



Port of
LONG BEACH
The Green Port

February 12, 2018

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



Reference: Comment Letter – Industrial General Permit Amendment

Dear Ms. Townsend:

The Port of Long Beach (Port) appreciates the opportunity to offer comments on the Industrial General Permit (IGP) Amendments to the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Industrial Activities (Order No. 2014-0057-DWQ). The following comments relate specifically to the IGP Amendments incorporating Total Maximum Daily Loads (TMDLs).

The Port covers 3,200 acres of leased and private land used for water-based goods movement. Many of the Port's tenants operate industrial facilities that discharge under the Industrial General Permit (IGP). The Port takes a proactive role protecting the harbor waters and sediments, including impacts resulting from stormwater runoff. Thus, we are supportive of environmental regulations designed to effectively eliminate polluted stormwater runoff. The Port also supports regulations that include multiple options for improving water and sediment quality.

The Port is specifically concerned with the IGP amendments as they relate to Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters TMDL for Toxic Pollutants (Harbor Toxics TMDL). The current methods for integrating the Harbor Toxics TMDLs into the IGP do not take into account compliance options offered in the TMDL Basin Plan Amendment (BPA), which include the option to monitor in the receiving waterbody, or the end of pipe.

From page 35 of the BPA:

The compliance point for the stormwater waste load allocations (WLAs) shall be at the storm drain outfall of the permittee's drainage area. Alternatively, if stormwater dischargers select a coordinated compliance monitoring option, the compliance point for the stormwater WLA may be at storm drain outfalls or at a point in the receiving water, which suitably represents the combined discharge of cooperating parties discharging to Dominguez Channel and Greater Los Angeles and Long Beach Harbor waters¹. Depending on potential best management practices (BMPs) implemented, alternative stormwater compliance points may

¹ Greater Los Angeles/Long Beach Harbor waters include Inner and Outer Harbor, Main Channel, Consolidated Slip, Southwest Slip, Fish Harbor, Cabrillo Marina, Inner Cabrillo Beach, Los Angeles River estuary, and San Pedro Bay.
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be proposed by responsible parties, subject to approval by the Regional Board Executive Officer. The compliance point(s) for responsible parties receiving load allocations shall be in the receiving waters or the bed sediments of the Dominguez Channel and the Greater Los Angeles and Long Beach waters.

In addition, the Port is concerned with the absence of the option for off-site regional treatment BMPs. While we fully understand the State Water Resources Control Board's (SWRCB) goal is to incentivize the use of stormwater as a resource, it penalizes those unable to utilize this option, which appears inconsistent with TMDL goals to improve water quality. Port areas generally do not have the ability to infiltrate. The Port and our tenants are faced with meeting these TMDL timelines, and all options for improving water quality should be made available including the use of regional treatment BMPs where applicable. The Port specifically requests that the SWRCB include options for regional treatment solutions if on- or off-site infiltration or connection to sanitary sewer is not possible. Allowing industrial facilities to participate in off-site treatment mitigation projects would result in more regional projects becoming financially viable.

Once adopted, most dischargers will be immediately out of compliance with the TMDL requirements. With the potential for third-party lawsuits under the IGP, the existing compliance deadline will create an undue burden on Permittees' abilities to comply with the Permit while simultaneously defending themselves from lawsuits created by unreasonable compliance deadlines. The Port requests the compliance due dates be revised to allow sufficient time for Permittees to assess appropriate actions. Further, the final implementation date for the Los Angeles and Long Beach Harbor Toxics TMDL (July 1, 2032) referenced in Fact Sheet should include a footnote. The footnote should specify that the Harbor Toxics TMDL is scheduled to be reconsidered beginning Summer 2018 and the implementation schedule is subject to change based on decisions made during the reconsideration process.

The Port is concerned that the lack of a defined method and/or system of tracking and reporting TNAL and NEL related actions and data may cause significant confusion for the discharger community, and increases potential for non-compliance. This may also make it more difficult for the Port to track compliance of tenants covered under the Permit, and decreases our ability to efficiently provide compliance oversight for Port tenants. Since the SMARTS platform provides the ability to develop reporting/tracking tools, it is recommended that the SWRCB upgrade SMARTS with the necessary assessment, reporting, and tracking tools to support the new TMDL-related requirements.

Further information should be provided to ensure dischargers are aware of the limits of each TMDL. The Port recommends that each TMDL have a specific map showing the applicable boundary limits. If there are overlapping boundaries, these should be clearly shown on the maps, along with a clear explanation of TMDL applicability when there are TNALs/NELs for the same parameter for multiple TMDLs potentially affecting a single discharger.

As written in the IGP it appears that anyone in a TMDL water body is a responsible discharger and required to comply with all TNAL and NEL values. Please clarify that the Responsible Discharger is one that determines through a pollutant source assessment that their discharge may contain the TMDL

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pollutants of concern from industrial related operations and/or materials and will need to comply with TMDL specific requirements in Attachment E.

Lastly, many of the TNALs/NELs do not appear to be achievable. Treatment control or source control BMPs are not available to achieve the listed TNALs/NELs in real-world settings. We request that the TNALs/NELs be reviewed and revised accordingly to ensure that the final TNALs/NELs be achievable with existing and cost-effective stormwater treatment and/or source control BMPs. With the potential for third-party lawsuits under the IGP, any additional requirements, including TNALs/NELs must be achievable with currently available technology, to ensure that dischargers are not held to unachievable standards.

Thank you for the opportunity to provide the above comments. Should you require any clarification on the above, please contact Dylan Porter, of my staff, at (562) 283-7100.

Sincerely,



Heather A. Tomley

Director of Environmental Planning