



CITY OF COMMERCE



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February 14, 2018

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

Submitted electronically – commentletters@waterboards.ca.gov

Subject: Comment Letter – Proposed 2017 Industrial General Permit Amendment

Dear Ms. Townsend and Members of the Board:

The City of Commerce (Commerce) appreciates the opportunity to provide comments on the 2017 Proposed Industrial General Permit (IGP) Amendment. Commerce is a major logistics hub directly served by the Santa Ana (I-5) and Long Beach (I-710) Freeways and is located in the center of the southern California freeway network. The rail spur service within the city is provided by the Atchison, Topeka and Santa Fe, Southern Pacific, and Union Pacific railroads. Additionally, the Metrolink commuter trains stop at the Commerce station daily. Commerce also furnishes transportation services to residents through a municipal bus system that carries approximately 970,000 passengers annually.

Due to the amount of industrial and transportation related activities occurring in Commerce, education of business owners and city employees regarding stormwater quality and best management practices has been a top priority. Despite more stringent and often overlapping regulations, Commerce has proven its commitment to protecting water quality. The city has successfully implemented a rigorous industrial and commercial business inspection program, completing over 350 facility inspections in 2017 alone and over 850 inspections since the Los Angeles Municipal Separate Storm Sewer System (LA MS4) Permit Order No. R42012-0175, as amended by State Water Board Order WQ 2015-0075, (NPDES Permit No. CAS004001) first became effective in December 2012. The city has also demonstrated compliance with 2014 IGP requirements at the municipal transportation facility through the reduction of oil & grease, copper, and zinc concentrations in stormwater discharges from the facility.

The following sections provide specific comments on the proposed language included the 2017 Proposed IGP Amendment.

“Responsible Discharger” Definition is Inconsistent

As proposed in the Fact Sheet on pg. 38, the definition of “Responsible Discharger” reads:

“...Dischargers with Notice of Intent (NOI) coverage under this General Permit discharging storm water associated with industrial activities or Authorized NSWDS: 1) directly to an impaired water body(ies) with an applicable TMDL, or 2) through a municipal separate storm sewer system (MS4) discharging to an impaired water body(ies) with an applicable TMDL.”

As proposed in Attachment C, the definition of “*Responsible Discharger*” reads:

“A Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water associated with industrial activities (and Authorized NSWDS) to impaired waterbodies or to an upstream reach or tributary to impaired waterbodies either directly or through a municipal separate storm sewer system (MS4) included in a U.S. EPA approved TMDL.”

The definitions are not consistent with each other in that the definition in Attachment C identifies facilities discharging to upstream reaches or tributaries to impaired waterbodies as a “*Responsible Discharger*” while the definition in the Fact Sheet does not include this caveat. It is recommended that the definition in Attachment C be revised to be consistent with the Fact Sheet. There are also inconsistencies in the how words are spelled (i.e., *waterbodies* vs. *water body(ies)*).

Maintain Consistency with IGP Pollutant Source Assessment Process

Section X of the IGP requires that industrial facilities conduct a pollutant source assessment “*to identify any additional parameters, beyond the required parameters in Section XI.B.6 that indicate the presence of pollutants in industrial storm water discharges.*” This includes “*the identification of the industrial pollutants related to the receiving waters with 303(d) listed impairments identified in Appendix 3 or approved TMDLs that may be causing or contributing to an exceedance of a water quality standard in the receiving waters.*”

As proposed in Attachment C, the definition of “*Responsible Discharger*” does not link a facility’s pollutant source assessment with TMDL applicability and implies that all dischargers with storm water discharges to an impaired receiving water body are “*Responsible Dischargers*”. It is recommended that the definition of “*Responsible Discharger*” be revised to clearly indicate that only facilities who have identified the impaired pollutant(s) at their facility through the pollutant source assessment are “*Responsible Dischargers*” and are required to comply with the corresponding TMDL limits in the receiving water body.

Prepare Guidance to Assist Discharger’s with Determining if They are a “Responsible Discharger”

The proposed amendment does not clearly define “*Responsible Discharger*”. As written, the definition of “*Responsible Discharger*” included in Attachment C indicates that a facility is a “*Responsible Discharger*” for all impairments in the receiving water body. This is confusing because there are waterbodies with multiple TMDLs (Los Angeles River for example) for the same parameter. The definition of “*Responsible Discharger*” could be interpreted that a “*Responsible Discharger*” is subject to compliance with multiple TMDLs for one parameter. In addition to clarifying the definition of “*Responsible Discharger*”, it is recommended that clear guidance be prepared, and/or a tool be developed in SMARTS (similar to the Risk Determination tools for the Construction General Permit) to assist Discharger’s with determining if they are a “*Responsible Discharger*” and what TMDLs are applicable to their facility.

