



PROMOTING EH&S COMPLIANCE BY ACHIEVING  
IMPROVED COMMUNICATION BETWEEN INDUSTRY AND GOVERNMENT

February 14, 2018

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



**Subject: Proposed General Permit Amendment Comments**

Dear Ms. Townsend,

The Industrial Environmental Coalition of Orange County (IEC/OC) appreciates the opportunity to provide comments to the State Water Resources Control Board (SWRCB) on Proposed General Permit Amendment to Order 2014-0057-DWQ.

1. We support the storm water capture and reuse incentives, and that they are optional to comply. In that regard, we have the following comments:
  - a. If a discharger chooses the on-site or off-site route provided in Attachment I, what are the compliance requirements while waiting for approval, acquisition, installation, etc.?
  - b. Is there any assistance with the cost of Attachment I options? Are Proposition 1 bonds available for dischargers?
2. The use of MCLs for onsite reuse is an impediment to the reuse implementation. The use of NALs and sampling before it enters the reuse area should be protective of water quality for the reuse and reasonable. Most reuse would not be for drinking water and MCLs should not be required.
3. General statement on the implementation of TMDLs: Many are lower than existing NALs, and therefore, will be more challenging to meet as many dischargers are exceeding existing limits/levels currently. How are dischargers expected to meet additional or more stringent levels and will there be assistance with additional cost, etc.?
4. We suggest the Permit be clearer on the definition of a "responsible discharger". Specifically, clarification is required regarding whether TMDLs apply to all dischargers to the respective impaired water body, or to just those who may have industrial sources of the specific pollutant and discharge to the specific impaired water body. Section V. C. states: Dischargers located within a watershed for which TMDL has been approved by US EPA shall comply with any applicable TMDL-specific permit requirements that are set forth in Attachment E. This can be interpreted that all dischargers must comply with TMDL limits. However, the previous permits only required monitoring of those pollutants identified in the required assessment from potential industrial sources.
5. TMDLs are effective on the adoption date of the permit amendment however, we request a time extension for compliance dates for pollutants not previously regulated for a TMDL NAL or NEL. Fact Sheet states that NELs are infeasible (I.B., II.D), however Attachment E and the Order uses



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the terminology and lists NELs for some pollutants. This is confusing when trying to understand the Permit as it seems to contradict the Fact Sheet.

6. Since TMDLs have a separate regulatory process, could clarity be added to either state that compliance with the new Permit requirements is compliance with the TMDLs or allow following the TMDL regulation compliance path. In Section I. F. 45., the amended permit language states that the TMDL specific requirements should comply with TMDLs. But more clarification on compliance should be added.
7. This Permit revision uses the term “sufficiently sensitive methods (SSM)” regarding analytical data. The definition for SSM is provided, however, SSM is not a common term used and may create confusion for dischargers. Also, SMARTS already requires the reporting of MDL and/or ML when entering data, so the incorporation of the term SSM seems unnecessary (unless it's to support the requirement of entering it in SMARTS).
8. In general, this Permit is becoming increasingly more complex, difficult and costly for dischargers. Many dischargers will or have required assistance from consultants or other sources to understand and comply, thus adding additional costs. Implementation of the TMDLs will further increase cost to comply. Has the financial impact/burden on industries been evaluated or considered in the development of the Permit amendments?
9. Please clarify how a discharger to a water body upstream of another water body would comply. Please clarify if the TMDL applies to the HUC 10. Please clarify if the downstream impaired water body may be too far downstream not to be within the HUC 10 for the facility. Please clarify whether there would be relief for a facility that is within a HUC 10 but the impaired water body is actually upstream from the facility since they could not contribute to that impairment.
10. Amended Permit Section I.F.53. refers TNAL exceedance to the ERAs. We suggest the Section be clarified to state that this is only for TNAL exceedance and also clarify the process for NEL exceedance.
11. TNALs and NELs are instantaneous exceedances, not annual. Please clarify what drives the more stringent requirement of instantaneous and how it is justified. Please clarify whether it can be phased into instantaneous in the next permit revision, and be adopted as an average annual limit in this amendment.
12. Attachment I Section I.C. lists permit sections that the compliance options comply with. Please add Table 2 NALs, new TNALs, and NELs to the list for clarity. In Section H.1.a. NALs are excepted for compliance, but it should be clear that the compliance options are not subject to NALs, TNALs, and NELs. This is consistent with amended IGP Section I.F.56. that states that the Water Board allows compliance option instead of complying with NALs. That section should include TNALs and NELs, as well.
13. Will compliance with the TMDL NALs and NELs offer any relief from the 60-day notices of intent (NOI) to sue? Most NOIs seem to point to CTR rather than TMDLs. Will the new



