STATE WATER BOARD RESPONSES TO COMMENTS

2017 Proposed Industrial General Permit Amendment

Comment Period: 12/15/2017 - 02/14/2018

State Water Resources Control Board, Division of Water Quality
Industrial and Construction Storm Water Unit

SUMMARY OF SIGNIFICANT CHANGES IN RESPONSE TO PUBLIC COMMENTS

- Refined Responsible Discharger definition

- Added the definitions of new key terms used in the Amendment to the Order and Attachment C (Glossary)

- Clarified the watershed/water body scope of applicability each Total Maximum Daily Load (TMDL) addresses, including whether the discharge requirements are assigned:
    - 1) at the watershed scale,
    - 2) to direct discharges into a specific water body, or;
    - 3) to direct discharges into a specific water body and its tributaries

- Clarified the Total Maximum Daily Load Numeric Action Levels (TNALs) being defined as Best Management Practice -based Water Quality Based Effluent Limitations.

- Clarified the TNAL Exceedance Response Action (ERA) process

- Clarified TMDL translations to Numeric Effluent Limitations (NELs), TNALs, or comply with this General Permit.

    - 7 TMDL translations changed from NEL compliance to comply with this General Permit

    - 4 TMDL translations changed from TNAL to comply with this General Permit

    - 7 TMDL translations changed from TNAL to NEL

- Clarified TMDL compliance deadlines

- Clarified Sufficiently Sensitive Test Method requirements

- Refined Attachment I (Compliance Options) requirements

Acronym List for the 2017 Proposed Industrial General Permit Amendment	
Acronym	**Stands for**
BAT	Best Available Technology Economically Achievable
BCT	Best Conventional Pollutant Control Technology
BMP	Best Management Practice
CEQA	California Environmental Quality Act
C.F.R.	Code of Federal Regulations
CTR	California Toxics Rule
CWA	Clean Water Act
ERA	Exceedance Response Action
MCL	Maximum Contaminant Level
MMP	Mandatory Minimum Penalty
MS4	Municipal Separate Storm Sewer System
MSGP	Multi-Sector General Permit
MUN	Municipal and Domestic Water Supply
NAL	Numeric Action Level
NEC	No-Exposure Certification
NEL	Numeric Effluent Limitation
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
NSWDs	Non-Storm Water Discharges
PAH	Polycyclic aromatic hydrocarbon
PCB	Polychlorinated biphenyl
POTW	Publicly Owned Treatment Works
QISP	Qualified Industrial Storm Water Practitioner
SFR	Sampling Frequency Reduction
SMARTS	Storm Water Multiple Application and Report Tracking System
SSM	Sufficiently Sensitive Methods
SWPPP	Storm Water Pollution Prevention Plan
TMDL	Total Maximum Daily Load
TNAL	TMDL Numeric Action Level
TSO	Time Schedule Order
U.S. EPA	United States Environmental Protection Agency
WER	Water Effect Ratio
WLA	Waste Load Allocation
WQBCA	Water Quality Based Corrective Action
WQBEL	Water Quality Based Effluent Limitation
WQS	Water Quality Standards

Term List for the 2017 Proposed Industrial General Permit Amendment	
Term	**Definition**
Amendment	The Proposed Amendment to Order 2014-0057-DWQ amended by Order 2015-0122-DWQ & Order 20XX-XXXX-DWQ
General Permit	California Statewide NPDES General Permit for Storm Water Discharges Associated with Industrial Activities (Order 2014-0057-DWQ amended by Order 2015-0122-DWQ)
Responsible Discharger	A Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water associated with industrial activities (and Authorized NSWDs) either directly or through a municipal separate storm sewer system to impaired waterbodies identified in a U.S. EPA approved TMDL with an assigned waste load allocation to industrial storm water sources.
Water Boards	Includes the State Water Resources Control Board (State Water Board) and the Regional Water Quality Control Boards (Regional Water Boards).
On-Site and Off-Site Compliance Options	Dischargers are provided an optional compliance method to meet the requirements of this General Permit and applicable TMDL requirements (see Attachment I) by implementing On-Site best management practices (BMPs) to capture, infiltrate, divert, and/or evapotranspire the volume of runoff produced up to and during the 85th percentile 24-hour precipitation event based upon local, historical precipitation data and records, or enter into a local agreement with the local jurisdictions to participate in the development, implementation, and operation of an Off-Site storm water capture and use and/or infiltration BMP(s).

Public Comments submitted regarding the **2017 Proposed** Industrial General Permit Amendment[1]		
Letter ID	**Commenter(s)**	**Submitted By**
1	Ashworth Leininger Group	Elliott Ripley
2	BRASH Industries	Marvin Sachse
3	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Ryan Waterman
4	California Coastkeeper Alliance Los Angeles Waterkeeper	Sean Bothwell Arthur Pugsley
5	California Communities Against Toxics California Safe Schools National Association for the Advancement of Colored People, San Pedro-Wilmington Branch #1069 American Legion Post 6 California Kids IAQ Comite Pro Uno Exide Community Workers Center Del Amo Action Committee Coalition for a Safe Environment Community Dreams EMERGE Mujeres de Maywood San Pedro & Peninsula Homeowners Coalition Society for Positive Action St. Philomena Social Justice Ministry Wilmington Improvement Network	Jane Williams Robina Suwol Joe Gatlin Pastor Anthony Quezada Drew Wood Felipe Aguirre John Sermeno Cynthia Babich Jesse Marquez Ricardo Pulido Magali Sanchez-Hall Elizabeth Matamoros John Miller Shabaka Heru Modesta Pulido Anabell Romero Chavez
6	California Council for Environmental and Economic Balance	Gerald Secundy
7	California Independent Petroleum Association	Rock Zierman
8	California Stormwater Quality Association	Daniel Apt
9	City of Commerce	Gina Nila
10	City of Los Angeles Harbor Department	Christopher Cannon
11	City of Los Angeles Sanitation	Enrique Zaldivar
12	City of Redlands	Shannon Simmers
13	City of San Diego	Drew Kleis
14	CR&R Incorporated	John McNamara
15	Department of Defense, Department of the Navy	C.L. Stathos
16	Downey Brand on behalf of several clients	Melissa Thorme Nicole Granquist Don Sobelman

Public Comments submitted regarding the 2017 Proposed Industrial General Permit Amendment (cont)[1]		
Letter ID	**Commenter(s)**	**Submitted By**
17	Environmental Law Group LLP Varco & Rosenbaum	Linda Beresford
18	Industrial Environmental Association Building Industry Association of San Diego County San Diego Chamber of Commerce	Jack Monger Edward Othmer
19	Industrial Environmental Coalition of Orange County	John Gleason
20	Latham & Watkins LLP on behalf of Toyota Motor Engineering & Manufacturing N.A., and specifically its facility located in Long Beach, California	Paul Singarella
21	Los Angeles Department of Water and Power	Katherine Rubin
22	Los Angeles World Airports	Robert Freeman
23	OC Waste & Recycling	Warisa Niizawa
24	Pacific Merchant Shipping Association	John Berge
25	Pasadena Water and Power	Gurcharan Bawa
26	Port of Long Beach	Heather Tomley
27	Sanitation Districts of Los Angeles County	Kristen Ruffell
28	SESPE Consulting, Inc.	Joseph King
29	State of California Auto Dismantlers Association	Gary Umphenour
30	TECS Environmental	Ray Tahir
31	The Nature Conservancy	Jill Sourial
32	Trilogy Regulatory Services	Robert Schneider
33	United States Environmental Protection Agency, Region IX	David Smith
34	University of California, San Diego	Kimberly O'Connell
35	Wine Institute	Tim Schmelzer
36	Workable Approach to Environmental Regulation	James Simonelli Dawn Koepke

[1] Grammar, formatting, and terminology used by the commenter, as copied by State Water Board staff into the 'Comment' column of this Response to Comments were not altered or corrected.

Comment ID	Commenter(s)	Comment	Comment Response
1.1	Ashworth Leininger Group	Generally, the new limitations (e.g., TMDL Numeric Action Level (TNAL) and Numeric Effluent Limits (NELs)) in the IGP Amendment are very low and in many cases, facilities will not be able to practicably comply with them. Compliance with the new TNALs or NELs would require advanced stages of treatment that will carry substantial costs and may perform inconsistently. For example, in Southern California, rainfall is infrequent and treatment systems will therefore remain inactive except during occasional rain events. For many treatment technologies that are best suited to treat TMDL parameters (e.g., ion-exchange resins designed to remove metals such as copper and zinc), remaining inactive for large portions of the year will cause inconsistent performance and higher operating costs. Stricter regulatory provisions that require escalating and costly treatments that might not be effective could pose an insurmountable economic burden and legal liability to California businesses. In addition, industrial sites unable to meet existing NELs have started the practice of collecting and hauling away storm water as waste. If such measures are implemented on a larger scale due to economic practicability (as may be expected with this IGP amendment), area storm water recharge patterns will be affected.	A Total Maximum Daily Load (TMDL) addresses an impaired water body that is listed in the Clean Water Act (CWA) section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available Waste Load Allocation (WLA) for the discharge prepared by the state and approved by United States Environmental Protection Agency (U.S. EPA) pursuant to 40 Code of Federal Regulations (C.F.R.) section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. Water quality based effluent limitations (WQBELs) are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers.

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			No changes have been made to address this comment.
1.2	Ashworth Leininger Group	Allow for facilities subject to NELs to conduct an analysis demonstrating that the current best management practices (BMPs) and technology being implemented at a given site are the most practicable and achievable given available practices and technologies, their effectiveness, and their costs. This demonstration would allow for facilities to be in compliance with the IGP even if the new TNALs or NELs are not achieved. A similar option is currently provided in the Industrial Activities BMP demonstration in Section XII.D.2.iv of t he IGP.	While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's waste load allocation (WLA). An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting water quality standards (WQS) and that additional requirements, such as Numeric Effluent Limitations (NELs), must be implemented by the identified sources of the impairment. Where a TMDL Numeric Action Level (TNAL) has been assigned, Responsible Dischargers are required to implement this General Permit's Exceedance Response Actions (ERAs) if the TNAL is exceeded. In that case, the Industrial Activity Best Management Practice (BMP) demonstration is available in the same way that it is available for an exceedance of an Numeric Action Level (NAL). No changes have been made to address this comment.
1.3	Ashworth Leininger Group	Provide an option for facilities to demonstrate that the mass of pollutants discharged from the site is below the mass equivalent of applicable TNALs or NELs. This would be most applicable	The Amendment is tailored to contain consistent monitoring requirements. Therefore, Responsible Dischargers were assigned an applicable

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		in dry areas, which often have only one or two Qualifying Storm Events (QSEs) per year that are high in concentration due to “first flush” circumstances. In such cases the total mass of a pollutant discharged will be lower if total volume of stormwater discharged within a compliance year is small. This provision would promote low-impact development practices and volume reduction measures. The Oregon Department of Environmental Quality (DEQ) 1200-Z General Permit allows a similar option under their Tier II reporting provisions; see Schedule A.11.k of the Oregon DEQ 1200-Z permit.	concentration-based limitation derived from the TMDL instead of a mass-based target. Responsible Dischargers unable to comply with the proposed TNALs/NELs may consider the feasibility of the On-Site or Off-Site Compliance Option as a method of compliance with this General Permit. Dischargers may also work with the appropriate regional water board to obtain a time schedule order (TSO) that would provide them with a pathway to compliance with this General Order. No changes have been made to address this comment.
1.4	Ashworth Leininger Group	Allow the Natural Background Demonstration and Non-Industrial Pollutant Source demonstrations to apply to both TNALs and NELs and clearly state as such in the IGP Amendment. As TNALs and NELs were developed from industrial waste load allocations under the applicable TMDL, facilities should be able to demonstrate that pollutants in their discharge are not due to their industrial activities. This will be especially important in urban areas, where aerial deposition of tire and brake dust can travel for miles and cause NAL/TNAL/NEL exceedances. The impact of aerial deposition has been studied extensively by the Southern California Coastal Research Project – see Atmospheric Deposition of Trace Metals1, which performed multiple published studies of the impact of atmospheric deposition on storm water runoff in urban areas. These	For compliance with TNALs, Responsible Dischargers must comply with the Exceedance Response Action (ERA) process and therefore may use the Level 2 ERA Technical Report to demonstrate exceedances are solely due to non-industrial pollutant sources or natural background pollutant sources. The NELs, are based on more stringent TMDL WLAs and do not allow Responsible Dischargers to account for natural background or non-industrial pollutant sources. No changes have been made to address this comment.

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		studies demonstrate that aerial deposition can contribute to storm water exceedances, which may be considered non-industrial under the IGP.	
1.5	Ashworth Leininger Group	In addition to the proposed compliance alternatives, allow for facilities subject to numeric action levels (NALs)/TNALS to demonstrate compliance by achieving a minimum level or set percentage of pollutant reductions. For example, facilities that achieve a substantial (e. g., 85 percent) reduction of pollutants discharged would have a mechanism to derive a measure of regulatory benefit.	The On-Site and Off-Site Compliance Options offer Dischargers a compliance method to meet the requirements of this General Permit and applicable TMDL requirements (see Attachment I) by implementing On-Site BMP(s) to capture, infiltrate and/or evapotranspire the volume of runoff produced up to and during the 85th percentile 24-hour precipitation event based upon local, historical precipitation data and records, or enter into a local agreement with the local jurisdiction(s) and/or other Dischargers to participate in the development, implementation, and operation of an Off-Site storm water capture and infiltration BMP. No changes have been made to address this comment.
1.6	Ashworth Leininger Group	Develop public funding options, such as grants, for projects that will help facilities meet TNALs and NELs. This will help facilities without sufficient economic resources to research and implement the most effective advanced systems and BMPs that can meet these new TNALs and NELs.	In general, there are no public funding opportunities for the implementation of this General Permit, including TMDL requirements by Responsible Dischargers, because many of the Permittees are private entities. However, the Off-Site Compliance Option, in particular provides potential for economic incentives and cost sharing for Dischargers through the formation of local agreements with the local jurisdiction(s) and/or other Dischargers. There is a potential in the future for some of these projects (which include local public jurisdictions) to be eligible for public funding based on project-specific details

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			and the funding guidelines which would describe which project-types are eligible. No changes have been made to address this comment.
1.7	Ashworth Leininger Group	Because meeting the new TNAL and NEL standards in the permit will require time for facilities to research options and implement projects and other systems, additional time should be allowed before these IGP amendment changes take effect. We suggest allowing at least one year between the adoption date and effective date of the amended IGP.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
1.8	Ashworth Leininger Group	The currently defined scope of NEL applicability does not allow facilities to attribute exceedances to non-industrial pollutant sources or natural background, or demonstrate equivalent mass loading of pollutants. Applicability of NELs should be redefined to account for these sources of pollutants.	NELs are based on more stringent TMDL WLAs and do not allow Responsible Dischargers to account for natural background or non-industrial pollutant sources. No changes have been made to address this comment.
1.9	Ashworth Leininger Group	The permit should be more explicit on the options and procedures for pursuing a time schedule order (TSO) with the various regional water boards. Among these should be a timeline for submitting requests for a TSO and uniform qualifying criteria so that these procedures can be easily followed. The Fact Sheet should provide more detail on what a TSO is and how it can be used to meet TMDL requirements. Currently, the IGP Order does not discuss a TSO, and the Fact Sheet discusses TSOs only briefly in Section II.E.2 and II.E.3. We suggest expanding Fact Sheet section II.E.3 significantly to provide more detailed background on how a	A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board should be contacted to discuss these appropriate procedural actions. No changes have been made to address this comment.

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		TSO may be used by industrial facilities, processes for applying for a TSO, processes for regional board review and approval, and guidance on how interim effluent limitations are to be established.	
1.10	Ashworth Leininger Group	Because facilities may be in watersheds subject to multiple TMDLs, there must be a tool for determining applicable TMDLs. Further, the Board should clarify how the tributary rule applies to TMDL applicability. In cases where multiple TMDLs may apply, the IGP should clearly state which TMDL requirement is to be followed. In the Los Angeles workshop, it was stated that the Board will publish a watershed mapping tool to assist with this determination. Any such tool must be available well in advance of the effective date of the IGP Amendment to allow facilities adequate time to review, and guidance should be published on how to properly use the tool for TMDL applicability.	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified.
1.11	Ashworth Leininger Group	The permit should allow for facilities that are subject to NELs to demonstrate that they are not causing or contributing to the exceedance of a water quality standard. Because many of the pollutant sources at industrial sites are non-industrial (e.g., runoff from employee parking lots) or from natural background sources, and the IGP regulates storm water discharges and non-storm water discharges (NSWDs) associated with industrial activity, facilities	This Amendment states that a Responsible Discharger meeting an applicable NEL is demonstrating that they are not causing or contributing to the exceedance of a water quality standard for the particular water body-pollutant combination addressed by the NEL. NELs are based on more stringent TMDL WLAs and do not allow Responsible Dischargers to

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		should be given an opportunity to demonstrate that storm water discharges from their site are non-industrial and therefore not subject to enforcement under the IGP. We suggest an approach similar to the Level 2 Exceedance Response Action (ERA) that allows facilities to demonstrate that exceedances are due to non-industrial or natural background sources.	account for natural background or non-industrial pollutant sources. No changes have been made to address this comment.
1.12	Ashworth Leininger Group	The permit should be more explicit on how the new TMDL requirements affect the Sample Frequency Reduction (SFR) certification. It is unclear if sites subject to TMDLs have to begin sampling again at the regular frequency of 4 times per year again, or only if a TNAL or NEL is exceeded after the effective date of the IGP amendment. We suggest adding language to clarify this requirement in Section XI.C.7 of the IGP.	A Sampling Frequency Reduction (SFR) certification applies for this General Permit's sampling and monitoring requirements for compliance with the NALs/TNALs/NELs. The Changes have been made in the Order Section XI.C.7 to make the applicability clear.
1.13	Ashworth Leininger Group	The permit should provide a permit shield provision for facilities that are complying with ERA and/or TNAL/NEL requirements. While Sections VII.F and VII.G of the IGP Amendment state that compliance with/ meeting NELs and TNALs are "in compliance with the receiving water limitations for the water body-pollutant combination addressed by the TMDL", the IGP does not provide a clear statement that compliance with its provisions equates to compliance with the Clean Water Act. This leaves open the opportunity for the public to review information submitted in the Storm Water Multiple Application and Report Tracking System and erroneously interpreting the submitted information as demonstrating non-	The Amendment specifies the provisions of the CWA with which the Dischargers are complying if they are in compliance with this General Permit. A broader statement would not be appropriate. Using the provided example, this General Permit already states that an exceedance of an NAL is not per se a General Permit violation. In other words, an NAL is not an NEL. Nevertheless, Dischargers are still required to comply with receiving water limitations. Accordingly, an enforcement action may be brought against a Discharger based on their reported storm water data where there is evidence that the discharge is causing or contributing to an exceedance of receiving water

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		compliance with the Clean Water Act, even though the facility is in compliance with the provisions of the IGP. A common example of this is exceedances of NALs, which are allowed under the IGP but are commonly interpreted as violations of Basin Plans and other water quality standards. This has caused a number of our clients to undergo costly litigation, which takes money and resources away from projects and other improvements that can benefit storm water. Because TMDLs only apply to discharges to certain water bodies, the IGP Amendment leaves compliance with water quality-based effluent limitations unaddressed for all other facilities that do not discharge to a TMDL waterbody. Compliance with the IGP therefore remains open to misinterpretation for many industrial dischargers. An analogous concept is provided in Section 504(f) of the Clean Air Act, which states that compliance with a permit issued under the Title V program is deemed compliance with the Clean Air Act, provided that the permit includes those requirements or the permit states that other provisions are not applicable to the source. We suggest that a similar approach in this amendment of the IGP, as this ambiguity is highly burdensome for industrial facilities and in many cases contributes to unnecessary and costly litigation.	limitations. The litigation would therefore hinge on compliance with receiving water limitations rather than whether there is an exceedance of an NAL. This differs somewhat from the TNALs and NELs. A Discharger whose discharge does not exceed TNAL or NEL levels is in compliance with the receiving water limitations of this General Permit. As with NALs, an exceedance of a TNAL is not per se a General Permit violation, although an exceedance of an NEL is. Exceedances are defined in General Permit Section V.C.1 for NELs and V.C.2 and XII.A for TNALs. No changes have been made to address this comment.

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1.14	Ashworth Leininger Group	ALG staff were present at the December 2017 Board workshop in Los Angeles and found the workshop to be very informative. As written comments are considered and the adoption process progresses, the State and/or Regional Boards should hold additional workshops to maintain effective communication with the regulated community. We would be receptive to additional IGP Amendment drafts and subsequent comment periods and public workshops in order to ensure this regulation is clear, effective, and appropriately communicated to the public.	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. No changes have been made to address this comment.
1.15	Ashworth Leininger Group	ALG thanks the Board for the opportunity to comment on the proposed IGP Amendment. We appreciate the Board's commitment to protecting our waterways and public participation in the development of the IGP Amendment. We suggest in our comments clarifications and provisions intended to strengthen the practicability of the proposed IGP amendment.	Comment noted.
2.1	BRASH Industries	There are many concerns regarding the Permit and it is recognized that the State's Permit writers have an important and extremely challenging task of balancing the Permit's requirements with numerous entities with disparate perspectives. All responsible Permittees are concerned about water quality. Most have families and wish to make life better for their succeeding generations. There is a concern that overcostly compliance without significant environmental improvement becomes a disincentive to compliance, which forces less	Regional Water Board staff continue to work with municipalities on identifying non-filers. Due to limited staffing and resources, however, it may be impossible to ensure enrollment for this General Permit for every facility required to comply. The Water Boards also continue to collaborate on the implementation of California legislation including other agency partners (California Department of Motor Vehicles and Department of Food and Agriculture, weigh-masters) on the identification of illegal business activities (e.g., non-filers).