Use of EPA Benchmark Values as Numeric Action Levels

The 2014 IGP currently uses EPA benchmark values as Numeric Action Levels (NALs). During the initial drafting of the 2014 IGP, it was stated in several public meetings and on-line seminars by the State Board that they did not have time or resources to develop California specific numeric action levels (NALs) so they chose to use EPA benchmarks.

The EPA benchmark values are not specific to individual waterways or reaches within California, and storm water data collected from undisturbed areas in several watersheds in California indicates that background concentrations would result in exceedances of NALs currently in the 2014 IGP. As indicated previously, the State Board did not have the time or resources to develop California specific NALs. However, after two years of monitoring under the 2014 IGP, storm water data exists as do water body specific studies to support alternate protective NAL values for some waterways, specifically the Los Angeles River. The State Board should recognize the substantial resources expended by dischargers to obtain these study results. Where data is available, NALs should be developed using receiving water specific data and the affected dischargers should not be required to comply with the current NALs listed in Table 2.

It is recommended that the State Board undertake an evaluation of available storm water data from the first two years of monitoring under the 2014 IGP and available receiving water specific data to develop receiving water body specific NALs that will be protective of water quality.

Annual Average NALs and Instantaneous Maximum TNALs are not Comparable

As proposed, Section II.F.5 of the amended Fact Sheet states:

“This General Permit’s NALs found in Table 2 shall continue to apply in addition to TMDL WLA translations found in the General Permit TMDL Compliance Table. The measurement of compliance with the TMDL translations (whether TNAL or NEL) differ from this General Permit’s NALs. The TMDL translations are assigned as an instantaneous maximum exceedance type in comparison to the annual average exceedance type assigned to NALs. As such, the TNAL value of a pollutant cannot be compared to the NAL value for the same pollutant found in this General Permit.”

As proposed, Section II.F.5a (1) of the amended Fact Sheet then states:

“There are three categories of discharge requirements for Responsible Dischargers subject to the thirty-six (36) TMDLs applicable to industrial storm water discharges:

1. Comply with this General Permit

Compliance with the requirements for all discharges regulated by this General Permit equates to compliance with TMDL requirements if the applicable TMDL:

- Does not assign a WLA specific to industrial storm water discharges*
- or*
- Contains a WLA that translates to a less stringent TNAL than the NAL value in Table 2 of the General Permit.”*

Although the proposed modifications to Section II.5.F state that *“the TNAL value of a pollutant cannot be compared to the NAL value for the same pollutant,”* in Section II.F.5a (1), it appears that the State Board is implying that TNALs and NALs are directly comparable with the statement,

“Compliance with the requirements for all discharges... equates to compliance with TMDL requirements if the applicable TMDL contains a WLA that translates to a less stringent TNAL than the NAL value in Table 2 of the General permit.”

Section II.F.5a (1) contradicts what is stated previously in Section II.F.5. It is recommended that the State Board clarify the relationship of TNALs and NALs and define what is meant by “less stringent” when comparing TNALs to NALs.

Also, the statement, “Compliance with the requirements for all discharges... equates to compliance with TMDL requirements if the applicable TMDL does not assign a WLA specific to industrial storm water discharges” directly contradicts the latter half of the sentence directly preceding it, “... for Responsible Dischargers subject to the thirty-six (36) TMDLs applicable to industrial storm water discharges.” The Proposed IGP Amendment to incorporate TMDL-specific requirements only apply to TMDLs that specifically identify industrial storm water discharges as contributing to an exceedance of water quality standards in the applicable receiving water. It is recommended the condition “does not assign a WLA specific to industrial storm water discharges” be removed.

Editorial – Incorrect Concentration

In two instances, the translated WLA concentration for copper is listed incorrectly. In Table E.27 located in the fact sheet (pg. 86) and on Page 31 of Attachment E, the copper concentration for the LA River Metals TMDL is listed as 67.49 although the units listed are mg/L. In mg/L this concentration should be written as 0.06749.

Conclusion

Commerce recognizes the State Board’s desire to institute some form of numerical threshold for regulated sites, however, it is prudent to incorporate water body specific data and available storm water monitoring information when establishing and enforcing NALs. Commerce is in support of development of California and, where applicable, water body specific NALs. Thank you for considering our comments on this important permit amendment.

If you have questions regarding our letter, please contact Gina Nila at (323) 722-4805 ext. 2839 or by email at ginan@ci.commerce.ca.us.

Sincerely,



Gina Nila, Deputy Director of Public Works Operations