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compliance options ensure compliance with the TMDL? Clarification should be added one way or the other.

14. Clarification is needed to TNALs/NELs listed in the proposed IGP Amendment. Are the TNALs/NELs listed applicable only to the receiving water that the facility directly discharges to, or are TNALs/NELs from upstream and/or downstream waters applied to the facility?
  - a. If TNALs/NELs from upstream of a facility are applied to determine compliance, how is this justified, since discharges from a facility would not affect water bodies upstream?
  - b. If TNALs/NELs from upstream/downstream of a facility will be applied to determine compliance, will the most stringent numerical limit apply, or the numerical limit of the immediate receiving water body apply?
  - c. If a facility has an intermediary conveyance between its discharge point and a receiving water body with proposed TNALs/NELs, how will numerical limits for receiving water bodies within the watershed be applied to the facility?
15. For the NELs in mg/kg, could clarification be added how to compare stormwater results to the NELs? Would the mg/kg be comparable to the mg/L? If so, could the Water Board change the NELs to mg/L?
16. Attachment I, Section III. F. 1. requires off-site compliance to comply with monitoring requirements of the Permit. Since a previous (subsection III.D) exempts off-site compliance from the monitoring implementation plan and sampling and analysis, please clarify the monitoring requirements referred to in this Section.
17. Please clarify the 24-hour recover capacity. The very specific 12:00 a.m. to 11:59 p.m. period is confusing. If the rain event stops at 10:00 a.m., does the 24-hour recovery not start until 12:00 a.m.? If this is to address the second storm of back to back storms, could a larger capacity option be included instead of 24-hour drawdown? This seems more stringent than local requirements that allow a 48-hour or 72-hour drawdown time.
18. The shutoff requirement in Attachment I, Section II.E.5. needs clarification. What is the purpose of the shutoff? Is this related to the bypass/overflow?
19. For the on-site compliance option, the sampling of influent to the BMP seems to be unnecessary. Influent sampling should be voluntary and not required.
20. The exceedance response action (ERA) process currently in progress could be already improving water quality, however, we need more data to know for sure. As such, until more data is collected from samples as the ERA process is being implemented, TNALs and TNELs are premature. Receiving water bodies should continue to be monitored for improvements in their water quality as a result of the current ERA process, and this updated data should be reviewed before considering if TNALs or TNELs are appropriate. The TMDL NALs should be annual instead of instantaneous to be consistent with the current NALs.



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21. Many QISP certifications will expire this year. There is no information yet on how to even recertify, but if one does go through the process of recertifying before the draft is finalized and in effect, will QISPs be required to complete a certification process for the updated permit or will current certifications be extended until after the permit is finalized and in effect?
22. We suggest including a compliance pathway flow chart. The steps for TMDL compliance should be more streamlined as it is very confusing to industrial facilities as currently presented.

The IEC/OC supports an open dialogue on SWRCB proposed General Permit amendment and other actions. If you have any questions, please do not hesitate to contact me at (714) 567-2411 or email at [john.gleason@aecom.com](mailto:john.gleason@aecom.com).

Sincerely,

A handwritten signature in blue ink that reads "John Gleason". The signature is fluid and cursive.

John Gleason, PE, CPESC, QSD, QISP, TOR

IEC/OC Water Regulations Sub-Committee Co-Chair

***Mission Statement:*** *Our goal is to provide a forum for Orange County businesses to remain current on emerging issues and to exchange views with environmental and safety agencies in an open and informal setting.*