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		responsible business operators to disappear from the regulated world. These un regulated operators receive tremendous cost advantages over complying facilities by not investing in the BMPs and Permit fees. It is hoped that the resources of the State are directed more toward increased levels of enforcement toward detection and elimination of non-complying facilities than toward facilities that have expended resources and energy for compliance, but occasionally have minor non compliance issues.	No changes have been made to address this comment.
2.2	BRASH Industries	1) Responsible Discharger A Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water [that has been in contact with material] associated with industrial activities (and Authorized NSWDs) to impaired water bodies or to an upstream reach or tributary to impaired water bodies either directly or through a municipal separate storm sewer system (MS4) included in a U.S. EPA approved TMDL. The enclosed text establishes that storm water contact with a TMDL listed parameter is required for a facility to be classified as a Responsible Discharger, and sample for TMDL constituents. This point was emphasized by the State Water Board Chief Deputy Director, Jonathan Bishop, at the December 21, 2017, Los Angeles Industrial General Storm Water Permit Workshop, that the TMDL constituents not only had to be present in the SWPPP potential	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". No changes have been made to address this comment.

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		pollutant inventory, but there also had to be contact between the discharge water and the TMDL constituent. If there were to be no contact between the TMDL constituent and the storm water discharge then no sampling would be required. If no sampling is required then there is no need to classify the facility as a Responsible Discharger. *Moreover, a facility that is classified as an NEC facility may have TMDL listed constituents on site, but if these constituents are not exposed to rain water or snow melt the Permittee is not required to test for their presence. Therefore, it would seem appropriate that the same "non-contact" aspect would apply to an NOI Permittee.*	
2.3	BRASH Industries	2) VII.F. Responsible Dischargers in compliance with an NEL for a TMDL in Attachment E are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the TMDL. It has been established through previous sampling results that some TMDL Instantaneous NELs and TNALs may never be attainable even with the use of a storm water treatment system. In as much as the technical issues preclude TNAL/NEL attainment of some of the more restrictive TMDL limits it is proposed that the SWB consider that compliance is established with the use of a percentage reduction in the contaminant as opposed to the imposition of an NAL/NEL limit. Moreover, this would be more consistent with the Waste Load Allocation of the TMDL	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental

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		Program, where each facility can contribute a small portion of the TMDL. The TMDL NELs will expose numerous facilities to the expense of a treatment system, which in many cases, will not sufficiently remediate the water, or to expensive and counter productive litigation and fines. The physio-chemical properties of storm water discharged from a facility, in most non direct discharges, has significantly different physio-chemical properties after it has commingled with other storm water discharges, prior to entering the receiving water.	costs associated with the new TMDL requirements. The On-Site and Off-Site Compliance Options offer Dischargers a compliance method to meet the requirements of this General Permit and applicable TMDL requirements (see Attachment I) by implementing On-Site BMP(s) to capture, infiltrate and/or evapotranspire the volume of runoff produced up to and during the 85th percentile 24-hour precipitation event based upon local, historical precipitation data and records, or enter into a local agreement with the local jurisdiction(s) and/or other Dischargers to participate in the development, implementation, and operation of an Off-Site storm water capture and infiltration BMP. No changes have been made to address this comment.
2.4	BRASH Industries	3) Attachment I BI recognizes the importance of both the On-Site compliance Option and the Off-Site Compliance Option. The On-Site Compliance Option requirement to clean the water to be discharged through percolation appears to have several draw backs for it to be a practical alternative to discharging to Waters of the United States. Storm water discharges that are sufficiently cleaned to comply with drinking water standards could, in most cases, be sufficiently clean to be discharged to Waters of the United States	The On-Site Compliance Option is designed to protect water quality if a Discharger complies with the requirements. If the On-Site Compliance Option is not a viable option, the Discharger may comply through other compliance pathways identified in this Amendment. No changes have been made to address this comment.

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		without the additional costs of creating retention basins, evaluating the porosity of the soil and performing additional soil testing to determine if the water being percolated to and through the soil could be contaminated by the soil. In many cases the close proximity to ground water or drinking water sources could preclude the on site compliance option.	
2.5	BRASH Industries	The Off-Site compliance option is recognized as an extremely desirable option and encourages the Waterboards to work toward implementing this compliance option. It obviously will require significant modifications to the municipal infrastructure but would probably result in improved water stewardship, lower overall compliance costs per discharger, and improved discharge water quality. It is not suggested that individual dischargers abandon the installation of BMPs but the off-site compliance option be considered an adjunct to the storm water program. As this is an attractive discharge option, it is suggested that the Water Board establish a subcommittee comprising IGP Permittees, CGP Permittees, NGOs, and representatives from municipalities to review and further develop the Off-Site compliance option.	After Amendment adoption, public input will be solicited on implementation guidance for the On and Off-Site Compliance Options. No changes have been made to address this comment.
2.6	BRASH Industries	The Permit Writers have a herculean task in implementing the TMDL program into the IGP and have done an excellent job in the creation of this first inclusive Permit. It is hoped that the foregoing comments will be accepted in the	Comment noted.

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		spirit of providing a well balanced and readily implementable Permit.	
3.1	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 9, Paragraph 51 This General Permit's NALs found in Table 2 shall continue to apply to Responsible Dischargers in addition to the TNALs and NELs found in the General Permit TMDL Compliance Table. Where TNALs are applicable and more stringent than the NALs, why is it necessary to be subject to both TNALs and NALs? Will this lead to redundant reporting requirements?	Section 301(b) of the CWA and 40 C.F.R. require National Pollutant Discharge Elimination System (NPDES) permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA Multi Sector General Permit (MSGP) benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different

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			applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
3.2	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 9, Paragraph 54 All TNALs are applied as Instantaneous Maximum values as defined in Section XII.A.2; there are no Annual TNALs in this General Permit. The TNAL values are generally very low. By only looking at the Instantaneous Maximum values, discharges may be penalized for concentration spikes that do not fully characterize the quality of storm water discharges. Pollutant concentrations will generally fluctuate around a mean. By only looking at instantaneous maximum values, the discharger is put in a situation where the concentration may be above, below or at the mean, and not accurately characterize the storm water discharge.	The instantaneous maximum exceedance type is an appropriate measurement for compliance with the more stringent TMDL requirements needed to protect waterbodies that are identified as impaired. These translations are based on the language of the TMDL WLAs. This is further described in the Fact Sheet. This General Permit allows Dischargers to implement flow weighted composite sampling for obtaining an accurate and representative concentration of constituents in the industrial storm water discharge for a specific storm event. No changes have been made to address this comment.
3.3	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 9, Paragraph 55 All Numeric Effluent Limitations (NELs) are applied as Instantaneous Maximum values as defined in Section XII.A.2. There are no Annual NELs in this General Permit. There should be more clarification on the differences and similarities of Discharge Prohibitions, Effluent Limitations and Receiving Water Limitations.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, sufficiently sensitive methods (SSM), and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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3.4	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 13, Paragraph 76.b For the instantaneous maximum NALs/TNALs, an exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value (for Total Suspended Solids, and Oil and Grease), or are outside of the instantaneous maximum NAL/TNAL range (for pH) listed in Table 2 of this General Permit. For the purposes of this General Permit, the reporting year is July 1 through June 30. This section should be reworded. As written, it seems that TNALs only apply for Total Suspended Solids and Oil and Grease.	Changes have been made in the Amendment to address this comment. Annual and Instantaneous Maximum exceedances apply to NALs, and Instantaneous Maximum exceedances apply to TNALs and TMDL-related NELs.
3.5	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 13, Paragraph 77 The NALs/TNALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs/TNALs are not derived directly from either BAT/BCT requirements or receiving water objectives. Are TNALs not derived from receiving water objectives?	TNALs are BMP-based WQBELs derived from WLAs assigned to industrial facilities, which in many cases are the WQS or objectives. This is further described in the Fact Sheet entry for each TMDL translation. No changes have been made to address this comment.
3.6	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 14, Paragraph 80 Exceedances of the NALs that are attributable solely to pollutants originating from nonindustrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the Discharger's property, or aerial deposition) are	Changes have been made in the Amendment to add TNALs in the first sentence.

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		not a violation of this General Permit because the NALs are designed to provide feedback on industrial sources of pollutants. Dischargers may submit a Non-Industrial Source Pollutant Demonstration as part of their Level 2 ERA Technical Report to demonstrate that the precence of a pollutant causing an NAL/TNAL exceedance is attributable solely to pollutants originating from non-industrial pollutant sources. Why are TNALs not included in the first sentence?	
3.7	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 25, VII.C.3. The Responsible Discharger is required to electronically calculate, track, and report its TNAL or NEL exceedances using SMARTS. SMARTS does not calculate a Responsible Discharger's Level Status when a TNAL is exceeded. The Responsible Discharger must calculate and report its Level Status and submit the information via SMARTS. SMARTS should be able to identify TNAL or NEL exceedances to avoid errors and omissions.	The Storm Water Multi-Application, Reporting, and Tracking System (SMARTS) provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining TMDL applicability and monitoring TMDL compliance.

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			No changes have been made to address this comment.
3.8	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Industrial General Permit, Page 53, XII.A.2. Instantaneous maximum NAL/TNAL exceedance: The Discharger shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NAL/TNAL values in Table 2. An instantaneous maximum NAL/TNAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value (for TSS and O&G) or are outside of the instantaneous maximum NAL/TNAL range for pH. This section should be reworded. As written, it seems that TNALs only apply for Total Suspended Solids and Oil and Grease.	Changes have been made in the Amendment to clarify that TNALs do not apply to Total Suspended Solids and Oil and Grease.
3.9	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Fact Sheet, Page 6, 6.a Additional BMPs required to eliminate NAL/TNAL exceedances are not technologically available or economically practicable and achievable; How is economically practicable and achievable defined? This should be clearly defined, with a process for determination.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
3.10	Brownstein Hyatt Farber Schreck on behalf of the	Attachment I, II.A A Discharger may implement on-site BMP(s) for capture and use, infiltration, and/or evapotranspiration of storm water associated	A facility may use one or a combination of capture and use, diversion, infiltration, and/or evapotranspiration as Compliance Option BMP(s).

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	City of Burbank	with industrial activities and authorized non-storm water discharges (NSWD) Can the facility split the 85th percentile volume among different projects (%infiltration, %sewer, etc.)	No changes have been made to address this comment.
3.11	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Attachment I, II.E.2.c Non-industrial run-on that comingles with the industrial storm water flowing into the BMP(s). Requiring the discharger to include non-industrial run-on that comingles with industrial storm water flowing into the BMP(s), may prohibit the discharger from implementing BMPs due to sizing concerns. For example, BWP receives run-on from approximately 20 acres offsite, that comingles with BWPs storm water. Diverting or including this volume in the BMP would add enormous cost, and may affect the feasibility of the BMP.	Dischargers are responsible for the flow of run-on and the commingling that occurs with the facility's industrial storm water. Dischargers will need to asses and consider diverting excess non-industrial flow running onto their property and/or non-industrial flow running into industrial areas within the facility for the sizing and design of the BMP(s) for meeting the On-Site Compliance Option requirements. No changes have been made to address this comment.
3.12	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Attachment I, II.E.3. Recover capacity within a 24-hour period (the 24-hour time-period is 12:00a.m. to 11:59p.m.) to capture and use, infiltrate, and/or evapotranspire runoff volumes generated up to and including the 85th percentile 24-hour storm event. This concept should be clarified to include more information. For example, if there is continuous rain for seven days straight, what is the requirement for recovering capacity? Is this feasible/practicable and how is this demonstrated?	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.

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3.13	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Attachment I, II.E.6.a.ii. The Discharger implementing infiltration BMP(s) shall address possible groundwater contamination from the BMP(s) operation by using one or more of the following methods: Install groundwater monitoring devices (e.g. lysimeters) to collect monthly samples of the infiltrated water below the infiltration BMP(s) to demonstrate compliance with MCLs for pollutants associated with industrial activities in the influent of the infiltration BMP(s) What happens if groundwater monitoring shows water quality above the MCL? Does that mean that Discharger needs to obtain an individual WDR, or would be required to stop infiltration, or would be liable for groundwater remediation? In addition, what happens if groundwater is already contaminated above the MCL before storm water infiltration begins? Or if the groundwater basin does not have any beneficial uses? In those scenarios, does the discharger still need to take water samples, and if so, what are the consequences of results above the MCL?	If monitoring below the infiltration BMP shows water quality above the MCL criteria, the Discharger is required to pretreat the influent before it enters the BMP to meet the MCLs. Additionally, the Water Boards may evaluate this site-specific information and determine necessary regulatory actions. Potential regulatory actions may include additional requirements, modifications to the infiltration BMP, additional permitting, or groundwater remediation. A Discharger that fails to comply with Attachment I's requirements will not receive Attachment I's benefits until that Discharger comes back into compliance with Attachment I's requirements. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharges to all groundwater basins via infiltration BMPs meet the maximum contaminant level (MCL) criteria or the Discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
3.14	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Attachment I, II.F.1 A Discharger with Baseline Status as of (insert amendment effective date) intending to implement the On-Site Compliance Option shall notify the Water Boards via SMARTS no later than one year prior to the estimated date of the BMP(s) installation and operation. The	The time period has been shortened to require at least 3 months of notice, with no upper limit. See changes to Amendment.

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		Discharger shall submit the required implementation information and schedule in the facility's site specific Storm Water Pollution Prevention Plan (SWPPP) in accordance with Section II.H.3 below. Why does it require one year prior notice? This should be a shorter time-period.	
3.15	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Attachment I, II.F.4 Upon implementation and operation of the BMP(s), and compliance with the On-Site Compliance Option requirements in this Attachment, the status of Baseline, Level 1, or Level 2 is no longer applicable. How is this going to be implemented? Will the facility be notified that it is no longer applicable? Will the Water Board send a letter to each facility ? or Will SMARTS identify the facility new status?	The Regional Water Boards will select a method of communication of its choosing to notify the Discharger. No changes have been made to address this comment.
3.16	Brownstein Hyatt Farber Schreck on behalf of the City of Burbank	Attachment I, II.H.2.b. The Discharger complying with the On-site Compliance Option must submit the following sampling information in SMARTS within 30 days after obtaining analytical laboratory sampling results: . . . b. Monitoring and sampling of influent entering the BMP(s). Why is this required for capture and use, where no storm water is being infiltrated to groundwater? This causes an unnecessary burden for facilities who are not discharging storm water. The bypass sampling will address any storm water that is discharged.	The influent sampling is required to demonstrate the effectiveness of the BMP and to monitor for pollutant concentrations that enter the BMP for comparison to the discharge (overflow discharge/bypass) concentrations. No changes have been made to address this comment.

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4.1	California Coastkeeper Alliance Los Angeles Waterkeeper	When the latest General Permit was adopted in 2015, staff and the Board described the permit as a “bridge” until WLAs could be incorporated as the means for making real progress to reducing impairment in receiving waters. Now, nearly three years later, there is a significant risk the bridge permit adopted in 2015 is leading nowhere. Staff proposes essentially two paths to compliance. First, staff proposes a series of “TMDL based Numeric Action Levels” (“TNALs”) rather than Water Quality Based Effluent Limitations (“WQBELs”) for TMDL WLAs. Unfortunately, the TNALs are only notionally related to the WLAs articulated in the applicable TMDLs and are explicitly defined in the draft as *not* the required WQBEL. Second, the permit defines implementation of onsite retention of stormwater up to the 85th percentile 24-hour storm event as compliant with all applicable WLAs. There is an inadequate analysis to demonstrate that stormwater retention up to the 85th percentile storm will reduce discharges of pollution sufficient to meet the WLAs. As such, the scheme proposed in the draft permit amendments to incorporate the applicable WLAs into the permit are inconsistent with the requirements of the Clean Water Act and are therefore illegal.	The reference to the 2015 Permit as a "bridge" permit referred to the Water Boards' efforts to collect additional data such that NELs and sector-specific general permits could possibly be adopted in the future. That effort is distinct from the task of implementing TMDLs into the 2015 General Permit. The TNALs and Compliance Options are both consistent with the assumptions and requirements of the WLAs in accordance with Attachment E of this General Permit. This General Permit has been revised to state that TNALs are BMP-based WQBELs. Effluent limitations may be BMP based. (40 CFR § 122.44(k).) Please see the supporting Fact Sheet analysis for the continuous simulation modeling/analysis performed to arrive at the compliance storm standard proposed in Attachment I of this Amendment.
4.2	California Coastkeeper Alliance Los Angeles Waterkeeper	CCKA is engaged in ongoing negotiations with State Board staff and industry to develop permit terms that comply with the Act and will achieve the required pollutant reductions from industrial dischargers. CCKA is hopeful those negotiations will result in permit amendments that will meet	The Amendment is consistent with applicable law, but the State Water Board appreciates discussions with stakeholders and where possible, will continue to solicit input regarding improvements to this General Permit.

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		the requirements of the law. However, if adopted in its current form, the permit amendments would be illegal for at least the reasons summed up below.	
4.3	California Coastkeeper Alliance Los Angeles Waterkeeper	Once a TMDL with WLAs is developed, the permitting agency *must* incorporate the WLAs into applicable NPDES permits as WQBELs. See 40 C.F.R. § 122.44(d)(1)(vii)(B); 40 C.F.R. § 130.2(h). In doing so, the permitting agency must ensure that the effluent limits of the NPDES permit "are consistent with the assumptions and requirements of any available wasteload allocation [WLA] for the discharge". 40 C.F.R. § 122.44(d)(1)(vii)(B).	This General Permit has been revised to state that TNALs are BMP-based WQBELs. Effluent limitations may be BMP based. (40 CFR § 122.44(k).)
4.4	California Coastkeeper Alliance Los Angeles Waterkeeper	The draft Permit Proposes TMDL Action Levels rather than Numeric Effluent Limitations: 77. The NALs/TNALs are not intended to serve as technology-based or water quality based numeric effluent limitations. The NALs/TNALs are not derived directly from either BAT/BCT requirements or receiving water objectives. NAL/TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit. Because the TNALs are not effluent limitations the WLAs cannot be incorporated via the TNALs. TNALs are facially inconsistent with the Clean Water Act.	This General Permit has been revised to state that TNALs are BMP-based WQBELs. Effluent limitations may be BMP based. (40 CFR § 122.44(k).). Because TNALs are BMP-based WQBELs, an exceedance of a TNAL is not a General Permit violation. It is, however, a violation of this General Permit to fail to take the required ERAs.
4.5	California Coastkeeper Alliance Los Angeles Waterkeeper	The Draft Amendment proposes an alternative compliance path, providing for retention BMPs to eliminate discharges up to a design storm of the 85th percentile 24-hour storm. Where a	See the Fact Sheet for the continuous simulation modeling/analysis performed to arrive at the compliance storm standard proposed in Attachment I of this Amendment.

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		facility implements those BMPs, compliance with all WLAs is assumed. The California Waterkeepers support retention, and specifically infiltration, as perhaps the most important multi-benefit solution to stormwater pollution. However, the design storm must be adequate to meet the WLAs set out in the TMDLs. Analyses to-date have failed to demonstrate that the 85th Percentile 24-hour storm will meet the WLAs set out in the TMDLs.	
4.6	California Coastkeeper Alliance Los Angeles Waterkeeper	Assuming that meeting the copper TMDL WLA in the Los Angeles River, a stringent limitation, would assure compliance with all other applicable WLAs, staff relied on a study by industry consultants concluding that the 85th percentile storm would achieve compliance. However, a review by California Waterkeeper consultants indicates that the industry analysis relied upon by staff is inaccurate. Use of more representative pollutant concentration data indicates that compliance with the copper WLA for the Los Angeles River will require capture of at least the 95th percentile 24-hour storm.	See the additional rationale in the Fact Sheet for the continuous simulation modeling/analysis and the results from evaluating an averaging method (i.e. area-weighted average) that resulted in a more conservative copper concentration value.
4.7	California Coastkeeper Alliance Los Angeles Waterkeeper	In follow-up meetings, staff has indicated that industry used the wrong copper WLA for its calculation, based on the old Basin Plan Limit. Because Site Specific Objectives were adopted using a Water Effects Ratio rationale, the Los Angeles River copper WLAs have increased by up to nearly an order of magnitude. Thus, compliance with the Copper WLA can be achieved with much less capture, and staff proposes using zinc, a much less toxic pollutant as an alternative parameter for defining the	See the Fact Sheet for the continuous simulation modeling performed to assess Los Angeles River Metals TMDL compliance with cadmium, copper, lead, and zinc WLAs using the 85th percentile 24-hour storm compliance BMP-sizing standard. Additionally, see the Fact Sheet for additional continuous simulation modeling/analysis performed for Los Angeles River Metals TMDL copper WLA without factoring in the Water Effect Ratio included in the TMDL. This demonstration

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		design storm. However, in doing so staff ignores the original rationale for using the copper WLA for the design storm—the copper limit was so low that compliance with copper made meeting all other WLAs more likely. Neither the Site-Specific Objective based copper WLA for the Los Angeles River, nor the Zinc WLA, are now sufficiently stringent to act as a surrogate for other WLAs in setting the design storm for the stormwater capture BMPs, and staff has proposed no additional justification for the proposed design storm. Because the State Water Board has failed to demonstrate that the 85th Percentile 24-hour design storm will achieve the required WLAs, the Draft Amendment is inconsistent with the Clean Water Act.	shows that the most stringent target will still be met with the proposed compliance storm standard. The Compliance Options are consistent with the CWA. The requirement to comply with WQS in the receiving water is pursuant to the discretion granted permitting authorities in the CWA. Based on our analysis, the State Water Board is confident that Dischargers who implement a BMP sufficient to capture the volume from the 85th percentile 24-hour storm will not cause or contribute to exceedances of WQS in the receiving water. See the additional rationale in the Fact Sheet for the continuous simulation modeling/analysis and the results from evaluating an averaging method (i.e. area-weighted average) that resulted in a more conservative copper concentration value.
4.8	California Coastkeeper Alliance Los Angeles Waterkeeper	Each TMDL to be incorporated into a permit articulates the load allocation by category. While that means the load allocation is measured (concentration, load, days of violation, etc.) varies from WLA to WLA, all provide requirements. Yet, in proposing the compliance mix set out in the Draft Amendment, the State Water Board made no adequate demonstration that the 85th percentile design storm, or the TNAL, or the limited NELs will meet the WLAs. We provide two illustrative examples below.	Comment noted.

