



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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State Water Resources Control Board
Clerk to the Board
1001 I Street, 24th Floor
Sacramento, CA 95814
via e-mail at commentletters@waterboards.ca.gov

Attention: Ms. Jeanine Townsend

Comment Letter – Industrial General Permit

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 18 facilities that are currently covered by the Industrial General Permit. This includes wastewater treatment facilities, operating landfills, closed landfills, recycle centers, materials recovery/transfer facilities, and energy recovery facilities. All of these facilities will be affected by the proposed revisions to the Industrial General Permit and the Sanitation Districts appreciate this opportunity to comment on the *2012 Draft National Pollutant Discharge Elimination System (NPDES) General Permit for the Discharge of Storm Water associated with Industrial Activities (2012 Draft)*.

The Sanitation Districts appreciate the efforts the State Water Resources Control Board (State Board) staff have undertaken since the January 2011 draft to seek stakeholder input on various elements of the permit. We support the changes from the 2011 draft whereby it is recognized that the USEPA Benchmarks are not intended to be used for numeric effluent limits. In addition, we thoroughly support the exceedance response action and demonstration technical report framework so that the benchmarks do not become *de facto* numeric limits. The following comments address areas of the permit where ambiguity remains or revisions are requested.

Comments and Suggested Revisions

1 **Item 1:** The language incorporating TMDLs is contradictory

The Sanitation Districts agree with Findings 38-41 and TMDL Requirements Section VII.A., in that many existing TMDLs do not provide sufficient clarity as to requirements applicable to industrial storm water dischargers. We also support the process to develop and adopt TMDL-specific requirements as prescribed by Section VII.A. Unfortunately, Effluent Limitation Section V.C.

contradicts Findings 38-41 and TMDL Requirements Section VII.A. by requiring blanket incorporation of TMDLs by reference and immediate compliance with existing and/or future approved TMDLs. More importantly, the language included in Section V.C. exposes permittees to premature and inappropriate administrative or third party actions to enforce TMDL requirements before the TMDLs are clarified for application to specific industrial storm water dischargers, and before those refined requirements are incorporated into the permit. The Sanitation Districts understand from staff that blanket incorporation was not the intent and request the following language replace the draft language in Section V.C. to address the conflict:

“After TMDL-specific permit requirements are incorporated into this General Permit following the process outlined in Section VII.A., dischargers subject to one or more identified Total Maximum Daily Loads (TMDLs) shall comply with the applicable requirements listed in Attachment D.”

- 2** **Item 2:** The definition of landfills, land application sites and open dumps that are subject to the draft permit is overly broad and should be refined to only include facilities with ongoing industrial operations.

The Sanitation Districts appreciate staff’s effort to address this comment from the 2011 draft by revising the section addressing when a Notice of Termination can be filed; however, the revised language indicates that dischargers can request termination of coverage when “the facility has ceased operations, completed closure activities **and** removed all industrial related pollutants” (emphasis added). In the case of closed landfills, buried industrial pollutants remain on site. As such, this language could be interpreted in a way that prevents closed landfills from ever filing a Notice of Termination. Furthermore, this revision does not address the primary concern regarding ambiguity over the requirements for landfill coverage. Attachment A of the draft permit indicates that the permit applies to:

Landfills, Land Application Sites, And Open Dumps:

Sites that receive or have received industrial waste from any of the facilities covered by this General Permit, sites subject to regulations under Subtitle D of RCRA, and sites that have accepted waste from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance of five acres or more).

This definition is overly broad and applies to virtually all landfills forever. This language is in conflict with the practice of many Regional Boards to allow landfills to terminate their coverage after they have completed closure activities. The conditions to require coverage for landfill **3** should be clearly identified in the permit so that the standards are uniform throughout the State. The Sanitation Districts also request that the permit provide a cut-off date to exclude landfills that closed prior to the adoption of the closure requirements contained in the RCRA Subtitle D regulations.

We suggest the following revision to address these issues:

“Landfills, Land Application Sites, And Open Dumps:

Sites that receive or have received industrial waste from any of the facilities covered by this General Permit, sites subject to regulations under Subtitle D of RCRA, and sites that have accepted waste from construction activities (construction activities include any clearing, grading, or excavation that results in disturbance of five acres or more). This does not apply to sites that closed prior to October 9, 1993 or to sites, or portions of sites, that have completed closure activities.”

Item 4: Dischargers that implement structural BMPs to prevent the offsite discharge of stormwater should be allowed to take credit for prevented discharges when making determinations of compliance with Numeric Action Levels (NALs).

