



# Trilogy

## Regulatory Services

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Public Comment  
Industrial General Permit Amendment  
Deadline: 2/14/18 by 12 noon



February 14, 2018

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

Submitted Electronically to Clerk to the Board via e-mail at [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov).

Subject: Comment Letter – Industrial General Permit Amendment

Dear Ms. Townsend:

I am offering my comments to the proposed amendment of the General Permit for Storm Water Discharges Associated with Industrial Activities (IGP), implementing region-specific total maximum daily load (TMDL) requirements.

The proposed amendments to the (IGP) for the control of TMDLs are sure to have a significant cost to California business. Since this is the first time that TMDLs are being incorporated into the IGP the impact of these additions and changes need to be clearly identified.

I have read the proposed amended IGP, viewed the Workshop Video and studied the workshop presentation slides. I find that I still don't understand the rationale for the new discharge standards. I could spend my time critiquing individual lines within the proposed amendment but my real concern is that the proposed IGP is not designed, nor will it achieve, meeting TMDLs in impaired waterways in any measurable way.

The heart of the amendment is the implementation TMDL NALs (TNALs) and Numeric Effluent Limits (NELs), these are also the greatest concern. The TNALs and NELs allow for less data to be collected using tighter standards before a facility is in violation. Two exceedances of TNALs or NELs just slightly over the limits and there is no longer need to make improvements during the current year. The NALs at least provide a facility a chain of information in which it can measure their improvement along the way and try to meet the standards.

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If a facility finds itself out of compliance of the TNALs or NELs they are required to implement one of two compliance options. These compliance options have not been evaluated to determine if they are feasible and if so at what cost. Compliance options should not be part of a regulation if they have no chance of being implemented or are too costly to be considered. Improving BMPs, which up to now been shown to be effective, have seemingly been eliminated as a choice. Before a choice of compliance options are included in the IGP costs and environmental benefits should be evaluated. This evaluation should include factors such as: 1) Total Costs 2) Environmental benefits 3) Availability of proposed technology, 4) Availability of Proposed partnerships and 5) total financial impact on the community and its business base.

The US EPA has provided guidance in a November 26, 2014 Memorandum that includes what to consider when setting limits in stormwater discharges at an industrial facility in a watershed discharging to an impacted waterway.

“When the permitting authority determines, using the procedures specified at 40 CFR § 122.44(d)(1)(ii), that the discharge causes or has the reasonable potential to cause or contribute to an in-stream excursion of the water quality standards, the permit must contain WQBELs<sup>1</sup> as stringent as necessary to meet any applicable water quality standard for that pollutant.”<sup>2</sup>

The wording of the reference section of 40 CFR by the EPA above is as follows;

“When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a State water quality standard, the permitting authority shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water.”

This appears to me to require the permitting authority to find a correlation with the proposed numeric limits to be imposed with the impact on the impaired waterway before implementing them.

### **Coyote Creek Example**

The following is an example of where the changes in the amended IGP do not appear to take into consideration what impact they will have in the waterway.

Appendix E in the proposed IGP requires facilities that discharge to the Coyote Creek watershed and sample for copper to meet a Total Copper Instantaneous Maximum TNAL of 0.027 mg/l versus an NAL for Total Copper of 0.0332 mg/l. A facility that is currently meeting the NAL standard could find itself out of compliance with the TNAL.

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If all the facilities in the drainage area that discharge to Coyote Creek reduce the copper in their discharge from 0.0332 mg/l on an average to 0.027 mg/l peak will there be a measurable impact in achieving the TMDL at the creek?

Coyote Creek drains a watershed of 165 square miles, 85.5 square miles of which lie in north Orange County, with the remainder in Los Angeles County. The upper watershed contains some open space, most of which is used for oil production. However, most of the watershed is highly urbanized with a mixture of residential, commercial, and industrial development. Coyote Creek flows along the border between Orange and Los Angeles counties and finally flows into the San Gabriel River just above its tidal prism.<sup>3</sup>

It is beyond belief that in a drainage area of that size a reduction of copper in the stormwater discharge from industrial facilities located in the watershed from 0.0332 mg/l to 0.027 mg/l will have any impact on the TMDL in Coyote Creek. The cost to those businesses however may be significant.

I am suggesting that the proposed amendments be reevaluated to insure that they will clearly meet their objectives and do not impose a significant cost to California business. The proposed changes should not have a burden on any of the stake holders if they do not provide a real benefit to water quality.

If you have any questions, please contact me at (909) 597-7024 or by email at trsvcs@hotmail.com.

Sincerely,

*Robert W Schneider*

Robert W. Schneider

<sup>1</sup> QBELs - water quality-based effluent limits

<sup>2</sup> US EPA Memorandum dated November 26, 2014 - SUBJECT: Revisions to the November 22, 2002 Memorandum "Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs"

<sup>3</sup> <http://www.ocwatersheds.com/programs/waterways/tmdl/coyotecreek>