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4.9	California Coastkeeper Alliance Los Angeles Waterkeeper	The Newport Bay Toxics TMDL provides a WLA for metal, including a specific waste load of zero for one industrial category—boatyards. Yet the draft WLA amendment proposes NELs well above zero for metals for all industrial dischargers—including the five boatyards currently permitting under the General Permit. Therefore, neither compliance alternative proposed – NELs nor the 85th Percentile design storm—is consistent with the WLA in the Newport Bay Toxics TMDL.	Attachment E has been revised to assign boatyards covered by this TMDL an NEL of zero (0).
4.10	California Coastkeeper Alliance Los Angeles Waterkeeper	The Marina del Rey Toxics TMDL sets a WLA for copper, lead and zinc for individual General Industrial Stormwater permittees in terms of grams of metal per acre of the facility per year. **Metals per Acre WLAs for Individual General Construction or Industrial Storm Water Permittees (g/yr/ac)** Copper Lead Zinc 1.9 2.6 8.5 Thus, incorporation of the WLA would involve the simple step of applying the g/ac/year WLA via the permit, with appropriate monitoring to demonstrate compliance. Yet the Draft Amendment includes only instantaneous maximum concentration based TNALs, without explanation as to how those concentration based “action levels” are consistent with the clear and readily applicable WLA set out in the TMDL. Similarly, staff makes no effort to demonstrate how the proposed retention design storm would be consistent with the WLA set out in the TMDL. The proposed limits do not	The Marine del Rey Toxics TMDL set a WLA for copper, lead, and zinc as g/yr/ac. This Amendment aims to follow this General Permit's framework to implement the regulations of industrial storm water discharges in a cohesive manner to ensure efficient and consistent implementation of TMDLs throughout the State. This General Permit has an established monitoring scheme that will be used to implement all TMDLs. Additionally, implementing mass-based WLA directly would result in a unique and floating target with inconsistent units of measurement to each Responsible Discharger which would result in impractical implementation. Specifically, for the translation of the Marina del Rey Toxics TMDL: Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and

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		implement the WLA for Marina del Rey Toxics and are inconsistent with the Clean Water Act.	instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, polycyclic aromatic hydrocarbons (PAH), polychlorinated biphenyls (PCB), and metal TMDLs in Attachment E or in the Fact Sheet, Section II.F.6.f and II.F.6.h.
4.11	California Coastkeeper Alliance Los Angeles Waterkeeper	The Draft Amendment includes an inadequate anti-degradation analysis. The analysis proposed consists of one paragraph: 5. Anti-Degradation The inclusion of Compliance Options and incorporation of TMDL-related requirements of this General Permit will not cause additional degradation of waters of the State. This General Permit requires compliance with water quality standards through implementation of best practicable treatment or control in the form of BPT/BAT/BCT; this General Permit does not authorize an increase in waste discharges to waters of the State from the previous permit. In engaging in this circular logic, staff is asking the wrong question. In determining whether a full anti-degradation analysis is required, the threshold determination is not whether the changes will *increase* current levels of degradation under the Permit. Instead the question is whether the new Permit will *continue*	The anti-degradation analysis requirements apply only to high-quality waters. As the TNAL component of the Amendment applies only to impaired water bodies with TMDLs, the anti-degradation analysis requirements are not applicable. The Amendment was updated to place Responsible Dischargers in Baseline, Level 1, or Level 2 for an NAL in the same TNAL level for a TNAL addressing the same pollutant.

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		existing levels of degradation of impaired waters. This was confirmed in the *Agua* decision: "To the extent that the Order allows historic practices to continue without change, degradation will continue." *Agua v. RWQCB,* 210 Cal App.4th 1255, 1273. There is no meaningful debate that the proposed TNAL Scheme will allow at least four more years of existing levels of degradation while discharges work their way through tier one and tier two before implementing any additional BMPs. Because the draft permit fails to conduct the required Anti-degradation analysis, it is inconsistent with State and Federal law.	
4.12	California Coastkeeper Alliance Los Angeles Waterkeeper	The Draft Amendment includes no CEQA analysis. While NPDES Permits/WDR are exempt from Chapter 3 of CEQA, they are not exempt from Chapter 1. CEQA Chapter 1 includes the mandate of PRC § 21002, which forbids a project if less damaging feasible alternatives exist. Yet there is no analysis or findings on alternatives in the Draft Amendment or record. This CEQA analysis is particularly important where, as here, the State Water Board is proposing a TNAL scheme that clearly is more damaging than implementing the TMDL WLAs as enforceable WQBELs.	The Second District Court of Appeal has held that the Water Code section 13389 statutory exemption is a complete exemption from California Environmental Quality Act (CEQA) requirements. (County of Los Angeles v. California State Water Resources Control Board (2006) 143 Cal.App.4th 985, 1006-1007.) No changes have been made to address this comment.
5.1	California Communities Against Toxics	We are writing to you today concerned about the pollution of our state's waters. While we are concerned about the pollution of all of our state's waters, we are contacting you today regarding the revision of the Industrial General Permit. We believe that the State Water Resources Control	The Pollutant Source Assessment required by this General Permit already required the identification of industrial contaminants with the potential to discharge, however, language has been added to ensure pollutants in emissions with the potential to discharge are not excluded.

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		Board must revise the Permit to include an explicit requirement that all industrial facilities have the duty to test their stormwater for all potential pollutants that a facility could reasonably discharge in its stormwater, specifically including pollutants for which they have an air permit.	
5.2	California Communities Against Toxics	Stormwater is an amazing resource for our society. Stormwater can be used to recharge depleted aquifers. It can be captured and used to water landscaping, and of course be discharged into our rivers providing natural habitats for natural and human communities. However, none of this can happen if our stormwater is not free from dangerous levels of industrial contaminants.	Comment noted.
5.3	California Communities Against Toxics	Extensive research by one of our organizations has highlighted just how insufficient our stormwater testing requirements are. We looked at four air toxic source categories of industrial facilities in the Los Angeles basin: chrome-plating facilities, forging facilities, major lead emitters, and minor lead emitters. What we discovered shocked us. Here are some of the most telling findings from the investigation.	Comment noted.
5.4	California Communities Against Toxics	<u>Forging Facilities</u> The Air District developed Rule 1430 ("Control of Emissions from Metal Grinding Operations at Metal Forging Facilities") in response to the ongoing public health crisis in Paramount related to widespread hexavalent chromium contamination. Monitoring, sampling & site inspections revealed that these unregulated sources (metal grinding and metal cutting	The Pollutant Source Assessment required by this General Permit already required the identification of industrial contaminants with the potential to discharge, however, language has been added to ensure pollutants in emissions with the potential to discharge are not excluded.

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		operations at forges) had significant particulate emissions and toxic air contaminants. Rule 1430 targets toxic particulate and emissions from metal grinding/cutting operations at forging facilities, including titanium, nickel and hexavalent chromium. 1. 80% of are not analyzing stormwater for chromium. This means that out of 20 known chromium emitters (for which we have data), more than 16 have not sampled for this carcinogenic pollutant in their stormwater in the last 5 years. 2. 100% of the facilities that did collect and analyze stormwater for chromium in the last 5 years report exceedances of EPA limits. 3. 80% of the facilities failed to include the word "chrome" (or any variant) in their core stormwater planning documents; and 0% completed the assessment of hexavalent chrome sources that are required by the Permit. 4. 85% of the facilities failed to mention the words "emission" or "fugitive" in their core stormwater planning documents, which means that the owners of these facilities utter fail to account for the well-documented relationship between air and water pollution.	
5.5	California Communities Against Toxics	<u>Chrome Plating Facilities</u> The Air District is amending Rule 1469 ("Hexavalent Chromium Emissions from Chromium Electroplating and Chromic Acid Anodizing Operations") to augment existing requirements to	The Pollutant Source Assessment required by this General Permit already required the identification of industrial contaminants with the potential to discharge, however, language has been added to ensure pollutants in emissions with the potential to discharge are not excluded.

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		address fugitive emissions from hexavalent chrome plating and anodizing operations. The rule covers 275 facilities with emissions of hexavalent chromium, titanium, nickel and other toxic metals. Our research focused on 10 of these facilities from the heavily impacted communities of Santa Fe Springs, Gardena, Sun Valley, Compton, Vernon and Bell Gardens. 1. 30% of the chromium emitting facilities operate under a Non-Exposure Certification from the Los Angeles Regional Water Quality Control Board, indicating that the facilities and the Regional Board believe no industrial activities are not exposed to stormwater. 2. Of the three facilities with sampling data, two have not tested for chromium in the last 5 years. 3. One facility with chromium concentrations in its storm water data of 0.43 mg/L (12/15/15) and 0.39 mg/L (12/21/15) and 0.23 mg/L (1/5/16) filed a Notice of Termination in 2017 claiming that the facility had not discharged stormwater since 2004.	
5.6	California Communities Against Toxics	<u>Major Lead Emitters</u> The Air District designed Rule 1420.2 ("Emission Standards for Lead from Metal Melting Facilities") to regulate toxic emissions from metal melting facilities that the agency determined were major sources of lead. The rule applies to the 13 of the region's 15 largest largest lead emitters, each one with an annual throughput of at least 100 tons of lead. Cumulatively facilities subject to Rule 1420.2 melt more than 50,000 tons of lead annually.	The Pollutant Source Assessment required by this General Permit already required the identification of industrial contaminants with the potential to discharge, however, language has been added to ensure pollutants in emissions with the potential to discharge are not excluded.

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		Perhaps most surprising was that 1 of the facilities was given a Non-Exposure Certification by the Los Angeles Regional Water Quality Control Board, which essentially constitutes a determination that industrial activities pose no potential threat to surface waters. Another facility does not appear to participate in the Permit program, which leaves 11 facilities that have permits to emit lead and to discharge stormwater to local surface waters. 1. 100% of the facilities have discharged stormwater with lead concentrations in excess of the CTR and EPA Benchmark limits (0.0025 mg/L & 0.0816 mg/L respectively), i.e. not a single one of the region's largest lead air emitters have developed and implemented effective BMPs to prevent/limit dangerous lead pollution. 7 of 11 facilities have, in each of the last 5 years, reported discharges with lead concentrations that exceed EPA's Benchmark limit. 2. 100% of the lead emitting facilities discharge to a water body that is impaired for lead. Although this only establishes a correlation, it seems likely that the causal mechanism works in only one direction. 3. Among the worst actors are U.S. Battery and Trojan Battery. U.S. Battery's analysis of stormwater for lead in 3 of the last 5 years found concentrations exceeding EPA's benchmark limit by 6500% (2012-13), 12,000% (2014-15) and 4200% (2016-17).Trojan Battery Co. on Anne Street in Santa Fe Springs has an average	

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		exceedance over 1500% of EPA's Benchmark for lead in its stormwater during the last 5 storm water years. 4. 0% of the facilities have been subject to a formal enforcement action by the Regional or State Board in any of the last 5 years.	
5.7	California Communities Against Toxics	The Air District crafted Rule 1420 ("Emission Standard for Lead") in response to U.S. EPA's decision to lower the ambient air limit for lead because data demonstrate that the devastating impacts of lead poisoning, especially among children, manifest at much lower levels than previous understood. The rule covers facilities that emit lead in smaller amounts than the major lead emitters otherwise regulated by Rules 1420.1 and 14202. Of the 121 facilities subject to Rule 1420, the Air District identified 15 facilities as the largest lead sources in the inventory. 1. Only 30% (3 of 10) reference the word "lead" in stormwater planning documents. 70% of these known lead-emitting facilities are not disclosing/assessing lead as pollutant with the potential to contaminate stormwater. 2. While 70% of the facilities disclose and assess baghouse(s) (i.e. primary air pollution control equipment) as potential pollutant source, the vast majority of facilities fail to include the corresponding disclosure and assessment of fugitive emissions. Compare the approach of Arrowhead Brass Plumbing to Aircraft Foundry Co. Arrowhead mentions "baghouse" more than 15 times (as well as "emissions" and "fugitive"), and specifically includes a BMP to vacuum the	The Pollutant Source Assessment required by this General Permit already required the identification of industrial contaminants with the potential to discharge, however, language has been added to ensure pollutants in emissions with the potential to discharge are not excluded.

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		baghouse area after each “dust handling event.” Aircraft Foundry, on the other hand, mentions “baghouse” only once, to claim that it has no potential impact on stormwater. Aircraft also explicitly notes the potential for metal “build up” on roofs, but fails to develop a BMP to address this acknowledged pollutant source. 3. At least 50% of these lead-emitting facilities are not analyzing stormwater samples for lead; and 100% of those that have are consistently violating EPA’s lead benchmark. 4. 100% of facilities (for which there is stormwater data) also report exceedances of numeric limits for aluminum, zinc, copper and/or iron.	
5.8	California Communities Against Toxics	We are attaching additional documents as Appendices A, B, C, D, E and F, all of which provide additional information regarding the details of the investigation and proposed solutions.	Comment noted.
5.9	California Communities Against Toxics	In conclusion, we are asking that the State Water Resources Control Board make clear in the issuance of its new Industrial General Stormwater Permit that testing for all industrial contaminants for which a facility has knowledge of requires both stormwater testing and public reporting, including pollutants that a facility emits into the air. Please do not hesitate to contact us with any questions or concerns regarding these comments.	The Pollutant Source Assessment required by this General Permit already required the identification of industrial contaminants with the potential to discharge, however, language has been added to ensure pollutants in emissions with the potential to discharge are not excluded.
6.1	California Council for Environmental	On behalf of the California Council for Environmental and Economic Balance (CCEEB), I appreciate the opportunity to provide	Comment noted.

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	and Economic Balance	the following comments regarding the State Water Resources Control Board's (SWRCB) amendment to the Industrial General Storm Water Permit (IGP Amendment or Amendment). CCEEB is a coalition of business, labor, and public leaders that works together to advance strategies to achieve a sound economy and a healthy environment. Founded in 1973, CCEEB is a non-profit and non-partisan organization. I appreciate staff taking the time over the course of the last two years to engage with CCEEB and its members on the development of the Amendment and alternative compliance options. We have found that the opportunity to walk through the intent and concerns in person is incredibly helpful. That said, we must convey a few points of concern and highlight some areas in need of clarification.	
6.2	California Council for Environmental and Economic Balance	Although the Amendment is currently focused on incorporation of TMDLs in just four regions, many of the over 30 that are in scope relative to identified industrial discharges are complex and will be challenging for industrial dischargers relative to compliance. At the outset, it is not clear how a discharger will definitively know whether they are subject to just one or multiple TMDLs and their respective requirements. Further complicating matters, it appears some TMDLs overlap watersheds and are focused on the same constituent. In this regard, an industrial discharger may find it needs to comply with multiple TMDLs for the same constituent with different, potentially conflicting requirements in the same watershed. In this	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.

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		regard, we urge the Board to develop additional tools prior to the effective date of the Amendment so as to assist dischargers with determining applicability of the full scope of TMDL requirements based on their location.	
6.3	California Council for Environmental and Economic Balance	Also important, is providing clarification in the Amendment that industrial dischargers need not implement different strategies for the same parameter. The focus of their requirements and compliance should be limited solely to the TMDLs associated with the impaired waterbody to which they directly discharge.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
6.4	California Council for Environmental and Economic Balance	Under the current IGP, industrial entities conduct pollutant source assessments to determine what pollutant sources and discharges may be applicable to their site. The findings of the assessment determine what pollutant-specific BMPs should be implemented as well as the requisite monitoring requirements. This is an important indication of the understanding that not all industrial operations are created equal and that industries may have different exposures depending on the nature of their operations.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling

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		CCEEB is concerned that it is not clear that the assessment findings are taken in to consideration under the IGP Amendment. To address this lack of clarity, the IGP Amendment should be consistent with this approach, requiring only those facilities with assessments identifying the TMDL pollutant and that are sited within and directly discharge to the impaired water body to comply with the new TMDL TNAL/NEL requirements	for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
6.5	California Council for Environmental and Economic Balance	In line with the pollutant source assessment consideration, we urge the Board to consider that not only do the pollutants associated with industrial activity vary from one industry to another; loading among permittees may vary as well. More specifically, one industrial discharger may be responsible for significant pollutant loading into the waterway annually, while another may load a de minimis amount. These entities should not be treated equal and the IGP Amendment requirements should account for risk and the differences among permittees who are attempting to be in compliance versus those that choose to ignore regulatory requirements in their totality.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
6.6	California Council for Environmental	As previously noted, the IGP Amendment is complex with multiple steps, requirements and pathways to compliance. Even the most resourceful companies may have difficulty	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach.

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	and Economic Balance	navigating the requirements and determining what is applicable to their facility and the timeline associated with those requirements. During our meetings with staff, there seemed to be an understanding of this lack of clarity and the need to develop a flow chart describing the requirements under the IGP as currently drafted, proposed to be amended and the compliance pathways associated with the entirety of the IGP. Notably, the IGP amendment includes multiple compliance pathways, but each of them has monitoring, exceedance requirements, follow up actions, reporting and more that are not consistent in each circumstance. CCEEB strongly supports the development of such a process and compliance flow chart as an important tool providing clarity for all industrial dischargers regardless of their size and resource level.	
6.7	California Council for Environmental and Economic Balance	As explained to CCEEB by staff, the IGP Amendment would require industrial dischargers to continue to comply with the current IGP's NALs identified in Table 2 **in addition to** complying with the TNALs and NELs in the Amendment provisions related to the incorporation of TMDLs. CCEEB questions this approach as one that may be inconsistent, unnecessary, potentially conflicting and certainly costly. The TMDLs being incorporated have, notably, been adopted at the local level on a site-specific basis with associated TNALs or NELs tied specifically to the impairment of a specific waterbody or watershed. Requiring dischargers	Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable

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		to comply with different requirements for the same constituents is confusing, overly burdensome and unnecessary. NALs are more general values derived from the U.S. EPA Multi Sector Permit benchmark values; where TNALs and NELs are locally derived based on site specific impacts and discharger characteristics. Further, the TNAL and NEL thresholds are typically more stringent than the current NAL values. While we are highly concerned about the implications and ability to comply with the NEL requirements, having to comply with NALs as well is inefficient, costly and unnecessarily burdensome. In this regard, we urge the Board to explicitly recognize that compliance with TMDL TNAL and NEL requirements shall replace the NAL requirements for the same constituent.	TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
6.8	California Council for Environmental and Economic Balance	Relative to TNALs, CCEEB is concerned that the TNALs for certain pollutants are infeasible as proposed in the Amendment. This could be addressed, in part, by establishing the thresholds using the same regulatory procedures required to establish water quality based effluent limits (WQBEL). We're told that for copper and zinc, in particular, fewer than 50% of relevant industrial dischargers are in compliance in the Los Angeles and Long Beach Harbor. Further, we question whether WLAs were appropriately applied and set for receiving	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements.

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		waters directly as TNALs applicable to storm water discharges. In doing so, it has seemingly led to incredibly low and infeasible TNALs.	WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit's ERAsif the TNAL is exceeded.

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			In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL. No changes have been made to address this comment.
6.9	California Council for Environmental and Economic Balance	CCEEB urges the Board to incorporate clearer permit compliance language to help ensure industrial discharger compliance and to help them guard against citizen suit litigation based solely on exceedances of TNALs. Such clarity is particularly important for dischargers who may have significant challenges meeting the TNAL values. Further, the Permit, as amended, must clearly state that exceedances of TNALs are not permit violations. Instead, the SWRCB should consider incorporating water board issuance of compliance certificates for dischargers implementing ERAs and Compliance Options.	The intent of this Amendment is to provide a clear TMDL compliance framework for Responsible Dischargers. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. Order Finding 76 states: "The NAL/TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit." In addition, the Water Boards are not adequately funded to handle the workload that would be created by determining and certifying each individual discharger's compliance with the General Permit. No changes have been made to address this comment.
6.10	California Council for Environmental and Economic Balance	As already suggested, it is critically important for the industrial discharger community that clear and available compliance pathways to comply with realistic and properly established numeric effluent limits (NELs) be provided. This clarity is	This General Permit already contains the federal Subchapter N effluent limitation guidelines in Attachment F, which include some NELs for specific industry-pollutant combinations.

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		critically important given the IGP Amendment would, for the first time, impose NELs, exceedance of which would constitute a permit violation. That said, as currently drafted CCEEB is concerned that the language may not be sufficiently clear for dischargers and may provide loopholes for third party entities to pursue enforcement actions against a discharger who believes he is in compliance. Further, we question the process for establishing the NELs under the Amendment.	However, this is the first time that this General Permit would incorporate TMDL-related NELs. State Water Board staff plans to schedule workshops that will address implementation of the Amendment and help to ensure compliance with the TMDL-related NELs. Dischargers may comply with the NELs either by not exceeding the limitation in their discharge twice in an annual reporting period or through implementation of an On-Site or Off-Site retention BMP per this General Permit's proposed Attachment I.
6.11	California Council for Environmental and Economic Balance	As you well know, NELs are a type of WQBEL and WQBELs are established based on U.S. EPA regulations that dictate the required analysis and procedures. It is not clear to CCEEB that these components were followed with the incorporation of NELs in the Amendment. The process requires SWRCB to conduct a Reasonable Potential Analysis (RPA) and to use procedures accounting for existing controls on point and nonpoint sources of pollution, the variability of the pollutant in the effluent, and the dilution of the effluent in the receiving water when setting WQBELs. Instead, however, it appears the local findings and thresholds were plugged in without an RPA and the other required components. By not conducting the RPA and other required procedures and merely lifting the regional board's assessments, the NELs proposed seem to be inappropriately established and possibly lower than they might otherwise be to the	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement

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		detriment of industrial dischargers seeking to comply with the IGP Amendment requirements. For these reasons, the SWRCB must first conduct the required Reasonable Potential Analysis and procedures before adopting NELs in the permit.	relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
6.12	California Council for Environmental and Economic Balance	Finally, CCEEB is concerned about the timing of the Board approving the IGP Amendment and its effective date thereafter. As noted, the IGP Amendment contains more challenging requirements that will be problematic for industrial dischargers across sectors to comply with absent some lead time so as to assess the TMDL applicability to their facilities, determine the relevant requirements and devise the best compliance strategy. With the Amendment provisions still under discussion, somewhat unclear and possible revisions yet to come, it will be next to impossible for industrial dischargers to anticipate what the final permit will entail and what compliance will look like for their facility. An immediate effective date upon approval by the Board would likely render all industrial dischargers out of compliance on day one. Instead, CCEEB strongly urges the Board to extend the effective date to allow time for industrial dischargers to update their SWPPPs and Monitoring Implementation plans (MIP), assess the workability of the alternative compliance options, and for those subject to NEL requirements to have sufficient time to make the case for a TSO from the Regional Water Board.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.

