary sewer may document the diversion as a wet-weather monitoring event and report both the flow and pollutant concentration as zero. Unless all stormwater discharges are fully diverted to the sanitary sewer, at least one wet-weather event must be sampled according to the monitoring requirements above. Stormwater discharges that are not fully diverted are subject to the WLA compliance monitoring described. The reporting pollutant concentration of zero may be combined with other measured sampled concentrations (from stormwater events that are not fully diverted) when demonstrating compliance with the WLA over the 3-year averaging period”.

Item 14: WLAs from the Machado Lake Nutrient TMDL have been incorrectly translated.

Section II.F.6.b.v of the Fact Sheet does not explain how the WLAs for the Machado Lake Nutrient TMDL, which are assigned as monthly averages in the TMDL, were translated to

² California Regional Water Quality Control Board. “Amendment to the Water Quality Control Plan for the Los Angeles Region to Incorporate a Total Maximum Daily Load for Pesticides and PCBs for Machado Lake.” Attachment A to Resolution No. R10-008, p. 5. Adopted September 2, 2010.

instantaneous maximum NELs. The Sanitation Districts request that additional information be provided on the methodology behind this translation.

Additionally, the Sanitation Districts believe it is inappropriate to assign NELs to Responsible Dischargers for this TMDL. The Implementation Plan for this TMDL states the following:

“Stormwater permittees may be deemed in compliance with waste load allocations by actively participating in a LWQMP [Lake Water Quality Management Plan] and attaining the waste load allocations for Machado Lake. Stormwater permittees and the responsible party for the lake may work together to implement the LWQMP and reduce external nutrient loading to attain the TMDL waste load allocations measured in the lake... Compliance may also be demonstrated as concentration based monthly averages for TP [total phosphorus] and TN [total nitrogen] measured at the stormdrain outfall of the permittee’s drainage area.”³

The above suggests that Responsible Dischargers may be deemed in compliance with WLAs based on either (1) concentrations measured in the receiving water or (2) based on monthly average concentrations measured at the point of discharge. Section II.F.6.b of the Fact Sheet contains explanations for other nutrient TMDLs, such as the Santa Clara River Nitrogen TMDL, state that the "30-day average WLA is not appropriate to assign to Responsible Dischargers because storm water is an intermittent discharge and a 30 day averaging period is for measuring chronic effects." Per Section II.F.5.a of the Fact Sheet, concentration-based WLAs or numeric targets applicable to industrial stormwater discharges identifying a compliance location in receiving water are translated to TNALs. Thus, the Sanitation Districts believe that it is inappropriate to translate the WLAs to NELs, and that they should instead be translated to TNALs. This would be consistent with the requirements and assumptions of the Machado Lake Nutrient TMDL.

Item 15: The analysis requirements for some TMDL constituents are unclear.

Some of the TMDL constituents listed in Attachment E can be analyzed in several ways. For example, using common laboratory methods for analysis, chlordane can be measured as technical chlordane, constituents of chlordane, or as the sum of individual chlordanes (alpha- and beta-chlordane). Similarly, PCBs can be measured as aroclors or as congeners. As written, it is not clear which of the above analyses is acceptable to meet the TMDL requirements for chlordane and PCBs. To ensure that Responsible Dischargers are monitoring for the same TMDL constituents, the Sanitation Districts suggest the addition of footnotes for the chlordane and PCBs entries in the Attachment E table that identify the specific analyses required for these two TMDL constituents.

Item 16: The Sanitation Districts support the 85th percentile design storm.

During the public hearing held by the State Water Board on January 9, 2018, one speaker suggested that the 95th percentile 24-hour storm event (95th percentile storm) should be used in lieu of the 85th percentile 24-hour storm event (85th percentile storm) as the compliance storm event defined in the On-Site and Off-Site Compliance Options listed in Attachment I. State Water Board member Steven Moore asked how much more water would need to be captured by Dischargers for the 95th percentile storm versus the 85th percentile storm. Results of the Sanitation Districts’ analysis show that our facilities would have to capture approximately twice the volume of stormwater to capture the 95th percentile storm. The Sanitation Districts’ Board of

³ California Regional Water Quality Control Board. “Amendment to the Water Quality Control Plan - Los Angeles Region to Incorporate the Total Maximum Daily Load for Eutrophic, Algae, Ammonia, and Odors (Nutrient) in Machado Lake.” Attachment A to Resolution No. R08-006, p. 11-12. Adopted May 1, 2008.

February 14, 2018

Directors have recently authorized the award of construction contracts for capture of the first day 85th percentile storm volume at two of our facilities (669,000 gallons combined) for a combined amount of \$5.7 million. Our engineers continue to struggle with how to use that volume within a 24 hour period to be ready to collect back-to-back storms if the On-site Compliance Option is adopted. Having to manage twice the volume on a daily basis will likely make the On-site Compliance Option infeasible at all of our facilities. Since State Water Board staff have indicated that they have reasonable assurance of TMDL compliance with the capture of the 85th percentile storm, the Sanitation Districts encourage the State Water Board to take a measured approach to encourage as many Dischargers as possible to take advantage of this water saving compliance option while still having reasonable assurance of attaining TMDL targets.

The Sanitation Districts thank you in advance for your careful consideration of our comments. If you have any questions concerning this letter or need additional information, please contact the undersigned at (562) 908-4288, extension 2826.

Very truly yours,



Kristen M. Ruffell
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