One of the primary BMPs implemented at the Sanitation Districts' wastewater treatment plants is to divert as much stormwater runoff as possible, including the first flush of every rain event from industrial areas of our sites, into the wastewater treatment system rather than allow the stormwater to be discharged offsite. In fact, when technically and operationally feasible, all stormwater flow is captured and treated with incoming wastewater so that no stormwater runoff from industrial areas of the treatment plants is discharged. Recently, the Los Angeles Regional Water Quality Control Board acknowledged that diversion of stormwater runoff is worthy of special consideration when it adopted Resolution No. R10-008 (Resolution), pertaining to the Total Maximum Daily Load for Pesticides and PCBs in Machado Lake. The language in the last paragraph of page 7 of Attachment A to this Resolution states: "*Stormwater dischargers that fully divert a stormwater discharge to the sanitary sewer may document the diversion as a wet-weather monitoring event and report both the flow and pollutant concentration as zero...The reported pollutant concentration of zero may be combined with other measured sample concentrations (from stormwater discharges that are not fully diverted) when demonstrating compliance with the WLA over the 3-year averaging period.*"

The Sanitation Districts request that the State Board include language similar to that found in Resolution No. R10-008, to provide dischargers proper credit for implementing structural BMPs that prevent stormwater from being discharged offsite. That language should allow the Sanitation Districts, and incentivize other industrial users, to capture and treat stormwater runoff and to calculate and report a flow-weighted (by volume) concentration when considering compliance with NALs. Under this proposal, all captured stormwater runoff would be allocated a zero concentration for the entire volume of flow diverted from offsite discharge. For an example of different methods to calculate a flow weighted average, please see Attachment A to our previous comment letter dated April 28, 2011, which has also been attached to this letter for your convenience.

To address our comment, we request the following language be added to both Section XII.A.1.a., Annual NAL Exceedance, and Section XII.A.1.b., Instantaneous Maximum NAL Exceedance:

"Dischargers that divert stormwater to wastewater collection or treatment facilities or otherwise prevent offsite discharge as stormwater may report the concentration of water quality constituents as zero for all flow diverted. The constituent concentration of zero may be averaged, on a flow-weighted basis, with other measured sample concentrations from stormwater that was discharged when reporting and demonstrating compliance with both Annual and Instantaneous Maximum NALs."

Item 5: Storms that exceed the Design Storm should not be considered triggers for Exceedance Response Actions (ERAs)

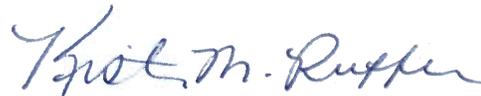
The Sanitation Districts support the use of the 85th percentile, 24-hour storm as the Design Storm. In addition to the inclusion of a design storm for treatment control BMPs, the Sanitation Districts recommend specifying the same storm event in the ERA section of the draft Industrial General Permit.

The Industrial General Permit should explicitly limit data used in assessing NAL exceedances to data collected from storm events that do not exceed the Design Storm event specified in the permit. Without this clarification, there will be a mismatch between the event magnitude required for treatment controls and that required to assess the need for additional controls in the ERA process.

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,

Grace Robinson Chan



Kristen M. Ruffell
Section Head
Water Quality Section

KMR:cv

Attachment A

Example 1: An Industrial Discharger that has one discharge point and has a BMP that diverts and treats the first 1/4" of the "first flush" from the storm drain system.

<u>Assumptions</u>		<u>Adjusted Discharge Concentration to Report:</u>
No. of Discharge Locations =	1	$120 \times (1.0 - 0.25)/1.0 = \underline{90 \text{ mg/l}}$
Inches of Rainfall =	1.0	
Inches of Rainfall Diverted =	0.25	
TSS Discharge Concentration =	120 mg/l	

Example 2: An Industrial Discharger that has three discharge points and has a BMP that diverts and treats 100% of the flow that is tributary to one of the stormwater discharges points.

<u>Assumptions</u>		<u>Adjusted Discharge Concentration to Report:</u>
No. of Discharges Locations =	3	<u>Discharge 1:</u>
Inches of Rainfall =	1	25 acres at 0 mg/l
Industrial Area of Discharge 1 =	25 Acres	<u>Discharge 2:</u>
Industrial Area of Discharge 2 =	25 Acres	25 acres at 150 mg/l
Industrial Area of Discharge 3 =	50 Acres	<u>Discharge 3:</u>
Amount of 1 Diverted =	100%	50 acres at 110 mg/l
Amount of 2 Diverted =	0%	
Amount of 3 Diverted =	0%	
TSS Discharge Concentration 1 =	N.A.	
TSS Discharge Concentration 2 =	150 mg/l	<u>Average Site Discharge:</u>
TSS Discharge Concentration 3 =	110 mg/l	$[(25 \times 0) + (25 \times 150) + (50 \times 110)]/100 = \underline{92.5 \text{ mg/l}}$