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7.1	California Independent Petroleum Association	On behalf of the 450 members of the California Independent Petroleum Association (CIPA) – predominantly medium and small employers – I write to comment on the pending Industrial General Permit Amendment. CIPA commends SWRCB members and staff for a meticulous and measured approach. We join you in working daily to protect groundwater quality.	Comment noted.
7.2	California Independent Petroleum Association	CIPA agrees with the need for at least two more workshops, to better understand and to collaborate with staff on positive revisions. Our industrial sector colleagues at the first workshop expressed strong reservations with parts of the Amendment, as proposed, and requested additional workshops.	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. No changes have been made to address this comment.
7.3	California Independent Petroleum Association	Overall, regulating is most effective and efficient when targeted to resolve a demonstrated problem.	Comment noted.
7.4	California Independent Petroleum Association	CIPA's major request is one of clarity: Continuing the specific recognition of the federal exclusion of Oil & Gas operations, unless stormwater is discharged that comes into contact with, or is contaminated by, petroleum products. In particular, the language in Attachment A is misleading, in that Oil & Gas is listed as number 3 on a list entitled "Facilities Covered under this Industrial General Permit." Within that numbered paragraph, the SIC code and all the mining and oil and gas operations are listed. The list is	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		followed by the caveat of "stormwater which comes into contact with or is contaminated by…." CIPA strongly recommends removing Oil and Gas from this list to prevent regulatory confusion and to conform with federal statute. The language in Section I (B)(29) already excludes Oil and Gas, and refers to 33 U.S.C. Section 1342 (l) from the federal Clean Water Act. As a lesser option, we suggest moving Oil and Gas to the bottom of the list and begin the paragraph with a statement that refers back to 33 U.S.C Section 1342 (l) clearly stating the facilities with SIC 10XX through 14XX are not covered under the IGP unless….	
7.5	California Independent Petroleum Association	The Amendment also proposes to adopt TMDLs as numeric action limits, or TNALS. This could provide a scientific and logical basis for monitoring, but must be calibrated with regional receiving water and operating conditions. In general, we support Vice Chair Steven Moore's comment to explore IND permits by industrial sector.	Comment noted.
7.6	California Independent Petroleum Association	In conclusion, and again in support of our industrial sector colleagues, we respectfully request the SWRCB clearly word the final Amendment to specifically eliminate the job-destroying threat of "citizen attorney general" frivolous lawsuits. These abuses of the legal system endanger environmental protections by consuming regulatory and employer resources to no productive end.	The intent of this Amendment is to provide a clear TMDL compliance framework for Responsible Dischargers. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. No changes have been made to address this comment.

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8.1	California Stormwater Quality Association	CASQA leaders and members also recently attended the staff workshops in Los Angeles, San Diego, and Sacramento, held the week after the first, full State Water Board proposal was issued (on December 15th). Given that this is the first time the full set of language within the Order, Attachments, and Fact Sheet are available for review (including some language for the first time), CASQA was pleased to hear at the staff workshops and the January 9 State Water Board hearing that State Water Board staff are looking for further input on the language and concepts in the Proposed Amendment.	Comment noted. Interaction with the stakeholders after adoption will be required to further implement the Amendment.
8.2	California Stormwater Quality Association	The TMDL implementation requirements will have a significant fiscal impact on the affected facilities and industries.	In general, there are no public funding opportunities for the implementation of this General Permit, including TMDL requirements by Responsible Dischargers, because many of the Permittees are private entities. However, the Off-Site Compliance Option, in particular provides potential for economic incentives and cost sharing for Dischargers through the formation of local agreements with the local jurisdiction(s) and/or other Dischargers. There is a potential in the future for some of these projects (which include local public jurisdictions) to be eligible for public funding based on project-specific details and the funding guidelines which would describe which project-types are eligible. No changes have been made to address this comment.
8.3	California Stormwater	CASQA would like to work with State Water Board staff over the next few months to ensure	Comment noted. The concepts of the Amendment were closely worked on with

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	Quality Association	that the new TMDL-related permit language is fully integrated into the permit provisions (e.g., Section III, V, VI, VII, Attachment E, Attachment I), is clear so that the industrial Permittees understand the new requirements, and identifies clear compliance pathways so that the industrial Permittees can meet the requirements and protect water quality. (Supported by Comments #1, #3, #11, #12, #13, #21)	stakeholders. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. No changes have been made to address this comment.
8.4	California Stormwater Quality Association	CASQA is concerned that the TMDLs will be interpreted too broadly and applied to more industrial facilities than they should. Not all industrial discharges to an impaired waterbody will be a source of the TMDL pollutant, the pollutant will not be present as an industrial material, waste, product, or process. Permittees should only be designated as a Responsible Discharger subject to a TMDL if they meet the criteria within the Responsible Discharger definition. (Supported by Comments #6,#14)	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.

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8.5	California Stormwater Quality Association	CASQA is requesting additional time to fully review the specific provisions and translation for each of the 37 TMDLs addressed in this Proposed Amendment. This time is necessary to address whether currently available treatment technology can meet the proposed TNALs/NELs, if the Proposed Amendment identifies the key assumptions of each TMDL and if they are interpreted consistent with those assumptions. This includes the State Water Board's proposed incorporation of numeric effluent limits for Permittees covered by several TMDL provisions in Attachment E. (Supported by Comments #2,#19, #20)	A public comment period has been offered to provide stakeholders an opportunity to review the Amendment and provide feedback. Additional public comment periods may be held, if necessary, prior to adoption of the Amendment. Further, State Water Board staff is planning to conduct workshops and public outreach efforts prior to an adoption meeting to allow further discussion of the Amendment.
8.6	California Stormwater Quality Association	CASQA appreciates the inclusion of the on-site and off-site compliance options and believes that the flexibility of these options within Attachment I is necessary for the implementation of the IGP, will provide long term benefit for water quality, and with further the goals of restoring watershed processes in developed areas. For these options to be a viable there are some aspects and design details that warrant further discussion and refinement. (Supported by Comments #22, #23, #24, #25)	The Compliance Option design requirements needed refinement. The State Water Board staff worked with the stakeholders who provided specific comments and concerns to make the appropriate clarifications and updates to the Amendment.
8.7	California Stormwater Quality Association	The State Water Board should convene additional stakeholder workshops and working meetings prior to the adoption of the Proposed Amendment to ensure that the permit provisions are fully integrated, clear, and implementable. Although CASQA is very supportive of the compliance options and alternatives, some of the provisions and compliance approaches were	The Compliance Option design requirements needed refinement. The State Water Board staff worked with the stakeholders who provided specific comments and concerns to make the appropriate clarifications and updates to the Amendment.

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		presented in the December 15th Proposed Amendment for the first time (e.g., the methodology used to translate TMDL waste load allocations for use in the IGP, the required actions to comply with the TMDL in Attachment E, the design storm and other requirements for the off-site compliance option, additional provisions for TMDL Section VII). These new provisions and compliance options have a significant impact and need further discussion/development, beyond the written public comment process. Although CASQA has provided detailed comments, for the benefit of achieving long-term successful implementation of the Proposed Amendment, CASQA recommends holding additional workshops/working meetings to ensure that the new provisions and compliance options are clear, fully integrated within the permit, implementable, and have the support of the regulated community. *CASQA strongly recommends that State Water Board staff continue to work with the stakeholders to further evaluate and refine the language prior to the adoption of the Proposed Amendment. CASQA is requesting additional stakeholder workshops/working meetings to discuss the issues raised within this comment letter, in detail, to ensure that the incorporation of the TMDLs is fully vetted.*	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
8.8	California Stormwater Quality Association	Currently available advanced treatment technology cannot reliably achieve the numeric standards included in the Proposed Amendment to the IGP.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and

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		CASQA recommends that the State Water Board re-evaluate the feasibility of meeting each TNAL and NEL proposed given currently available treatment technology. Where it is determined that practicable technologies do not exist, CASQA recommends that the State Water Board use its discretion to express the TMDL requirements as best management practices (BMPs) rather than numeric limits.	therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body

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			signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit's ERAsif the TNAL is exceeded. In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL. No changes have been made to address this comment.
8.9	California Stormwater Quality Association	The IGP needs a process flow diagram to clearly indicate the steps involved in each of the various compliance pathways. *In order to provide clarity to the IGP prior to adoption, CASQA recommends that the Proposed Amendment include a process flow diagram to identify the requirements and/or follow up actions for each the various compliance pathways (NALs, IGP, TNALs, and NELs). In addition, CASQA would welcome the opportunity to work collaboratively with State Water Board staff in the development of this flow chart. Example diagrams that provided this type of clarity are available in a 2014 presentation from the State Water Board as well as the current IGP Fact Sheet page 45 or Proposed Amendment Fact Sheet page 128 – Figure 3 Compliance Determination Flow Chart (**Attachment C**).*	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach.

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8.10	California Stormwater Quality Association	The Industrial General Permit should recognize that when an industrial facility is designated as a Responsible Discharger1 subject to a TMDL and is complying with the Required Actions (Attachment E – TNAL, or NEL), those values replace the corresponding NAL for the same constituent. *CASQA recommends that the IGP incorporate language that recognizes that the TMDL-based required actions identified in Attachment E (TNALs or NELs) replace the NAL for the same constituent. This replacement would be appropriate since the industrial Permittees would be complying in a method and manner consistent with the waste load allocation (WLA) and TMDL, which supports attainment of the water quality standards and are generally more stringent than existing NAL values.3 It should be noted that if this recommended modification is accepted, that there would be other language changes needed that are not currently reflected within this comment letter.* *Delete Finding 51 (Page 51)*	Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum).

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			No changes have been made to address this comment.
8.11	California Stormwater Quality Association	**The Industrial General Permit should refer to "compliance" when referencing a permit section and "attainment" when referencing a TMDL.** *CASQA recommends that a global search be conducted in the full permit and fact sheet to identify when the term "compliance" is used and modify the terms as needed. A few examples of recommended modifications are:* o ***Finding 45 (Page 8)*** *The State Water Board recognizes the responsibility to develop TMDL-specific permit requirements derived from each TMDL's waste load allocation and implementation requirements~~, in order for Dischargers to implement and comply with the TMDL.~~* o ***VII. Total Maximum Daily Loads (TMDLs) A.1 (Page 24)*** § *TMDL-specific <u>attainment</u> ~~compliance~~ dates that exceed the term of this General Permit may be included for reference, and are enforceable in the event that this General Permit is administratively extended or reissued* o ***VII. Total Maximum Daily Loads (TMDLs) A.3 (Page 25)*** § *The TMDL-specific requirements are shown in the <u>Permit</u> ~~TMDL~~ Compliance Table ~~X~~, in Attachment E of this General Permit.*	The term "compliance" is appropriate for referencing compliance with this General Permit and compliance with the TMDL requirements. The term "attainment" is appropriate when referencing a water body's status relative to WQS. No changes have been made to address this comment.
8.12	California Stormwater	**Guidance and tools are needed to assist Permittees in determining which TMDLs are applicable to their facility.**	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have

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	Quality Association	*CASQA recommends the following modifications:* o *Incorporate language in the Responsible Discharger definition similar to the U.S EPA Multi-Sector General Permit that recognizes the "first water" concept.* o ***Attachment E – List of Existing Total Maximum Daily Loads (TMDLs) Applicable to Industrial Storm Water Discharges (Page 1)*** *The following table contains a list of existing TMDLs that are applicable to ~~industrial storm water discharges~~ Permittees identified as Responsible Dischargers.* *The listed TMDLs were adopted by a Regional Water Quality Control Board or established by the U.S. EPA prior to the adoption date of this General Permit. This General Permit may be reopened to amend TMDL-specific permit requirements in this Attachment E, or to incorporate new TMDLs adopted during the term of this General Permit that include requirements applicable to Discharges regulated by this General Permit.* *The State Water Board should develop a mapping tool that identifies the applicable area for each TMDL so that the Permittees can identify the location of their facility and understand which TMDL(s) they need to comply with. CASQA would be willing to work collaboratively with State Water Board staff in the*	been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified.

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		development and peer review of this mapping tool. The peer review is critical to ensure that the geographic area subject to the TMDL is consistent with the TMDL.	
8.13	California Stormwater Quality Association	**Extend the effective date of the Proposed Amendment to allow Responsible Dischargers time to update documents and identify/establish the compliance pathway for their facility.** *Extend the Effective Date of the Order Amending the IGP to coincide with the adoption/effective date of the revised/renewed IGP (expected in 2019) or July 1, 2020, whichever is later. The effective date should be timed to begin with the start of the monitoring year, hence the request for July.*	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
8.14	California Stormwater Quality Association	**SMARTS should be modified to assist the Responsible Dischargers in tracking TNAL and NEL exceedances.** *Develop new SMARTS modules and make them available prior to the effective date of the Proposed Amendment.*	SMARTS provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining TMDL applicability and monitoring TMDL compliance.

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			No changes have been made to address this comment.
8.15	California Stormwater Quality Association	**The IGP should universally refer to the entities who obtain coverage under this permit as Permittee instead of Discharger.** *Throughout the IGP, modify the term Discharger to Permittee.*	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
8.16	California Stormwater Quality Association	**Throughout the permit include reference to TNALs wherever NALs are identified and revise findings to incorporate references to the TNALs.** *CASQA recommends the following modifications:* o ***Finding 76 (Page 13)*** *This General Permit contains annual and instantaneous maximum NALs and instantaneous maximum TNALs. The annual NALs are established as the 2008 MSGP benchmark values and are applicable for all parameters listed in Table 2. The instantaneous maximum NALs are calculated from a Water Board dataset and are only applicable for Total Suspended Solids (TSS), Oil and Grease (O&G), and pH. Instantaneous maximum TNALs were derived from Regional Water Board adopted TMDLs. An NAL/TNAL exceedance is determined as follows:* *a. For annual NALs, an exceedance occurs when the average of all analytical results from all samples taken at a facility during a reporting year for a given parameter exceeds an annual*	Changes have been made in the Amendment to address this comment. Annual and Instantaneous Maximum exceedances apply to NALs, and Instantaneous Maximum exceedances apply to TNALs and TMDL-related NELs.

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		NAL value listed in Table 2 of this General Permit; or~~,~~ *b. For the instantaneous maximum NALs/TNALs, an exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum NAL/TNAL ~~value (for Total Suspended Solids, and Oil and Grease), or~~* *~~are outside of the instantaneous maximum NAL/TNAL range (for pH)~~ listed in Table 2 <u>or Table E.1</u> of this General Permit. For the purposes of this General Permit, the reporting year is July 1 through June 30.* o ***Finding 80 (Page 14)*** *Exceedances of the NALs/<u>TNALs</u> that are attributable solely to pollutants originating from nonindustrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the ~~Discharger's~~ <u>Permittee's</u> property, or aerial deposition) are not a violation of this General Permit because the NALs/<u>TNALs</u> are designed to provide feedback on industrial sources of pollutants. ~~Dischargers~~ <u>Permittees</u> may submit a Non-Industrial Source Pollutant Demonstration as part of* *their Level 2 ERA Technical Report to demonstrate that the presence of a pollutant causing an NAL/TNAL exceedance is attributable solely to pollutants originating from non-industrial pollutant sources.* o ***Finding 82 (last sentence – Page 14)*** *… The standards are intended to eliminate the need for most ~~Dischargers~~ <u>Permittees</u> to further*	

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		treat/control industrial storm water discharges that are unlikely to contain pollutant loadings that exceed the NALs/<u>TNALs</u> set forth in this General Permit.	
8.17	California Stormwater Quality Association	**Include language within the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations to clearly cross reference the TMDL requirements and the Compliance Options.** **CASQA Recommendation:** • *CASQA recommends the following modifications:* o ***III. Discharge Prohibitions (Page 22)*** *A. All discharges of storm water to waters of the United States are prohibited except as specifically authorized by this General Permit or another NPDES permit.* *….* *C. Industrial storm water discharges and authorized NSWDs that contain pollutants that cause or threaten to cause pollution, contamination, or nuisance as defined in section 13050 of the Water Code, are prohibited.* *D. Discharges that violate any discharge prohibitions contained in applicable Regional Water Board Water Quality Control Plans (Basin Plans), or statewide water quality control plans and policies are prohibited.* *…* *<u>A Permittee may satisfy discharge prohibitions III.A, III.C, and III.D by</u>*	The suggested changes were reviewed; however, no changes were made to address this comment. Attachment I of this Amendment specifies the provisions of this General Permit Dischargers implementing a Compliance Option are: in compliance, deemed in compliance, and from which the Dischargers are exempted. Implementation of this General Permit-specific TMDL requirements in Attachment E does not include such broad compliance provisions; however, Sections VII.F and VII.G of the Amendment make it clear that Responsible Dischargers in compliance with an NEL or whose discharges do not exceed the level of a TNAL are in compliance with the receiving water limitations for the water body-pollutant combinations addressed by the NEL or TNAL.

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		complying with Section VII and Attachment E and/or Attachment I, as applicable. o ***V. Effluent Limitations (Pages 23-24)*** *A. ~~Dischargers~~ Permittees shall implement BMPs that comply with the BAT/BCT requirements of this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.* *…* *C. ~~Dischargers~~ Permittees identified as Responsible Dischargers pursuant to Attachment E ~~located within a watershed for which a Total Maximum Daily Load (TMDL) has been approved by U.S. EPA~~, shall comply with any applicable TMDL-specific permit requirements ~~that are~~ as set forth in ~~Attachment E~~ Section VII.* o ***VI. Receiving Water Limitations (Page 24)*** *A. ~~Dischargers~~ Permittees shall ensure that industrial storm water discharges and authorized NSWDs do not cause or contribute to an exceedance of any applicable water quality standards in any affected receiving water.* *…* *A Permittee may satisfy this Section by complying with Section VII and Attachment E and/or Attachment I, as applicable.* o ***VII. Total Maximum Daily Loads (TMDLs) (Pages 24-26)***	

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		(New F – combining the existing F and G) *A Responsible Discharger is in compliance with the Discharge Prohibitions (III.A, III.C, and III.D), Effluent Limitations (V.A and V.C), and Receiving Water Limitations (VI) for the water body-pollutant combination addressed by the TMDL if they are in compliance with one the following:* o *An NEL for the TMDL as required in Attachment E; or* o *The provisions for reporting and Exceedance Response Actions relating to a TNAL for a TMDL as required in Attachment E and Section XII; or* o *The Responsible Discharger is complying with the General Permit as required in Attachment E.* ~~*F. Responsible Dischargers in compliance with a NEL for a TMDL in Attachment E are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the TMDL.*~~ ~~*G. Responsible Dischargers with discharges that do not exceed the level of a TNAL for a TMDL in Attachment E are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the TMDL.*~~ o ***Attachment I – I. General Provisions (Page 1)*** *(New B – combining the existing B and C)* ~~*B. A Discharger in compliance with (1) either Section II (On-Site Compliance Option) or Section III (Off-Site Compliance*~~	

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		~~Option) of this Attachment and (2) all applicable requirements of this General Permit is in compliance with Section V.A of this General Permit (once the BMP(s) are implemented and operational).~~ *~~C~~B. A ~~Discharger~~ Permittee in compliance with (1) either Section II (On-Site Compliance Option) or Section III (Off-Site Compliance Option) of this Attachment ~~and (2) all applicable requirements of this General Permit~~ is deemed in compliance with the following sections of this General Permit ~~(once the BMP(s) are implemented and operational):~~* *1. Discharge Prohibitions, Section III.A, III.C, III.D;* *2. Effluent Limitations, Section V.A and V.C;* *3. Receiving Water Limitations, Section VI;* *4. TMDL-related Provisions, Section VII; and* *5. Exceedance Response Actions, Section XII.*	
8.18	California Stormwater Quality Association	**The Proposed Amendment must include language that identifies the TMDL compliance pathways.** • *In order to provide regulatory certainty and clarity to the IGP, CASQA recommends the following:* ***VII. Total Maximum Daily Loads (TMDLs)** (New)* *Demonstration of Compliance Attachment E contains the TMDL-specific permit requirements for the*	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach.

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		applicable Responsible Dischargers, consistent with the assumptions and requirements of the corresponding TMDL WLAs. Compliance with the TMDL-specific permit requirements may be demonstrated as specified below. a) *General Permit Required Actions* a. *A Responsible Discharger is deemed in compliance if there is timely implementation of the General Permit requirements; or* b. *The Responsible Discharger is deemed in compliance if there is timely implementation an on-site compliance option or has entered into an agreement for and is actively participating in an off-site compliance option (Attachment I).* b) *TMDL – Numeric Action Level (TNAL) or Numeric Effluent Limit (NEL)* *A Responsible Discharger is deemed in compliance if*	

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		one or more of the criteria below are met: a. *Receiving water monitoring and analysis by the Responsible Discharger or other Permittees under the TMDL, as approved by the Regional Water Board or its designee, demonstrates attainment of the applicable water quality standard in the waterbody; or* b. *Receiving water monitoring does not demonstrate attainment of the applicable water quality standard in the waterbody, but the Responsible Discharger demonstrates that they are not causing or contributing to the exceedances; or*	

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		c. *The Responsible Discharger is meeting the applicable TNAL or NEL; or* d. *The Responsible Discharger is not meeting the applicable TNAL or NEL, but demonstrates that other, uncontrollable factors are resulting in the excursion; or* e. *Where a TNAL or NEL or the TMDL is expressed as a mass-based value, the Responsible Discharger demonstrates, through an approach approved by the Regional Water Board or its designee, that the facility is meeting either the massbased value or a corresponding*	

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		concentration-based value; or *f. Where a TNAL or NEL is expressed as the number of allowable exceedance days, the Responsible Discharger demonstrates, through an approach approved by the Regional Water Board or its designee, that the Responsible Discharger's discharge conforms to the allowable exceedance days; or* *g. The Responsible Discharger demonstrates, in a manner approved by the Regional Water Board or its designee, that no discharges from the facility to the applicable water body occurred*	

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		during the relevant time period; or h. *The Responsible Discharger demonstrates the attainment of the TNAL or NEL through other factors as described by the specific TMDL(s) and as approved by the Regional Water Board or its designee; or* i. *The Responsible Discharger is timely implementing an on-site compliance option or has entered into an agreement for and is actively participating in an off-site compliance option (Attachment I); or* j. *For TNALs Only – the Responsible Discharger is*	

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		following the Exceedance Response Action requirements (Section XII) if a discharge exceeds a TNAL; or *k. For NELs Only – the Responsible Discharger is following the Water Quality Based Corrective Action requirements (Section XX.B) if a discharge exceeds an NEL.* ○ ***Attachment E*** *Compliance with the TMDL required actions in Table E-2 shall be determined through the criteria listed in Section X (reference the section proposed above).*	
8.19	California Stormwater Quality Association	**The Proposed Amendment must include language that identifies the compliance pathway if the TMDL final attainment date has passed.**	If the compliance date in the Implementation Schedule of the associated TMDL has passed, Responsible Dischargers shall comply with the ERAs of the assigned TNAL upon the effective

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		• *In order to provide regulatory certainty and clarity to the IGP, CASQA recommends the following:* ○ ***Fact Sheet (Pages 26-27)*** *3. Time Schedule Orders Where a ~~Discharger~~ Permittee believes that additional time to comply with TMDL-based requirements in Attachment E is necessary, a ~~Discharger~~ Permittee may within ~~45~~ 120 days of ~~adoption~~ effective date of this General Permit amendment, or no less than 90 days prior to the final compliance deadline if after adoption of this General Permit amendment, request a time schedule order pursuant to California Water Code section 13300 for the Regional Water Board's consideration.* ○ ***VII.E. (Page 26)*** *Responsible Dischargers with a NEL exceedance are in violation of this General Permit and must comply with the Water Quality Based Corrective Action, as defined in this General Permit in Section XX.B or request a time schedule order (TSO) from the*	date of this Amendment. If the compliance date in the Implementation Schedule of the associated TMDL is in the future, Responsible Dischargers are not required to comply with the ERAs of the assigned TNAL up until that date. Responsible Dischargers will be required to comply with applicable NEL requirements upon the effective date of this Amendment if the compliance deadline has passed. If the NEL compliance deadline is in the future, NEL compliance is not required up until the compliance date. Changes have been made in the fact sheet to allow a TSO to be requested within 45 days of effective date of the TMDL requirements and not the adoption date. The 45-day timeline is not changed. Responsible Dischargers that exceed an NEL are in violation of this General Permit and are not deemed in compliance if a TSO request is submitted. A TSO should be approved by the Regional Water Board prior to the NEL exceedance. Each Regional Water Board has their own process for approving a TSO and the process will not be define in this General Permit. No change is made to address this portion of the comment.

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		Regional Water Board in accordance with Section XX (see edit below)….. ○ ***VII. Total Maximum Daily Loads (TMDLs)*** *(New) TMDL Final Attainment Date has Passed* *Where a TMDL final attainment date has passed and the Responsible Discharger has not demonstrated compliance as specified in Section XX above, the Responsible Discharger may seek a time schedule order (TSO) pursuant to Water Code section 13300 from the Regional Water Board. Responsible Dischargers may either individually request a TSO or may jointly request a TSO with other Responsible Dischargers subject to the TMDL in Attachment E.* *Where a Permittee believes that additional time to comply with TMDL-based requirements in Attachment E is necessary, a Permittee may, within 120 days of the effective date of the Permit amendment, or no less than 90 days prior to the final compliance deadline if after adoption of this Permit amendment, submit a*	

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		formal request for a TSO to the Regional Water Board. *Between a Permittee's request and timely approval of the request, the Permittee will be deemed in compliance with Attachment E. A Permittee that is timely implementing a duly approved TSO shall be deemed in compliance with Attachment E.* *A request to the applicable Regional Water Board for a TSO shall include the following information:* *a) Available data demonstrating the current quality of the discharge(s) in terms of the applicable NEL or TNAL for the target pollutant(s) subject to the TMDL;* *b) A description and chronology of structural controls and source control efforts carried out by the Responsible Discharger to reduce the pollutant load in the discharges to the*	

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		receiving waters subject to the TMDL; c) *Justification of the need for additional time to achieve the requirements;* d) *The specific actions the Responsible Discharger will take in order to meet the TMDL-based requirements in Attachment E and a time schedule of interim and final deadlines proposed to implement those actions. The actions will reflect the requirements specified for the TMDL in Attachment E;* e) *A demonstration that the time schedule requested is as short as possible, taking into account the technological, operational, and economic factors that affect the design,*	

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		development, and implementation of the control measures that are necessary to comply with the TMDL-based requirements in Attachment E. *It is not the intention of the State Water Board or the Regional Water Boards to bring an enforcement action for non-attainment of a TMDL-based requirement in Attachment E where:* *a) A Responsible Discharger is in compliance with a TSO's implementation requirements and compliance schedule;* *b) A Responsible Discharger has in good faith requested a TSO from the Regional Water Board and is in compliance with all other permit requirements, except the applicable TMDL based requirements in Attachment E by the final attainment deadline;*	

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		A Regional Water Board has initiated proceedings to revise the TMDL to provide additional time for compliance or to modify TMDL wasteload allocations and the Responsible Discharger is in compliance with all other permit requirements, except the TMDL-based requirements in Attachment E by the final attainment deadline.	
8.20	California Stormwater Quality Association	**Maintain consistency with the IGP framework and pollutant source assessment process and only identify facilities as Responsible Dischargers subject to a TMDL if the TMDL pollutant is identified as an industrial pollutant at the facility with the potential to be exposed to storm water and is located within the corresponding drainage area to the impaired water body.** • *CASQA recommends that the TMDL language be modified to be consistent with the industrial pollutant source assessment process and limit the application of the pollutant specific TMDL-based requirements to those IGP facilities that are in the corresponding drainage area and identify the presence of the TMDL pollutant(s) as a part of the pollutant source assessment. This modification will provide much needed clarity as to when a facility is subject to a TMDL.* *Recommended modifications include the following:*	The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the

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		○ ***V. Effluent Limitations (Page 24)*** *C. ~~Dischargers~~ Permittees identified as a Responsible Dischargers pursuant to Attachment E ~~located within a watershed for which a Total Maximum Daily Load (TMDL) has been approved by U.S. EPA~~, shall comply with any applicable TMDL-specific permit requirements ~~that are~~ as set forth in ~~Attachment E~~ Section VII.* ○ ***VII. Total Maximum Daily Loads (TMDLs) (Page 24)*** *(New) A.4 - The TMDL-specific permit requirements apply to those Permittees identified as Responsible Dischargers pursuant to Attachment E.* ○ ***Attachment C – Glossary (Page 6)*** *Responsible Discharger* *A ~~Discharger~~ Permittee with Notice of Intent (NOI) coverage under this General Permit who: a) Through the pollutant assessment process, h~~H~~as* *i. identified the TMDL pollutant as*	monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.

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		a parameter under X.G.2.d.2 ; or *ii. found that the TMDL pollutant is a parameter the facility is required to monitor under XI.B.6 and is associated with potential industrial pollutant sources at the facility and exposed to stormwater or NSWD; and* *b) Ddischarges storm water associated with industrial activities (and Authorized NSWDs) to impaired waterbodies or to an upstream reach or tributary to impaired waterbodies either directly to, or through a municipal separate storm sewer system (MS4) which conveys the discharge to, an impaired waterbody with a included in a U.S. EPA developed or approved TMDL.* ○ ***Attachment E – List of Existing Total Maximum***	

Comment ID	Commenter(s)	Comment	Comment Response
		Daily Loads (TMDLs) Applicable to Industrial Storm Water Discharges (Page 1) *The following table contains a list of existing TMDLs that are applicable to ~~industrial storm water discharges~~ Permittees identified as Responsible Dischargers.* *The listed TMDLs were adopted by a Regional Water Quality Control Board or established by the U.S. EPA prior to the adoption date of this General Permit….* • *Consistent with this comment, CASQA also proposes the following modifications to the language referencing the identification of the pollutant source assessment and monitoring for TMDL pollutants.* ○ ***X.G.2.a.ix - Minor clarifying edit (Page 33)*** ○ *The identification of the industrial pollutants for the facility related to the receiving waters with 303(d) listed impairments identified in Appendix 3 or approved TMDLs that may be causing or*	

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		contributing to an exceedance of a water quality standard in the receiving waters. ○ ***XI.B.6.c – Minor clarifying edit (Page 44)*** *Additional applicable industrial parameters related to receiving waters with 303(d) listed impairments or approved TMDLs based on the assessment in Section X.G.2.a.ix. <u>These additional parameters may be modified (added or removed) in accordance with any updated SWPPP pollutant source assessment.</u> Test methods with lower detection limits may be necessary when discharging to receiving waters with 303(d) listed impairments or TMDLs;*	
8.21	California Stormwater Quality Association	**Include TMDL compliance and a SWPPP performance standard for Responsible Dischargers.** • *CASQA recommends that a fourth item be added to this section regarding TMDL compliance.* ○ ***X.C SWPPP Performance Standards (Page 29)***	The existing Storm Water Pollution Prevention Plan (SWPPP) performance standards apply to Responsible Dischargers. No changes have been made to address this comment.

Comment ID	Commenter(s)	Comment	Comment Response
		1. The ~~Discharger~~ Permittee shall ensure a SWPPP is prepared to: *a. Identify and evaluate all sources of pollutants that may affect the quality of industrial storm water discharges and authorized NSWDs;* *b. Identify and describe the minimum BMPs (Section X.H.1) and any advanced BMPs (Section X.H.2) implemented to reduce or prevent pollutants in industrial storm water discharges and authorized NSWDs. BMPs shall be selected to achieve compliance with this General Permit;~~and,~~* *c. Identify and describe conditions or circumstances which may require future revisions to be made to the SWPPP~~.~~; and* *Responsible Dischargers shall identify and describe applicable TMDLs, associated industrial pollutants, BMPs implemented to reduce or prevent TMDL pollutants in industrial storm water discharges and authorized NSWDs, and monitoring of those pollutants.*	

Comment ID	Commenter(s)	Comment	Comment Response
8.22	California Stormwater Quality Association	**Revise Section XI.B Monitoring Implementation Plan to address monitoring methods for TNALs.** *Given the number of Permittees that will be subject to the TNALs and NELs, CASQA recommends that the State Water Board develop and include a list of appropriate analytical methods in Attachment E and reference it in Section XI.B.6.e and XI.B.7. Additionally, the following language changes to Section XI.B.6 are recommended to avoid confusion as the revised language in XI.B.10 addresses the need to select methods with sufficiently sensitive minimum levels and method detection limits. These changes assume a list has not been developed. If a list of analytical methods has been developed for the TNALs or NELs, the language should be modified accordingly.* ***XI.B Sampling and Analysis (Page 43)*** *6. The ~~Discharger~~ Permittee shall analyze all collected samples for the following parameters:* *…* *e. Additional applicable industrial parameters related to receiving*	Dischargers are required to use U.S EPA approved analytical methods that are sufficiently sensitive and are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. The SSM shall be used for compliance with NALs, TNALs, and NELs. See language added in the Fact Sheet Section J.3.b.

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		waters with 303(d) listed impairments or approved TMDLs based on the assessment in Section X.G.2.a.ix and Attachment E. ~~Test methods with lower detection limits may be necessary when discharging to receiving waters with 303(d) listed impairments or TMDLs~~; *f. Additional parameters required by the Regional Water Board. ~~The Discharger shall contact its Regional Water Board to determine appropriate analytical test methods for parameters not listed in Table 2 below. These analytical test methods will be added to SMARTS; and~~* *g. Additional ~~For discharges subject to Subchapter N, additional~~ parameters specifically required by Subchapter N. ~~If the discharge is subject to ELGs, the Dischargers shall contact the Regional Water Board to determine appropriate analytical methods for parameters not listed in Table 2 below~~.*	

Comment ID	Commenter(s)	Comment	Comment Response
		o ***XI.B Sampling and Analysis (Pages 44-45)*** *10. The ~~Discharger~~ Permittee shall ensure that all laboratory analyses are performed according to sufficiently sensitive test procedures and conducted according to test procedures under 40 Code of Federal Regulations part 136, including the observation of holding times, unless other test procedures have been specified in this General Permit or by the Regional Water Board. The Permittee shall contact the State Water Board or Regional Water Board to determine appropriate analytical test methods for parameters listed in Attachment E for which there are no approved analytical methods capable of detecting and measuring the pollutants at, or below, the TNAL or NEL.*	
8.23	California Stormwater Quality Association	**Clarify that Responsible Dischargers are eligible for exceptions identified in Section XI.C including alternate discharge location, representative sampling reduction, qualified combined samples, sample collection and visual observation exceptions, and sample frequency reduction.**	The provisions of the General Permit apply to Responsible Dischargers unless they are inapplicable by their own terms or it is elsewhere noted that a provision does not apply. Responsible Dischargers are required to comply with this General Permit's monitoring requirements, including its methods and exceptions in Section XI.C. Where necessary,

Comment ID	Commenter(s)	Comment	Comment Response
		• *To provide greater clarity CASQA recommends the following modifications:* o ***C. Methods and Exceptions (Pages 48-51)*** *1. The ~~Discharger~~ Permittee shall comply with the monitoring methods in this General Permit and Attachment H. The methods and exceptions identified in this section also apply to Permittees subject to NALs, TNALs, and NELs.* *…* *7.g. A ~~Discharger~~ Permittee loses its Sampling Frequency Reduction certification if an NAL/TNAL or NEL exceedance occurs (Section XII.A).*	targeted changes have been made to ensure that these provisions will apply to Responsible Discharger.
8.24	California Stormwater Quality Association	**Revise Section XII.A to reference the TNAL values in Attachment E, Table E.1.** • *CASQA recommends the following modifications:* o ***XII.A. (page 52)*** *The ~~Discharger~~ Permittee shall perform sampling, analysis and reporting in accordance with the requirements of this General Permit and shall*	Changes have been made to ensure that Section XII.A ERA requirements clearly define TNALs.

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		compare the results to NALs/TNALs in Table 2 and Table E.1 ~~The two types of NAL values in Table 2~~ to determine whether ~~either type of~~ NAL/TNAL has been exceeded for each applicable parameter.[20] ~~The two types of potential NAL exceedances are as follows:~~…. *2. Instantaneous maximum NAL/TNAL exceedance: The ~~Discharger~~ Permittee shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NAL/TNAL values in Table 2 (NALs) or Table E.1 (TNALs). An instantaneous maximum NAL/TNAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value ~~(for TSS and O&G) or are outside of the instantaneous maximum NAL/TNAL range for pH~~.*	

Comment ID	Commenter(s)	Comment	Comment Response
		~~[20] TNALs are implemented as instantaneous maximum values. Annual exceedances are not applicable to TNALs.~~	
8.25	California Stormwater Quality Association	**The incorporation of the NELs into Attachment E should follow the federal regulatory process governing the derivation of water quality based effluent limits.** It appears that the State Water Board staff did not follow the federal regulatory process governing the derivation of water quality based effluent limits (WQBELs). As a result, the NELs incorporated into Attachment E are not derived and tailored to regulate the varied discharges that may be permitted under the IGP. In determining whether WQBELs must be implemented for a specific pollutant, regulations require a Reasonable Potential Analysis (RPA) using "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." 40 CFR § 122.44(d)(1)(ii); *see also, Divers' Env'l Cons.Org. v. SWRCB* (2006) 145 Cal. App.4th 246, 253-54 (describing RPA and procedures required when setting WQBELs).	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.

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		CASQA recommends that the State Water Board reevaluate the NELs in light of all regulatory factors, and reconsider using BMP-based compliance appropriate for stormwater discharge and receiving water conditions as WQBELs for implementation of the TMDLs in the IGP.	This General Permit has been revised to state that TNALs are BMP-based WQBELs. Effluent limitations must be consistent with the assumptions and requirements of the WLA on which they are based. (40 C.F.R. § 122.44.(d)(1)(vii)(B).) As established in Table E-2), the NELs here are consistent with the assumptions and requirements of the WLAs on which they are based. The incorporation of NELs into Table E-2 has followed the federal regulatory process governing the derivation of WQBELs.
8.26	California Stormwater Quality Association	**The TMDL language and requirements in Attachment E should be consistent with the adopted Basin Plan Amendments.** CASQA is concerned that there are reinterpretations of language and/or discrepancies between the adopted TMDL Basin Plan Amendments (BPAs) and the language included within the Proposed Amendment Attachment E. These reinterpretations and inconsistencies negate the Basin Planning processes that occurred to establish the TMDLs and contradict the intent for how the TMDLs should be incorporated into the IGP. After incorporation into a Basin Plan, TMDLs generally constitute the "program of implementation needed for achieving water quality objectives." Therefore, the IGP provisions (Attachment E) must be consistent with applicable Basin Plan(s).	State Water Board staff worked with Regional Water Board staff to ensure interpretations and requirements are consistent with the assumptions and requirements of the TMDL.
8.27	California Stormwater	San Francisco Regional Water Quality Control Board	All TMDLs listed in Attachment E must be incorporated into this General Permit and their

Comment ID	Commenter(s)	Comment	Comment Response
	Quality Association	• Walker Creek - Mercury TMDL o Industrial stormwater discharges are not identified as sources or assigned a WLA. o The Fact Sheet does not identify why industrial stormwater Permittees were identified as Responsible Parties pursuant to this TMDL o ***CASQA Recommendation: remove this TMDL from the IGP***	WLAs must be translated into implementable requirements. It is clearer to address why a TMDL listed in Attachment E is not applicable than to completely remove the TMDL from the list in Attachment E without explanation. No changes have been made to address this comment.
8.28	California Stormwater Quality Association	<u>Los Angeles Regional Water Quality Control Board</u> (Note: CASQA is still reviewing the incorporation of the Los Angeles Region TMDLs into the IGP) • Machado Lake – Toxics o The TMDL states that WLAs are applied with a 3-year averaging period. As such, the WLA translations to NELs is inconsistent with the TMDL. o ***CASQA Recommendation: re-evaluate the incorporation of this TMDL*** • Machado Lake – Nutrients o The translation to NELs seems inconsistent with translations of other nutrient TMDLs which state that the "30-day average WLA is not appropriate to assign to Responsible Dischargers because storm water is an intermittent discharge and a 30-day averaging period is for measuring chronic effects." o ***CASQA Recommendation: re-evaluate the incorporation of this TMDL***	Machado Lake Toxics: Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. Machado Lake Nutrients: The comment quotes the 2017 draft Fact Sheet language for the Los Angeles River Nutrients TMDL. Attachment E has been changed to require compliance with an NEL for implementation of the Los Angeles River

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			Nutrients TMDL, which is consistent with the translation of the Machado Lake Nutrients TMDL. Because the WLA is assigned as a concentration-based limit at the point of discharge, an NEL is appropriate for implementation and this General Permit requires Dischargers to obtain 4 Qualifying Storm Events per reporting year per discharge location (2 per discharge location between July 1-December 31 and 2 per discharge location between January 1-June 30). To translate the concentration-based limit into the monitoring and reporting framework of this General Permit when only the '30 day average' is provided this is more aligned with an acute source from storm water discharges represented by sampling results obtained by Dischargers being compared to the applicable instantaneous maximum NEL value and this General Permit's the annual average NALs address chronic loading of nutrients from industrial storm water.
8.29	California Stormwater Quality Association	<u>Santa Ana Regional Water Quality Control Board</u> • San Diego Creek and Newport Bay – Toxics (Cd, Cu, Pb, Zn, Hg, Cr) o San Diego Creek § It is unclear how the WLAs in TMDL Table 5-6 (page 47), which are based on four different flow tiers and hardness values, were translated into the IGP • Currently the Fact Sheet only provides a translation for the	San Diego Creek: Clarifying changes have been made in the Fact Sheet on the reasoning behind assigning a hardness value for San Diego Creek based on a large flow storm event. Language has been added in the Fact Sheet to clarify that the WLA is assigned to Responsible Dischargers to be met at the facility's industrial discharge location(s) for discharges into San Diego Creek.

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		large flow tier (>815 cfs in San Diego Creek and a hardness of 197 mg/L) • If a different flow tier and corresponding hardness were used the TNALs may be less than the NAL, which would place it in the "General Permit" category – in fact, since the TNAL for cadmium is less stringent than the NAL, "General Permit" should be the designated category for this metal ▪ It is unclear where compliance with the WLA is measured o Newport Bay – Upper and Lower § It is unclear if the mass-based WLAs in TMDL Table 5-7a or the concentration-based WLAs in TMDL Table 5-7b should apply to industrial Permittees (page 49) § Several of the translated NEL values are less stringent than the NALs § It is unclear where compliance with the WLA is measured o Rhine Channel – Lower Newport Bay § Although the WLAs (TMDL Table 7-4 page 67) are mass-based, it is unclear why the mercury concentration-based TNAL value was derived from Table 2 of the IGP and why the chromium TNAL was derived from the California	Newport Bay - Upper and Lower: The San Diego Creek and Newport Bay TMDL identifies immediately below Table 5.7b that the concentration based WLAs apply to the sources which discharge directly to the Bay, including storm water discharges from storm drains directly to Bay segments (such as Costa Mesa Channel and Santa Ana Delhi Channel) and metals loading associated with boats. Responsible Dischargers are defined as discharging to the impaired waterbodies directly or through a MS4 that directly discharges into the Bay. Therefore, the concentration WLAs for direct discharges into the Bay apply. Changes have been made in the Fact Sheet to clarify the translation. Compliance with the WLA will be measured at the discharge point, as noted in the Fact Sheet, because the TMDL specifies that the "concentration based WLAs apply to sources...including storm water discharges." Rhine Channel - Lower Newport Bay Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous NALs for TSS that keep the level of sediment discharged from

Comment ID	Commenter(s)	Comment	Comment Response
		Toxics Tule (CTR) (instead of from the TMDL) § If the mercury TNAL is an annual average instead of an instantaneous maximum, this should also be clarified in the permit. o ***CASQA Recommendation: Evaluate translation of this TMDL with State Water Board staff***	industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, Section II.F.6.f and II.F.6.h. The Amendment specifies that all TNALs are instantaneous maximums.
8.30	California Stormwater Quality Association	Shelter Island Yacht Basin – Dissolved Copper o It is unclear if marina owner/operators or underwater hull cleaners are subject to the IGP (they may be subject to Standard Industrial Code (SIC code) 44xx). If they are, then clarification should be provided as to whom, specifically, is a Responsible Discharger pursuant to this TMDL. o ***CASQA Recommendation: provide clarification as to the type of facilities subject to the TMDL***	Language was inserted into the Fact Sheet to address specifically who is subject to the WLA for the Shelter Island Yacht Basin TMDL. This Amendment contains no additional requirements for implementation of the Shelter Island Yacht Basin Copper TMDL.
8.31	California Stormwater Quality Association	Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay – Indicator Bacteria TMDL o Industrial stormwater discharges are not identified as sources or assigned a WLA. o The Fact Sheet does not identify why industrial stormwater Permittees were identified as Responsible Parties pursuant to this TMDL o ***CASQA Recommendation: remove this TMDL from the IGP to avoid unnecessary confusion and costs associated with re-evaluation of the program and the need to update SWPPP.***	All TMDLs listed in Attachment E must be incorporated into this General Permit and their WLAs must be translated into implementable requirements. It is clearer to address why a TMDL listed in Attachment E is not applicable than to completely remove the TMDL from the list in Attachment E without explanation. No changes have been made to address this comment.

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8.32	California Stormwater Quality Association	Chollas Creek – Diazinon TMDL o Industrial stormwater discharges are not identified as sources or assigned a WLA. o The Fact Sheet does not identify why industrial stormwater Permittees were identified as Responsible Parties pursuant to this TMDL o ***CASQA Recommendation: remove this TMDL from the IGP to avoid unnecessary confusion and costs associated with re-evaluation of the program and the need to update SWPPP.***	All TMDLs listed in Attachment E must be incorporated into this General Permit and their WLAs must be translated into implementable requirements. It is clearer to address why a TMDL listed in Attachment E is not applicable than to completely remove the TMDL from the list in Attachment E without explanation. No changes have been made to address this comment.
8.33	California Stormwater Quality Association	Rainbow Creek – Nutrient and Phosphorous TMDL o Industrial stormwater discharges are not identified as sources or assigned a WLA. o The Fact Sheet does not identify why industrial stormwater Permittees were identified as Responsible Parties pursuant to this TMDL o The Fact Sheet states "This TMDL does not identify industrial stormwater discharges as a source of impairment. Therefore, TMDL-related requirements are not applicable to Dischargers enrolled under this General Permit" (Page 49) ***CASQA Recommendation: remove this TMDL from the IGP to avoid unnecessary confusion and costs associated with re-evaluation of the program and the need to update SWPPP.***	All TMDLs listed in Attachment E must be incorporated into this General Permit and their WLAs must be translated into implementable requirements. It is clearer to address why a TMDL listed in Attachment E is not applicable than to completely remove the TMDL from the list in Attachment E without explanation. No changes have been made to address this comment.
8.34	California Stormwater	*CASQA would like to fully review the "translations of the TMDL WLAs" into the IGP*	A public comment period has been offered to provide stakeholders an opportunity to review the

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	Quality Association	*and work with State Water Board staff to ensure that the TMDL permit-related requirements are consistent with the requirements and assumptions in the TMDL.* ○ *• For the specific TMDLs identified above, implement the proposed recommendations.*	Amendment and provide feedback. Additional public comment periods may be held, if necessary, prior to adoption of the Amendment. Further, State Water Board staff is planning to conduct workshops and public outreach efforts prior to an adoption meeting to allow further discussion of the Amendment.
8.35	California Stormwater Quality Association	As noted previously, CASQA appreciates the inclusion of the on-site and off-site compliance options and believes that the flexibility of these options is necessary for the implementation of the IGP, will provide long term benefit for water quality, and will further the goals of restoring watershed processes in developed areas. In addition, these options further support the implementation of multi-benefit projects and the ability to use stormwater as a resource as envisioned by the State Water Board's Storm Water Strategy (STORMS) and the Stormwater Resource Plans (SWRPs).	Comment noted.
8.36	California Stormwater Quality Association	**The Industrial General Permit should provide clarity as to when a Permittee may utilize the Compliance Options in Attachment I.** *CASQA recommends the following modifications to streamline the provisions and provide clarity as to when the compliance options in Attachment I may be utilized:* ○ ***Finding 56 (Page 9)*** *The State Water Board allows ~~Dischargers~~ <u>Permittees</u> statewide to comply with the alternative compliance options in*	Attachment I Section II.F identifies the implementation schedule for a Discharger opting into a Compliance Option as a method of compliance with this General Permit. For compliance with the Off-Site Compliance Option, the Discharger shall work with their local Regional Water Board to develop their Off-Site Compliance Option agreement. The suggested revisions were reviewed; however, no changes were made in response to this comment.

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		Attachment I instead of complying with requirements relating to applicable numeric action levels (NALs), Discharge Prohibitions Section III.C, Effluent Limitations Section V.A and V.C, TMDL waste load allocations (WLAs) as expressed in Attachment E (General Permit, TNALs, or NELs), and Receiving Water Limitations Section VI. ~~Dischargers~~ Permittees are still required to comply with applicable Subchapter N effluent limitations. ○ ***Attachment I – I. General Provisions (Page 1)*** *A. This General Permit authorizes the implementation of the following Compliance Options as a method for compliance with specific General Permit provisions as specified below~~.~~:* *1. Provisions for reporting and Exceedance Response Actions relating to Numeric Action Levels (as expressed in Table 2)* *2. TMDL Waste Load Allocations (as expressed in Attachment E as General Permit, TNALs, or NELs)*	

Comment ID	Commenter(s)	Comment	Comment Response
		~~*B. A Discharger in compliance with (1) either Section II (On-Site Compliance Option) or Section III (Off-Site Compliance Option) of this Attachment and (2) all applicable requirements of this General Permit is in compliance with Section V.A of this General Permit (once the BMP(s) are implemented and operational).*~~ ~~*C.*~~*B. A ~~Discharger~~ Permittee in compliance with (1) either Section II (On-Site Compliance Option) or Section III (Off-Site Compliance Option) of this Attachment ~~and (2) all applicable requirements of this General Permit~~ is deemed in compliance with the following sections of this General Permit (once the BMP(s) are implemented and operational):* *1. Discharge Prohibitions, Section III.A, III.C, III.D;* *2. Effluent Limitations, Section V.A and V.C;* *3. Receiving Water Limitations, Section VI;* *4. TMDL-related Provisions, Section VII; and5. Exceedance Response Actions, Section XII.*	

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		D. (see new provision recommended in Comment 22) *ED. If a ~~Discharger~~ Permittee chooses, but fails to comply with the requirements for the On-Site or Off-Site Compliance Option provided below, the ~~Discharger~~ Permittee shall demonstrate compliance with ~~the above sections of this General Permit~~ Sections III, V, VI, VII, and XII .*	
8.37	California Stormwater Quality Association	**In Attachment I, clarify that the Permittee is deemed in compliance during the design and construction of the On-Site or Off-site BMPs.** • *CASQA recommends the following modifications to provide clarity as to when the Permittee is in compliance (also see Comment 21):* o ***Attachment I – I. General Provisions (Page 1)*** *A. This General Permit authorizes the implementation of the following Compliance Options as a method for compliance with specific General Permit provisions as specified below~~.~~:* *1. Provisions for reporting and Exceedance Response*	A Discharger opting into the On-Site or Off-Site Compliance Option are required to continue complying with the normally applicable General Permit requirements until the BMP is completed and operational. No changes have been made to address this comment.

Comment ID	Commenter(s)	Comment	Comment Response
		Actions relating to Numeric Action Levels (as expressed in Table 2) *2. TMDL Waste Load Allocations (as expressed in Attachment E as General Permit, TNALs, or NELs)* *~~B. A Discharger in compliance with (1) either Section II (On-Site Compliance Option) or Section III (Off-Site Compliance Option) of this Attachment and (2) all applicable requirements of this General Permit is in compliance with Section V.A of this General Permit (once the BMP(s) are implemented and operational).~~* *~~C.~~B. A ~~Discharger~~ Permittee in compliance with (1) either Section II (On-Site Compliance Option) or Section III (Off-Site Compliance Option) of this Attachment ~~and (2) all applicable requirements of this General Permit~~ is deemed in compliance with the following sections of this General Permit ~~(once the BMP(s) are implemented and operational)~~:* *1. Discharge Prohibitions, Section III.C;*	

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		2. Effluent Limitations, Section V.A and V.C; *3. Receiving Water Limitations, Section VI;* *4. TMDL-related Provisions, Section VII; and 5. Exceedance Response Actions, Section XII.* *(New) D. A Permittee is deemed in compliance with these provisions as long as they have notified the applicable Regional Water Board Executive Officer and:* o *Meet the applicable deadlines and demonstrate reasonable progress towards full implementation and operation of the BMP;* • *Continue to fully implement the existing SWPPP and is in compliance with the other applicable provisions of the IGP.*	
8.38	California Stormwater Quality Association	**CASQA supports the inclusion of the on-site compliance option and requests several technical changes to ensure that these options are viable for industry, municipalities, and protective of water quality.** A. 24-hour Drawdown The 24-hour drawdown time does not conform to the standard designs for infiltration and	The Fact Sheet has been updated to include more information on the continuous simulation modeling/analyses performed to arrive at the 24-hour drawdown time requirement. Additionally, Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In

Comment ID	Commenter(s)	Comment	Comment Response
		biotreatment BMPs. Although the 24-hour drawdown time is a significant change from standard BMP design, no explanation is offered for the requirement. **CASQA Recommendation:** • *CASQA requests that the drawdown requirement be modified to require conformance with the local municipality's infiltration and biotreatment BMP design standards. Ultimately, the final permit, most appropriately the factsheet, needs to provide an explanation or rationale for the technical design features to clearly explain the requirements to the Permittees and engineers.* • *CASQA recommends that an option be included that would allow for a site-specific evaluation, such as modeling, to be used to demonstrate equivalency to the specified drawdown time.* • *Additionally, this section of Attachment I specifies the 24-hour time-period for recovery or drawdown as "12:00a.m. to 11:59p.m." CASQA requests this definition be removed because rain events do not conform to the 24-hour clock and recovery times need to be assessed on a rolling clock that start from the end of the storm event.*	addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.

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8.39	California Stormwater Quality Association	B. Use of Maximum Contaminant Levels (MCLs) to Assess Influent Quality Requiring influent to a stormwater infiltration BMP to meet drinking water primary and secondary MCLs makes the on-site compliance option functionally unworkable, as identified below. In addition, this requirement is unprecedented for stormwater infiltration BMPs. Municipalities and other stormwater Permittees in California are designing and installing stormwater infiltration BMPs to meet water quality and TMDL requirements under the directives of NPDES permits without a similar requirement. **CASQA Recommendation:** • *CASQA would like to work with State Water Board staff to explore and identify practical approaches that protect ground water quality using ideas and approaches from other Regional Water Board land discharge/application programs that consider attenuation factors based on depth to groundwater, such as use of the Designated Level Methodology (DLM) , site specific modeling to demonstration that the infiltrated water will meet MCLs at the time it reaches groundwater, and consideration of the underlying water quality, which may exceed the MCLs and benefit from the infiltration of water of higher quality. CASQA notes that a tool like the DLM, used in land application evaluations, will be readily accessible at reasonable costs for most industrial Permittees.*	This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. Additionally, Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to groundwater. Site-specific modeling will not be included as one of the methods to address possible groundwater contamination in Attachment I Section II.E.6 at this time. However, site-specific modeling may be used to demonstrate no threat to groundwater when requesting for discontinuation of groundwater monitoring from the State Water Board or the applicable Regional Water Board Executive Officer (Attachment I Section II.K.4). No changes have been made to address this comment.

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8.40	California Stormwater Quality Association	C. Monitoring Assessment for On-Site Compliance Infiltration BMPs As noted previously, the use of MCLs for influent appear to be overly conservative. However, should the MCLs in some form remain in the permit as an assessment tool, additional clarity about the monitoring assessment is needed and the list of MCLs in Table A of Attachment I needs to be refined to focus on industrial stormwater pollutants identified in the facility's pollutant source assessment. Further, the use of MCLs as an assessment tool needs to be limited to locations were the underlying groundwater has an existing MUN beneficial use designation. **CASQA Recommendation:** • *Revise the language to recognize that use of MCLs as an assessment tool is limited to locations were the underlying groundwater has an existing MUN beneficial use designation* • *Revise the language of Attachment I Section II.E.6.a to establish that the influent monitoring is waste characterization for the purposes of pretreatment system design, as follows:* *The ~~Discharger~~ Permittee shall characterize the proposed ~~ensure that all~~ influent to the ~~entering the~~ infiltration BMP(s) to determine whether it meets applicable Maximum Contaminant Level (MCL) criteria for industrial pollutants at the facility, as specified in Table A*	This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. Additionally, Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to groundwater. No changes have been made to address this comment.

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		below. If the characterization sampling indicates that the influent does not meet applicable MCLs ~~on an instantaneous basis,~~ …	
8.41	California Stormwater Quality Association	Aluminum, which makes up 7.3% of soil by weight. Consistent with other comments made in this letter, monitoring of stormwater, whether for discharge or infiltration, needs to be linked to the industrial pollutant source assessment. *Add a title and footnote to Table A to clarify that only industrial stormwater pollutants identified in the pollutant source assessment need to be assessed.* • *Table A. MCL Parameters and Criteria for Industrial Stormwater Pollutants Identified in the Pollutant Source Assessment.[1]* *[1]. MCL parameter must be assessed only for those pollutants identified in the pollutant source assessment process outlined in X.G.* *Finally, CASQA recommends that the infiltration characterization assessment for inorganics be based upon filtered samples. Filtering the samples will provide a more accurate representation of the quality of water that may reach the groundwater, although this still does not account for pollutant attenuation.*	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Dischargers are required to use sufficiently sensitive U.S. EPA approved methods (40 C.F.R. 136), however a Discharger can request other methods for approval from the Water Boards if necessary when no U.S. EPA approved method exists for the constituent.
8.42	California Stormwater	Attachment I requires that Permittees have a Professional Engineer make a determination	Footnote 3 has been added to Attachment I clarifying that California licensed professional

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	Quality Association	and certify that the implementation and operation of the infiltration BMP(s) not contribute to an exceedance of a groundwater quality objectives (J.2.a-c). The elements of this certification may go beyond the engineering license as it appears to require an environmental and groundwater resource assessment, which is not addressed in the Professional Engineers Act. • *Revise Attachment I to delete the requirement for a professional engineer to certify those aspects of the infiltration system that pertain to the determinations of the impact upon groundwater quality, particularly J.2.*	engineers are not required to certify documents outside of the scope of the Professional Engineers Act and any other laws related to the practice of professional engineering.
8.43	California Stormwater Quality Association	Many industrial facilities currently use infiltration BMPs and others may be on the cusp of installing these systems as part of their NAL exceedance response actions. These existing BMPs may be effectively infiltrating the design storm, but will be unable to certify stringent pre-construction design criteria. However, the IGP, as currently written, makes no allowance for existing systems to be included as an on-site compliance option. • *CASQA recommends establishing an effective date for the design standards contained in Attachment I that would allow existing systems to be considered compliant without the need for retrofit.*	Existing infiltration basins must meet Attachment I's requirements for use as a Compliance Option BMP. This is only required if the Discharger chooses to implement a Compliance Option. The Fact Sheet and Attachment I clarify these requirements.

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8.44	California Stormwater Quality Association	The term bypass is not defined in the IGP, however it is defined in federal regulations, 40 CFR Part 121.41, as the “intentional diversion of waste streams from any portion of a treatment facility” and bypasses are prohibited except under a set of limited circumstances. The bypasses allowed by the IGP are different that the bypasses defined in federal regulations. The proposed language in Attachment I establishes a design storm and requires a mechanism manage (divert) flows beyond the design storm away from the treatment system. *Avoid use of the term bypass in connection with flows exceeding the design storm or add a definition of bypass to the IGP glossary that is relevant to its use in the IGP and distinct from the definition in the federal regulations.*	The references to bypass and/or overflow of the On-Site BMPs have been changed to "discharge". The only event in which a discharge from the On-Site Compliance Option BMPs should occur is when a storm exceeding the size of the design storm occurs.
8.45	California Stormwater Quality Association	Attachment I section II.H.1.A requires sampling of all bypasses or overflows from the on-site compliance BMPs and refers to the Sampling and Analysis Section XI.B.6-11. The cited sections do not include any provisions for safety or sampling during operating hours. • *CASQA recommends that language be added to limit the sampling of bypasses or overflows to working hours of a facility and that to include Section XI.B.5, which provides for safety factors, as follows:* *<u>During facility operating hours, </u>~~C~~<u>c</u>onduct analytical sampling of <u>flows that exceed the design storm that are</u> <u>diverted around the or</u> bypass/overflow from the BMP(s) in compliance with the Sampling and Analysis Section XI.B.<u>6 5</u>-11 of this*	Attachment I Section II.H.1.a has been updated to add safety provisions.

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		General Permit and Attachment H8, with the exception of comparing monitoring results to NALs in Section XI.B.7;	
8.46	California Stormwater Quality Association	Given that the results from the BMP bypass monitoring will not be subject to NALs, TNALs, or NELs, SMARTS will need to be revised to allow input this data into new tabs that do not aggregate the data with Qualified Storm Event (QSE) data and/or include it in exceedance calculations. • *Develop new SMARTS modules and make them available prior to the effective date of this requirement.*	SMARTS provides a platform where permittees (dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XI.B.11, the Discharger is required to submit all sampling and analytical results for all samples via SMARTS within 30 days of obtaining all results for each sampling event and will continue to do so with the incorporation of this Amendment. The State Water Board allows for the submission of sampling as a non-qualifying storm event that is not considered in exceedance calculations.
8.47	California Stormwater Quality Association	The IGP should include language that verifies that the industrial Permittee has primary responsibility for inspections and operations and maintenance of an on-site BMP. This clarification will ensure that, in addition to the documentation required as a part of the SWPPP, the on-site BMP will be inspected and maintained and that records will be retained to demonstrate the implementation of the operations and maintenance plan. • *CASQA recommends the following language modifications:* ***II. On-Site Compliance Option***	Dischargers are ultimately responsible for all compliance requirements in this General Permit. No changes have been made to address this comment.

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		B. The Permittee may include the BMPs that capture and divert the required storm water runoff volumes to a publicly-owned sanitary sewer treatment facility, or to an on-site facility for on-site use. Discharges to publicly-owned sanitary sewer systems typically require agency approval and must comply with local ordinances. The minimum required storm water volume to be diverted shall be in accordance with the Section E.1 and E.2 below. The diverted or used volume of storm water is not authorized to discharge from the industrial facility. *…* *E.4. Include measures to be implemented to ~~reliability and safety factor calculations that ensure~~ ~~the BMP(s) will~~ maintain the design standards for the life of the BMP(s) including maintenance schedules and plans, and as appropriate, include safety factor and reliability calculations. [also see **Attachment B**]*	

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		… *<u>G.6 A maintenance schedule and operations plan for the BMP.</u>* … *H.3.a (New iii)* *<u>iii. Permittee must perform maintenance of the BMP per engineer design or manufacturer standards and retain records of maintenance.</u>*	
8.48	California Stormwater Quality Association	**CASQA supports the inclusion of the off-site compliance option and requests several technical changes to ensure that this option is viable for industry, municipalities, and protective of water quality.**	Comment noted.
8.49	California Stormwater Quality Association	Although the 85th percentile retention (infiltrate, evapotranspire, or capture and use) requirement is consistent with most municipal stormwater permits and new development and significant redevelopment programs, Attachment I should be modified to clarify that the 85th percentile standard applies to the project footprint, not the entirety of the watershed. *CASQA recommends the following modifications:* ***III. Off-Site Compliance Option*** *A.1. The Off-Site BMP must maintain the effective capacity to capture, treat, infiltrate and/or evapotranspire the volume of runoff*	Changes have been made in the Amendment (Attachment I Section III.A.1) to clarify that the standard applies to the project footprint and not the entirety of the watershed.

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		produced up to and during the 85th percentile 24-hour precipitation event <u>for the project area to which is being designed for</u> based upon precipitation data from the National Oceanic and Atmospheric Agency and/or local, historical precipitation data and records;	
8.50	California Stormwater Quality Association	Similar to the comment above, there is also concern about the 24-hour drawdown requirement for the off-site BMPs since it does not conform to the standard designs for infiltration and biotreatment BMPs statewide and would essentially render this option inviable. In fact, state wide, it is unlikely that the current BMPs, which are being funded, designed, and built by the municipalities as a part of their enhanced watershed management plans (EWMPs), watershed management plans (WMPs), water quality improvement plans (WQIP), or stormwater management plans (SWMPs) will meet this new, precedential design standard. In addition to not being consistent with the current design criteria, a 24-hour drawdown would likely have the following effect: • The BMPs would be limited to areas with very high infiltration rates; and • Areas with lower infiltration rates would have to design very large (length and width or surface	The Fact Sheet has been updated with the addition of continuous simulation modeling/analysis (i.e. SWMM model) information further justifying the 24-hour drawdown time (or equivalent) requirement. Attachment I has been updated to provide the option to include additional storage volume to meet the compliance storm standard (85th percentile 24-hour storm) to offset a longer drawdown time.

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		"footprint"-wise) and shallow BMPs (like infiltration basins) which would be very costly and impractical. In short, the 24-hour drawdown requirement would significantly limit the areas where using this compliance option would be technically and economically feasible. Therefore, the drawdown time should be modified to be consistent with the standard approach used throughout the state for municipal stormwater programs. **CASQA Recommendation:** • *CASQA requests that the drawdown requirement (footnote 13) be modified to require conformance with the local municipality's infiltration and biotreatment BMP design standards. Ultimately, the final permit, most appropriately the factsheet, needs to provide an explanation or rationale for the technical design features to clearly explain the requirements to the Permittee and engineers.* *CASQA recommends that an option be included that would allow for a site-specific evaluation, such as modeling, to be used to demonstrate equivalency to the specified drawdown time.*	
8.51		**CASQA requests several technical changes to help ensure the off-site compliance option is viable for industry and protective of water quality.** As mentioned previously, CASQA strongly supports the concept of the off-site compliance options included in Attachment I (with the	The Off-Site Compliance Option is only available where there is no water of the United States or water of the State being used to convey industrial storm water to the Off-Site BMP. Otherwise, sufficient controls would not be in place to protect WQS, water quality objectives, and/or beneficial uses.

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		modifications identified in this comment letter). However, there are some aspects and design details that warrant further discussion and refinement in order to ensure that this is a viable option. First and foremost, the watershed-based plans that have been developed by the municipalities [e.g., EWMPs, WMPs, WQIPs, etc.] are robust and specifically designed to address the same/similar TMDL pollutants and/or the high priority water quality constituents in their geographic area. If an industrial Responsible Discharger collaborates with a corresponding watershed group and enters into an agreement to participate in the watershed plan, there should be recognition that there is a net benefit to the watershed and flexibility in how participation is defined (within a framework defined by the IGP). Modifications to the IGP that would support this approach are included below. The Off-Site Compliance Option includes language that states that the Permittee must not discharge to a water of the United States or a water of the state prior to reaching the Off-Site BMP. CASQA believes that this requirement misconstrues the intent of the off-site BMPs and should be deleted. Since the off-site BMP has to be in the same watershed (III.A.2), it could be upstream or downstream of the industrial facility. The intent should not be that the industrial facility will directly discharge to the BMP, rather, it should be that there is a greater water quality benefit to have the larger, regional BMP designed and built within the watershed than	

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		would otherwise be realized by a smaller BMP within the industrial facility footprint. If this provision remains in Attachment I, there will likely be few facilities that will be able to meet this criteria. **CASQA Recommendation:** • *CASQA recommends the following modifications:* ○ ***III.A.1 (Page 9)*** *The Off-Site BMP must maintain[13] the effective capacity to capture, <u>treat,</u> infiltrate and/or evapotranspire the volume of runoff produced up to and during the 85th percentile 24-hour precipitation event <u>for the project area to which is being designed for</u> based upon precipitation data from the National Oceanic and Atmospheric Agency and/or local, historical precipitation data and records[14];* ○ ***III.A.3 (Page 9)*** ~~*The authorized NSWDs and industrial storm water must*~~	

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		~~*not discharge to a water of the United States or a water of the state prior to reaching the OffSite BMP(s).*~~ ○ ***III.E. (Page 10)*** ~~*Regional Water Board Authorities The Regional Water Board Executive Officer has the authority to review site specific information and disapprove the Discharger's discharge into Off-Site BMPs as a permissible Compliance Option, to address regional groundwater concerns.*~~ ○ ***III.F.d (Page 11)*** *d. Information on, and description of, the actions the ~~Discharger~~ Permittee must take during the development, implementation, and operation of the OffSite BMP(s), as established in the approved agreement~~, that allows the Facility's storm water discharge to enter an Off-Site BMP~~.* ○ ***III.F.f (Page 11)***	

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		A copy of the operation and maintain plan(s) for the Off-Site BMP(s) ~~that receives the facility's discharge~~. •	
8.52	California Stormwater Quality Association	The original 303(d) listed impairment is by pollutant/water body combination, not pollutant/watershed combination. The header of "watershed" may inadvertently expand the area subject to the TMDL if there are other waterbodies within the same watershed. • *Modify the Finding* *…Many TMDLs in water quality control plans include implementation requirements in addition to waste load allocations. Attachment E of this General Permit contains the TMDL-specific requirements for water bodies ~~watersheds~~ with U.S. EPA-approved and U.S. EPA established TMDLs for ~~Dischargers~~ Permittees covered by this General Permit.*	The Finding has been updated to include water bodies as well as watersheds. Removing "watersheds" entirely would be inappropriate because several of the TMDLs addressed in the Amendment are watershed-based.
8.53	California Stormwater Quality Association	• *The Responsible ~~Discharger~~ Permittee is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit, and additional monitoring required in the Permit ~~TMDL~~ Compliance Table ~~X~~ in Attachment E of this General Permit.*	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
8.54	California Stormwater Quality Association	*Add TSO – Time Schedule Order*	A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board

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			should be contacted to discuss these appropriate procedural actions. No changes have been made to address this comment.
8.55	California Stormwater Quality Association	Table E-1 should present the water bodies in the same order as they appear within the larger table in Attachment E (which should be labeled). • *Table E-1 – re-order the water bodies so that they are in the same order as the water bodies in the larger table in Attachment E.* *Label the larger table as Table E-2.*	The TMDLs have been reordered in Table E-1 and the larger table has been labeled as Table E-2.
8.56	California Stormwater Quality Association	The original 303(d) listed impairment is by pollutant/water body combination, not pollutant/watershed combination. The header of "watershed" may inadvertently expand the area subject to the TMDL if there are other waterbodies within the same watershed. • *Modify table column header of larger table within Attachment E* *Impaired Water Body/~~Watershed~~*	As noted in the Attachment E Table E-2 and further described in the Fact Sheet, several TMDLs addressed in this Amendment are watershed-based TMDLs. No changes have been made to address this comment.
8.57	California Stormwater Quality Association	• *Move the definition of drywell from Footnote 3 in Attachment I to the glossary.*	Drywell is defined for the purposes of Attachment I implementation. No changes have been made to address this comment.
8.58	California Stormwater Quality Association	*II.E.4 Include measures to be implemented to ~~reliability and safety factor calculations that ensure the BMP(s) will~~ maintain the design standards for the life of the BMP(s), as appropriate, include safety factor and reliability calculations.*	Changes have been made in the Amendment (Attachment I Section II.E.4) to clarify that applying safety factors to the design of the BMP is an option and not a requirement determined necessary by the California licensed civil engineer.

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8.59	California Stormwater Quality Association	*III.A. The ~~Discharger~~ Permittee may enter into ~~a local~~ agreements with the local municipality(ies) to participate in the development, implementation, and operation of an off-site storm water capture and infiltration BMP provided the following criteria are met:*	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
8.60	California Stormwater Quality Association	• *~~Compliance deadlines~~ TMDL final attainment dates that are beyond this General Permit's term* *For TMDLs that have a ~~compliance deadline~~ final attainment date beyond this General Permit's term, the WLAs shall be translated in TNALs due to the WAL not being enforceable during this General Permit's term.*	The term "compliance" is appropriate for referencing compliance with this General Permit and compliance with the TMDL requirements. The term "attainment" is appropriate when referencing a water body's status relative to WQS. No changes have been made to address this comment.
8.61	California Stormwater Quality Association	*The ~~Los Angeles~~ San Diego Regional Water Board adopted the Chollas Creek Diazinon TMDL on August 14, 2002…..*	The suggested change has been incorporated into the Fact Sheet.
9.1	City of Commerce	**"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*	Clarifications have been made to ensure the definition of Responsible Discharger is consistent throughout the Amendment. A Responsible Discharger is "a Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water associated with industrial activities (and Authorized Non-Storm Water Discharges (NSWDs)) either directly or through a municipal separate storm sewer system (MS4) to impaired waterbodies identified in a U.S. EPA approved TMDL with an assigned WLA to industrial storm water sources."

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		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 (NO!) 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 US. 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)).*	

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9.2	City of Commerce	**Maintain Consistencv 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.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
9.3	City of Commerce	**Prepare Guidance to Assist Discharger's with Determining if They are a "Responsible Discharger"**	Clarifications have been made to ensure the definition of Responsible Discharger is consistent throughout the Amendment. A Responsible Discharger is "a Discharger with Notice of Intent (NOI) coverage under this General Permit who

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		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.	discharges storm water associated with industrial activities (and Authorized NSWDs) either directly or through a MS4 to impaired waterbodies identified in a U.S. EPA approved TMDL with an assigned WLA to industrial storm water sources." Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
9.4	City of Commerce	**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.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		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.	
9.5	City of Commerce	**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*	The translated WLAs into TNALs are not comparable to this General Permit Table 2 NALs. Changes have been made in the Fact Sheet to clarify this. The term “less stringent” is no longer used in reference to the translations of the WLAs.

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		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:* *I. 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*	Additionally, changes have been made to clarify that while this General Permit is addressing 36 TMDLs, several of these TMDLs do not apply to Responsible Dischargers and no WLAs were assigned. Therefore, the translations of those TMDLs shall be to comply with this General Permit, and no further actions are required to address the TMDL's requirements.

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		cannot be compared to the NAL value for the same pollutant," in Section II.F.Sa (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.Sa (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	

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		the condition *"does not assign a WLA specific to industrial storm water discharges"* be removed.	
9.6	City of Commerce	**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.	The Amendment has been corrected where necessary to ensure the TMDL translations are properly documented and the translations are transparent.
9.7	City of Commerce	**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.	Comment noted.
10.1	City of Los Angeles Harbor Department	1. The IGP should provide clarity for TMDL applicability to an IGP permittee. **1. The IGP should provide clarity on TMDL applicability to an IGP permittee.** The proposed amendment is not clear on which TMDL an industrial permittee may be subject to. The proposed amendment also does not clearly link TMDL requirements to sources related to industrial activities and the current IGP pollutant source assessment process. The Harbor Department recommends that the IGP be	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section

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		amended to clarify that (1) an applicable TMDL is the TMDL in a water body to which the IGP facility's point of discharge is most proximate, {2) the facility will conduct a pollutant source assessment for TMDL pollutant(s) specific to the applicable TMDL, and (3) the facility should only be identified as a Responsible Discharger pursuant to the TMDL if the pollutant source assessment identifies the TMDL pollutant(s). This approach is consistent with the basis for the other IGP requirements.	XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
10.2	City of Los Angeles Harbor Department	2. Proposed Numeric Effluent Limitations (NELs) are inconsistent with the existing IGP iterative approach and should be removed. The current compliance pathway for Numeric Action Levels (NALs) should be applied to the proposed NEL pollutants. The current IGP includes NALs because "[it] is infeasible for the State Water Board to develop numeric effluent limitations using the best professional judgment approach due to lack of sufficient information ... NELs must be developed with consideration of what is economically achievable for each industrial sector... The State Water Board does not have the information ... necessary to promulgate NELs at the time of adoption of this General Permit" (pages 18 through 20 of IGP Fact Sheet). In contrast to the current IGP approach, the proposed amendment includes NELs despite the lack of technology to achieve the NELs. Stormwater capture and reuse or infiltration is	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are “consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark

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		not feasible for facilities located in the lower portion of a watershed where the groundwater table is high and does not replenish fresh water aquifers. Numerous industrial facilities, such as those in the Port of Los Angeles, are geographically, hydrologically, operationally, and spatially restricted, i.e., there are no locations in which to place capture and reuse or infiltration Best Management Practices (BMPs). If the proposed TMDL-based NELs are adopted, numerous IGP permittees, including those in the Port of Los Angeles, will be forced to implement unproven and very expensive treatment technology in efforts to comply with the NELs without a guarantee of compliance with the NELs or the IGP. The Harbor Department recommends that NELs be removed from the proposed amendment and strongly supports the incorporation of a BMP-based iterative approach, consistent with the compliance pathways for NALs currently in the IGP.	values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples

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			taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
10.3	City of Los Angeles Harbor Department	3. The Harbor Toxics TMDL is a sediment TMDL Proposed TMDL Numeric Action Levels (TNALs) and NELs for the Harbor Toxics TMDL are not consistent with the current methods for TMDL attainment, nor are they relevant to the protection and restoration of sediment quality. The proposed TNALs should be derived from the current IGP method for NALs, and NELs should be removed. 3. Proposed TNALs and NE Ls calculated from the Harbor Toxics TMDL are not appropriate for the protection and restoration of sediment quality, are unachievable, and need to be reconsidered. a. The proposed IGP amendment includes Harbor Toxics TMDL-based TNALs and NELs for metals and bioaccumulative compounds (e.g., DDTs, PCBs) in the Dominguez Channel Estuary and Greater Los Angeles and Long Beach Harbor Waters. These water bodies are impaired for sediment quality and not for water column (page 3 of Basin Plan Amendment2). Consequently, sediment-based TMDLs were established for these water bodies "to protect and restore fish tissue, water and sediment	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. The proposed NELs and TNALs are consistent with the WLAs assigned to Responsible Dischargers. They have been assigned to protect and restore the quality of the waterbodies identified in the Harbor Toxics TMDL. Specifically, Dominguez Channel and Torrance lateral have an assigned NEL and Dominguez Channel Estuary and Greater Harbor Waters that have an assigned TNAL. Changes to the TMDL

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		quality ... by remediating contaminated sediment and controlling the sediment loading and accumulation of contaminated sediment in the Harbors" (page 2 of Basin Plan Amendment; emphasis added). Loading capacities for these water bodies were calculated as the estimated sediment load multiplied by the sediment quality target (page 9 of Basin Plan Amendment). Compliance with this sediment-based TMDL can be demonstrated via multiple means: i. For metals and PAHs, meeting (1) TMDL Waste Load and Load Allocations (WLA/LA), (2) Sediment Quality Objectives (SQOs), or (3) sediment targets in bed sediment. ii. For bioaccumulative compounds, meeting (1) fish tissue targets, (2) TMDL WLA/LA, (3) sediment targets associated with fish tissue targets, or (4) sediment quality conditions protective of fish tissue. The proposed TNALs and NELs are based on California Toxics Rule (CTR) criteria. The CTR criteria are to protect beneficial uses in receiving water and are not relevant to the determination of sediment quality conditions associated with the attainment of fish tissue and benthic health in the TMDL water bodies. Further, CTR criteria are for receiving water and should not be applied directly at end-of-pipe.	are made at the Regional Water Board-level with an amendment to the Basin Plan rather than at the State Water Board-level during this permit Amendment process. Page 13 of the TMDL assigns the water column concentration based WLAs assigned to Responsible Dischargers to address the receiving water sediment toxicity issue. These are the values used for incorporation of the TMDLs into this General Permit.
10.3.1	City of Los Angeles Harbor Department	The proposed TNALs for copper, lead, and zinc are based on Criteria Chronic Concentration (CCC) for saltwater chronic exposure conditions and should not be applied to stormwater discharges, which are transient and episodic pulsed events.	Changes have been made in the Amendment to instead apply the California Toxics Rule (CTR) Criteria Maximum Concentrations to Responsible Dischargers.

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<tr><td>10.3.2</td><td>City of Los Angeles Harbor Department</td><td>c. The proposed TNALs and NELs are exceedingly low. It will be extremely difficult (if not impossible) to comply with the proposed values when no proven BMP technology has been demonstrated to achieve such low levels in stormwater.
i. In an effort to demonstrate difficulties in meeting the proposed metal TNALs, a review of data obtained from the International Stormwater BMP Database for sites in California was conducted.4 Only 34% of media filter BMPs were able to meet the copper TNAL, while no infiltration basins studied were able to meet the copper or zinc TNAL. These results show that infiltration basins have very poor performance in potentially meeting TNALs. While media filters showed better performance for lead and zinc, the overall ability of all BMPs available showed that one-fourth to one-third are still unable to meet TNALs
(Table 1).
Table 1
Percent of samples from BMPs located in California that exceed the proposed metal TNALs from the International Stormwater BMP Database
<table><tr><th>Pollutant (total Recoverable)</th><th>TNAL (mg/L)</th><th>Media Filter % Exceed</th><th>Infiltration Basin % Exceed</th><th>All BMPs % Exceed</th></tr></table></td><td>A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are “consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements.

WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements.

The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers.

While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on</td></tr>
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<tr><td>Copper</td><td>0.00373</td><td>66%</td><td>100%</td><td>84%</td></tr>
<tr><td>Lead</td><td>0.00853</td><td>5%</td><td>70%</td><td>32%</td></tr>
<tr><td>Zinc</td><td>0.0856</td><td>11%</td><td>100%</td><td>23%</td></tr>
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Furthermore, the proposed TNALs for chlordane, 4,4'-DDT, dieldrin, and PCBs are based on CTR human health risk for consumption of organisms and are lower than or very close to method detection limits typically achieved at commercial laboratories (Table 2). Therefore, it is uncertain how an IGP facility would be able to demonstrate compliance with the TNALs.
Table 2
Harbor Toxics TMDL TNALs and Method Detection Limits
<table>
<tr><th>Pollutant</th><th>TNAL (mg/L)</th><th>Method Detection Limit (mg/L) [Analytical Method]</th></tr>
<tr><td>Chlordane</td><td>5.9×10^{-7}</td><td>2.5×10^{-6} [EPA 608]</td></tr>
<tr><td>4,4’-DDT</td><td>5.9×10^{-7}</td><td>5.0×10^{-7} [EPA 608]</td></tr>
<tr><td>Dieldrin</td><td>1.4×10^{-7}</td><td>5.0×10^{-7} [EPA 608]</td></tr>
<tr><td>PCBs</td><td>1.7×10^{-7}</td><td>1.7×10^{-7} to 1.2×10^{-6} [EPA 8270C SIM]</td></tr>
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</td>
<td>TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL’s WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment.

The proposed NELs and TNALs are consistent with the WLAs assigned to Responsible Dischargers. They have been assigned to protect and restore the quality of the waterbodies identified in the Harbor Toxics TMDL. Specifically, Dominguez Channel and Torrance lateral have an assigned NEL and Dominguez Channel Estuary and Greater Harbor Waters that have an assigned TNAL. Changes to the TMDL are made at the Regional Water Board-level with an amendment to the Basin Plan rather than at the State Water Board-level during this permit Amendment process.

Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit’s ERAsif the TNAL is exceeded. In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL.

Page 13 of the TMDL assigns the water column concentration based WLAs assigned to Responsible Dischargers to address the receiving water sediment toxicity issue. These</td>
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Comment ID	Commenter(s)	Comment	Comment Response
			are the values used for incorporation of the TMDLs into this General Permit. No changes have been made to address this comment.
10.3.3	City of Los Angeles Harbor Department	d. Finally, the proposed TNALs and NELs at the end-of-pipe of industrial discharge are an incorrect application for the attainment of the sediment quality in the TMDL water bodies and are unachievable. The Harbor Department participates in a Regional Monitoring Coalition and conducts receiving water monitoring and SQO assessment as part of compliance with the Harbor Toxics TMDL, which is sufficient for receiving water and sediment monitoring in the Harbor waters. We will continue focusing on reduction and removal of near-shore pollutant loads to further improve receiving water quality and sediment quality. The Harbor Department recommends that a Responsible Discharger for the Harbor Toxics TMDL be allowed to demonstrate compliance by (1) monitoring a TMDL pollutant (TNAL) where other IGP pollutants are monitored (generally at the catch basin), and those numbers should remain the current NALs, and (2) addressing exceedance(s) via the same iterative process applied to NALs in the current IGP. This alternative compliance approach is consistent with compliance approaches of the Harbor Toxics TMDL and the current IGP. The Harbor Department recommends that any necessary TNALs should be based on the methods used for NALs in the IGP.	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. The proposed NELs and TNALs are consistent with the WLAs assigned to Responsible Dischargers. They have been assigned to protect and restore the quality of the waterbodies identified in the Harbor Toxics TMDL. Specifically, Dominguez Channel and Torrance lateral have an assigned NEL and Dominguez Channel Estuary and Greater Harbor Waters that have an assigned TNAL. Changes to the TMDL are made at the Regional Water Board-level with an amendment to the Basin Plan rather than at the State Water Board-level during this permit Amendment process.

Comment ID	Commenter(s)	Comment	Comment Response
			Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit's ERAsif the TNAL is exceeded. In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL. Page 13 of the TMDL assigns the water column concentration based WLAs assigned to Responsible Dischargers to address the receiving water sediment toxicity issue. These are the values used for incorporation of the TMDLs into this General Permit. No changes have been made to address this comment.
10.4	City of Los Angeles Harbor Department	4. The IGP should allow compliance with a TMDL to be demonstrated via an alternative and adaptive process which should be consistent with the Harbor Toxics TMDL Basin Plan Amendment. 4. The IGP should allow compliance to be demonstrated via an alternative and adaptive process. Infiltration BMPs are not feasible for IGP facilities in the Port of Los Angeles due to geographical, hydrological, and spatial restrictions. Driving IGP facilities to install	Dischargers are offered the option to select a proposed Compliance Options as a method to comply with this General Permit. Dischargers are not required to implement one of the Compliance Options. See the Fact Sheet (Section II.E.2) for the BMP modeling and analysis to meet the Compliance Options' sizing requirements will achieve the TNAL and NEL requirements. Attachment I, Section I.B includes a finding, based on this modeling and analysis, that implementation of an On- or Off-Site Compliance Option satisfies the CWA's Best Available

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		structural and treatment BMPs that have not been proven effective at removing the pollutants to the proposed TNALs and NELs is inconsistent with the Best Available Technology Economically Achievable/Best Conventional Pollutant Control Technology (BAT/BCT) Exceedance Response Action (ERA) Level II process in the IGP. Most IGP permittees in the Harbor areas are currently in the ERA Level II process and will be moving towards treatment BMPs for the first time. Requiring additional unproven and expensive technology for the proposed TNALs and NELs is inconsistent with the current ERA process. The Harbor Department recommends that instead compliance can be achieved through an adaptive management approach consisting of implementing Regional Water Quality Control Board approved BMPs that constitute BAT/BCT for a specific industrial site. This approach could be implemented within the framework of the existing IGP ERA process. With the understanding that there are significant regional monitoring efforts under way to better understand the receiving water impairment and the scientific basis for the TMDL, we recommend that the State Water Board build flexibility into the proposed amendment which is consistent with what will be required of other dischargers with WLAs in TMDL watersheds.	Technology Economically Achievable (BAT)/ Best Conventional Pollutant Control Technology (BCT) requirements. While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment.
10.5	City of Los Angeles Harbor Department	5. On-site and off-site options proposed as alternative compliance in Attachment I should be workable, flexible and account for facility-specific conditions.	The intent of the Compliance Options is to incentivize storm water capture and use to benefit groundwater recharge, restore lost

Comment ID	Commenter(s)	Comment	Comment Response
		5. On-site and off-site options proposed as alternative compliance in Attachment I should be workable and flexible and account for facility-specific conditions. As proposed in Attachment I, the on-site and off-site alternative compliance options are limited to stormwater capture and reuse or infiltration BMPs. These options are not available for most industrial facilities in the Port of Los Angeles. The Harbor Department recommends adding treatment BMPs to on-site and off-site BMP options. Furthermore, the current off-site option proposes directly piping water from the IGP facility to a treatment BMP. This is infeasible. Therefore, the Harbor Department recommends the inclusion of an off-site option that facilitates funding an upstream regional project in the same watershed in partnership with a local Municipal Separate Storm Sewer System (like a "cap and trade") rather than directly infiltrating pre-treated industrial discharge upstream. The Harbor Department also recommends offering a partnership with Publicly Owned Treatment Works as a viable off-site treatment option. So long as the discharger complies with the IGP iterative process and installs on-site treatment as part of a Level 2 ERA process, reducing pollutant sources upstream should be a viable option. We greatly appreciate the opportunity to provide our comments and look forward to continuing working closely with the State Water Board and other stakeholders on effective approaches to improving water quality and	watershed processes, and reduce pollutant loads discharged to surface waters. Marine terminal facilities may work on an On-Site requirement paired with an Off-Site agreement with the MS4 and/or other Dischargers and approved by the Regional Water Board. Per Attachment I, the authorized NSWDs and industrial storm water must not discharge to a water of the United States or surface water of the state prior to reaching the Off-Site BMP(s). Offsetting or trading volume is not proposed in this Amendment. No changes have been made to address this comment. The Amendment does not prohibit Dischargers from entering into a local agreement with the Publicly Owned Treatment Works (POTW) as an Off-Site Compliance Option.

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		achieving TMDL compliance in the Port of Los Angeles.	
11.1	City of Los Angeles Sanitation	The City of Los Angeles (City) Sanitation (LASAN) appreciates the opportunity to provide comments on the State Water Resources Control Board's (State Water Board) proposed amendment to the General Permit for Storm Water Discharges Associated with Industrial Activities (IGP). The city commits significant resources to protect water quality and supports the incorporation of Total Maximum Daily Loads (TMDLs) into the IGP. Although generally supportive of the proposed IGP Amendment, the City offers the following comments for your consideration.	Comment noted.
11.2	City of Los Angeles Sanitation	The City has a vested interest in ensuring that TMDLs are properly developed, both technically and legally, and are in compliance with applicable law. Industrial dischargers can cause or contribute to exceedances of TMDL targets and/or receiving water limitations (RWLs), which could result in impacts to water quality and permit violations for which the City could be held responsible. Storm water runoff from industrial facilities that enters the municipal separate storm sewer system (MS4) affects the City's ability to meet requirements of the 2012 MS4 Permit [Order No. R4-2012-0175; NPDES Permit No. CAS004001]. Runoff from industrial sites becomes the City's responsibility when it enters the MS4 system. The appropriate application of TMDLs into the proposed IGP Amendment requires that they be consistent with TMDLs as incorporated into the	The Amendment contains implementation requirements for adopted TMDLs that have identified industrial storm water as a source and were assigned a WLA. The Amendment process is separate from the TMDL adoption process and is for implementing currently adopted TMDLs and not for revising or reopening the TMDLs themselves. Amending or revising a currently adopted TMDL is a separate Regional Water Board action. The Amendment's implementation requirements are consistent with the assumptions and requirements of the WLAs assigned to Responsible Dischargers, which may be different than the MS4 TMDL compliance requirements. The City may optionally work with Dischargers to discuss the formation of a partnership through a

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		MS4 permit. The proper inclusion of these TMDLs into the IGP will help ensure that all dischargers equitably share the responsibility of protecting water quality and reducing pollutant loads to Waters of the United States.	local agreement to develop an Off-Site storm water capture and infiltration BMP consistent with the requirements of the Off-Site Compliance Option proposed in the Amendment (Attachment I). This Off-Site Compliance Option can result in collaboration between the local municipality and the Dischargers to achieve WQS and improve the health of the watershed. Additionally, Dischargers required to comply with TMDL requirements must continue to comply with any applicable local ordinances that regulate pollutant discharges into the MS4, which may assist the MS4 with its goal of compliance with applicable receiving water limitations. No changes have been made to address this comment.
11.3	City of Los Angeles Sanitation	The City is committed to protecting and using its water resources more wisely through water conservation and reuse and thanks the State Water Board for providing on-site and off-site compliance options, to incentivize storm water capture, in place of typical monitoring requirements for Numeric Action Levels (NALs), TMDL Numeric Action Levels (TNALs), and Numeric Effluent Limitations (NELs). Although the City is supportive of the compliance options, the infiltration requirements are too complex to encourage such activity. Retrofitting existing, impervious urban landscape with green infrastructure restores storm water infiltration capacity previously lost in developed areas and reduces pollutant loads	A standard rain volume for compliance may not be appropriate because of varying precipitation levels throughout the state. Capturing a standard volume of the storm may not result in sufficient removal of pollutant mass that is protective of the receiving water in high precipitation areas and may create greater burden on Dischargers located in low precipitation areas. No changes have been made to address this comment.

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		discharged to surface waters. The State Water Board should use this opportunity to encourage infiltration by creating a simpler single volumetric compliance storm standard, e.g., 1 inch, that can be used in lieu of the 85th percentile, 24-hour storm.	
11.4	City of Los Angeles Sanitation	The proposed IGP amendment deems dischargers meeting the requirements of a compliance option to be in compliance with NALs, Discharge Prohibitions Section III.C, TMDL Waste Load Allocations (WLAs), and RWLs. LASAN supports the use of NALs and TNALs as triggers for an adaptive management and monitoring program leading to the development of Best Management Practices (BMPs) that comply with Best Available Technology Economically Achievable (BAT)/Best Conventional Pollutant Control Technology (BCT). NALs and TNALs were designed to provide feedback on industrial sources of pollutants. The Exceedance Response Action (ERA) process was supposed to provide a clear pathway to compliance through the implementation and installment of BMPs in order to comply with BAC/BCT and meet water quality standards (WQS) and RWLs. Instead, enforcement actions are at an all-time high - some of which are frivolous that expose the regulated community to unfounded and unwarranted lawsuits. Although a need for citizen enforcement to correct violations certainly exists and such enforcement can be valuable, the proposed IGP amendment does not provide adequate protection to industries in	Order Finding 76 states: "The NAL/TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit." While the ERA process is the remedy for exceedances of NAL/TNAL values, the requirement to comply with WQS in the receiving waters is independent of the NAL/TNAL and ERA process. No changes have been made to address this comment.

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		full compliance with the IGP. Having industries pay large sums to settle or litigate frivolous claims directly competes for the same limited monies that these industrial users could use to protect water quality with BMPs. Consequently, LASAN requests that the State Water Board strengthen the language in the IGP so that the ERA process is the sole remedy for an NAL or TNAL exceedance.	
11.5	City of Los Angeles Sanitation	Attachment A provides comments to make the IGP clearer on what is and is not a violation in order to limit citizen enforcement to those instances where clear violations exist. Attachment B includes proposed changes that should be made to clarify the terms and conditions of this permit. We request that the State Water Board consider these comments and suggested revisions and make the requested modifications prior to adopting the final IGP. We appreciate your consideration of our comments and look forward to working with you in developing an effective statewide order for industrial storm water discharges.	The suggested changes have been reviewed and responded to individually.
11.6	City of Los Angeles Sanitation	The addition of new Compliance Option language to the Permit may be helpful. However, the implication of such language is that permittees not taking one of the compliance options will be deemed out of compliance.	Language has been added to Attachment I, section I.A to clarify that the Compliance Options are optional and Dischargers are not required to implement one of the Compliance Options.
11.7	City of Los Angeles Sanitation	Currently, the proposed amendments contain a new Attachment I, and the following new Finding 56: 56. The State Water Board allows Dischargers statewide to comply with the alternative compliance options in Attachment I instead of	The Amendment contains the requirements for the Compliance Options in the proposed addition of Attachment I to this General Permit. Language has been added to Order Finding 51 and in a new Footnote 4 to clearly incorporate Attachment I into this General Permit. Attachment I, if

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		complying with applicable numeric action levels (NALs),2 Discharge Prohibitions Section III.C, TMDL waste load allocations (WLAs), and Receiving Water Limitations. Dischargers are still required to comply with applicable Subchapter N effluent limitations. A Finding is not adequate to authorize the use of an alternative compliance option. There needs to be an enforceable provision in the Order portion of the Permit that specifically and clearly authorizes this option to comply with Discharge Prohibitions, Receiving Water Limitations, and WLAs. The Compliance Options need to be included in each of the relevant areas for which compliance is obtained in order to provide adequate clarity. As we have seen from previous court interpretations of permits, each provision is reviewed separately and apart from any other, so the applicable provisions must be clearly and adequately cross-referenced. ***Request: Add Provision in the Order portion of the Permit authorizing the use of Compliance Options in Attachment I***	adopted, will be an enforceable component of this General Permit.
11.8	City of Los Angeles Sanitation	Paragraph II.B of Attachment I states: "The Discharger may include the BMPs that capture and divert the required storm water runoff volumes to a publicly-owned treatment works [POTWs] …" The Permit must recognize that separate requirements must be met prior to implementing such diversions, and that diversions to the sanitary sewer may not be possible in many locations. Many POTW s do not have capacity to accept storm water during and after wet-	Language has been added to Attachment I Section II.B to address this comment. Dischargers complying with the On-Site Compliance Option are required to comply with all requirements from the POTW prior to and while diverting the discharge into the POTW's system.

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		weather events, or may be unable to accept the additional pollutants present in industrial storm water and still meet the POTW' s effluent limitations. In addition, sewer use or pretreatment permits will likely be required before any such diversions would be authorized by the POTW. The Permit amendments appear to assume that an industrial site can unilaterally plumb their storm drains to the sanitary sewer and discharge unlimited quantities of untreated storm water to that sewer, when that is not the case. POTW s may need to be given incentives and regulatory relief if this is a solution that the State Board wishes to pursue. ***Request: Clarify that there are other requirements that must be met before diversions to a POTW can be used as a Compliance Option.***	
11.9	City of Los Angeles Sanitation	Storm water discharges solely to land or groundwater do not require coverage under the Permit. *See* Permit at Provision II.B.1. (requiring coverage for discharges to waters of the United States). While the State Water Board has the authority under California law to permit discharges to land that could affect groundwater, that regulation should not be included in a federal permit. A straightforward reading of the CW A demonstrates that when Congress wanted certain provisions of the CWA to apply to groundwater, it stated so explicitly. For example, CWA section 102(a) identifies groundwater as distinct and separate from navigable surface waters, by stating: The Administrator shall, after careful investigation,	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and 13377. As a WDR, this General Permit may include provisions authorized by state law, such as those aimed at protecting the quality of groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to the Findings to address this exercise of state authority.

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		and in cooperation with other Federal agencies, State water pollution control agencies, ... prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the *navigable waters* and *groundwaters* and improving the sanitary condition of *surface and underground waters.* 33 U.S.C. §125l(a) (emphasis added). Similarly, CWA section 104(a) states that the EPA Administrator shall: in cooperation with the States ... establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of the navigable waters and groundwaters and the contiguous zone, and the oceans .... 33 U.S.C. §1254(a) (emphasis added). Thus, Congress specifically identified four different and distinct types of water bodies in the CWA: (1) navigable waters, (2) groundwater, (3) the contiguous zone, and (4) oceans. The term "discharge of a pollutant" is defined in the CW A to cover the discharge of any pollutant to (1) *navigable waters,* (2) the *contiguous zone,* or (3) the *ocean.* 33 U.S.C. § 1362(12). The omission of "groundwater" from the definition of "discharge of a pollutant" clearly indicates that Congress did not consider discharges to groundwater to be discharges that would trigger the need for an NPDES permit. *(See Russello v. United States,* 464 U.S. 16, 23, 78 L.Ed. 2d 17, 104 S. Ct. 296 (1983) ("Where Congress includes particular language in one section of a statute, but omits it in another section of the same Act, it is generally presumed	

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		that Congress acts intentionally and purposely in the disparate inclusion or exclusion").) Therefore, regulation of infiltration discharges to groundwater should be addressed in a separate state-only general Waste Discharge Requirements ("WDR") promulgated pursuant to the California Water Code, to avoid federal enforcement of state-only requirements that are not required by and more stringent than the CWA. ***Request: Remove requirements related to discharges to land/groundwater from the Permit and only regulate discharges to waters of the United States.***	
11.10	City of Los Angeles Sanitation	<u>a. Create a Single, Easier Volumetric Compliance Storm Standard</u> A standard amount of rain water (e.g., 1 inch) should be used instead of the 85th percentile, 24- hour storm as the latter may be impossible to meet in some parts of the state, such as the far North Coast, and creates a greater burden on permittees in high precipitation areas. Because the table in the Fact Sheet on p. 31 shows that the 85th percentile, 24-hour storm ranges generally from .61 to 1.16 inches, the selection of a standard amount in that range would be justified based on this data. In addition, any rain event that exceeds that selected value is likely to be large enough to provide ample dilution water for any remaining flows that the constituents discharged to be of less regulatory and water quality concern. ***Request: Select a standard rain volume for use statewide.***	A standard rain volume for compliance may not be appropriate because of varying precipitation levels throughout the state. Capturing a standard volume of the storm may not result in sufficient removal of pollutant mass that is protective of the receiving water in high precipitation areas and may create greater burden on Dischargers located in low precipitation areas. No changes have been made to address this comment.

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11.11	City of Los Angeles Sanitation	Discharge into On-Site Ponds Should Not Require Compliance with MCLs Attachment I proposes to require that all water entering infiltration BMPs meet Maximum Contaminant Levels ("MCLs"). (Attachment I, p. 3, Section II.E.6.a.) MCLs were designed to apply to finished drinking water supplied by public water suppliers at the point of consumption. While many Basin Plans have incorporated MCLs as water quality objectives, these objectives do not apply in storm water ponds. Further, requiring compliance with MCLs prior to storm water entering an infiltration pond, dry well, or underground gallery is overly stringent, since the value of the infiltration process itself in protecting groundwater is not taken into account. Such stringent requirements will not encourage adoption of infiltration BMPs. In fact, just the opposite: if dischargers must pretreat the water anyway, permittees will in most instances choose just to discharge the water. ***Request: Remove requirements from Attachment I regarding compliance with MCLs for water entering infiltration BMPs.***	Per Attachment I Section II.E.6.a.ii, the Discharger may use monitoring data of infiltrated water below the infiltration BMP, that is not a dry well, to demonstrate meeting the MCL criteria in the influent of the infiltration BMP. Dry wells are required to meet applicable MCLs concentrations, and pretreatment is required when necessary to attain MCLs. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
11.12	City of Los Angeles Sanitation	Monitoring of Bypassed Water Should not be Required. If storms above the design storm standard and treatment levels occur, Attachment I proposes that the bypass/overflow be sampled. If such monitoring data is required and made public, this will become a new area of alleged violation,	The monitoring requirements for discharges that exceed the compliance storm standards for the Compliance Options will not be removed. This information is needed to ensure that the Compliance Options are as effective as our modeling shows they will be. The Amendment requirements are clear, however, that this

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		as the Permit does not clearly state that this discharge is not a prohibited discharge, or what requirements exist related to this discharge. If permittees are continuing to implement their SWPPPs, and rain flows are extraordinarily high, then any discharges should be deemed to be de minimis and not need to be monitored. ***Request: Remove requirements to monitor bypass/overflow water above the capacity of the On-Site Compliance BMPs.***	information is not to be used to determine Discharger compliance with the requirements of the General Permit, though it may inform the imposition of future requirements should it reveal that Compliance Options are not adequate to protect the water body's beneficial uses.
11.13	City of Los Angeles Sanitation	Exemptions Must Be in Permit Attachment I states that Dischargers compliant with the On-Site Compliance Option are exempt from several provisions of the Permit. However, Attachment I does not appear to be expressly incorporated into the enforceable provisions of the Permit and, therefore, arguments, will likely be made that such exemptions are inapplicable. In addition, it is unclear why the TMDL and Water Quality Corrective Action provisions are not also included in the exempted provisions. ***Request: Place or clearly cross reference the Compliance Option provisions and exemptions in the Provisions part of the Permit. Include all other provisions that should be exempted.***	The TMDL and water quality corrective actions are included in Attachment I's deemed compliance provisions via its grant of deemed compliance with this General Permit's TMDL requirements (section V.C) and receiving water limitations (section VI).
11.14	City of Los Angeles Sanitation	There are internal inconsistencies in Attachment I. For example, Section II.J. l.b. prohibits the discharge of authorized Non-Storm Water Discharges ("NSWDs"), yet this is contrary to Finding 33, Provision III.B., and Section IV of the Permit, which explain why and what authorized NSWDs are permitted for discharge.	A proposed discharge prohibition on authorized NSWD sources is proposed for compliance with the On-Site Compliance Option. All authorized NSWD sources shall be included in the BMP design so as to not discharge to a surface water (e.g., diverted via POTW, captured, infiltrated).

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11.15	City of Los Angeles Sanitation	It is unclear how an infiltration BMP can be built and maintained to recover capacity within a day (not 24 hours, but 12:00 am to 11 :59 pm). Beyond the fact that this is micromanaging compliance in a manner contrary to Water Code section 13360(a), this may not be technically feasible. An alternative would be to require two times the water volume standard, so that if there are two back-to-back days of heavy rain, that volume would be contained. If rains extend for longer periods, the dilution would be significant and help minimize the pollutant concentrations.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
11.16	City of Los Angeles Sanitation	Remove the word "influent" from Attachment I (and elsewhere from the proposed amendments and Permit). This is a wastewater term. In this context, influent means storm water, so the term "storm water" should replace "influent."	A definition of influent applicable to Attachment I's requirements has been added to the Amendment.
11.17	City of Los Angeles Sanitation	Clarify Section II.K. l of Attachment I applies only to infiltration Compliance Options, not diversions, as follows: "The applicable Regional Water Board Executive Officer has the authority to review site-specific information, and disapprove ~~any~~ On-Site <u>infiltration BMPs</u> ~~Compliance Option~~ as a permissible Compliance Option for the Discharger <u>where findings are made that such an option would raise</u> ~~to address~~ regional groundwater concerns."	Changes have been made in the Amendment (Attachment I Section IV) to address this comment. The infiltration BMPs are the types of BMPs that would cause concern to groundwater impacts. Therefore, Section IV has been added to apply groundwater protection requirements to On-Site and Off-Site BMPs.
11.18	City of Los Angeles Sanitation	If groundwater requirements are maintained in the permit over the objections provided herein, then the following modification in Section II.K.4 of Attachment I should be made regarding monitoring:	This is already addressed in Attachment I Section II.K.4. No changes have been made to address this comment.

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		"The State Water Board Executive Officer or the applicable Regional Water Board Executive Officer may exempt a site from or authorized [sic] the discontinuation of groundwater monitoring if no threat to groundwater is determined."	
11.19	City of Los Angeles Sanitation	Section III.A.3. of Attachment I, which prohibits use of waters of the United States ("WOTUS") or waters of the State ("WOTS"), will unduly constrain Off-Site Compliance Options. Since this is an NPDES permit, such discharges may be authorized. Further, the use of ditches, which might be characterized as WOTUS or WOTS, may require other adverse environmental impacts to achieve an off-site solution. As worded, large infiltration basins in the Los Angeles River and other southern California areas might be construed as falling under this prohibition. For these reasons, this provision should be removed or substantially modified.	The Off-Site Compliance Option is only available where there is no water of the United States or water of the State being used to convey industrial storm water to the Off-Site BMP. Otherwise, sufficient controls would not be in place to protect WQS, water quality objectives, and/or beneficial uses.
11.20	City of Los Angeles Sanitation	***Request: Make the above recommended Permit modifications.***	Comment noted.
11.21	City of Los Angeles Sanitation	The Permit should not prescribe effluent limitations for any constituents without demonstrated reasonable potential (RP). Under 40 C.F.R. section 122.44(d)(l)(i), limits must control conventional, nonconventional, and toxic pollutants only where those pollutants will be discharged "at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality." (*See also* Water Code section	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the

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		13377 (requiring effluent limitations to be "necessary"). The proposed Permit newly imposes NELs based upon proximity to 303(d) listed waters with TMDLs, instead of relying upon the actual data that demonstrates a reasonable potential to exceed the applicable water quality objectives.	permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
11.22	City of Los Angeles Sanitation	The State Water Board is bound by court and previous precedential decisions, which hold that in the absence of a showing of reasonable potential for a pollutant to be contained in the effluent, the Permit should not contain any limitations on that substance. Where substances were not detected, or were detected at low levels not rising to RP, limits are not required and may be removed from NPDES permits. Under the ruling in the *City of Woodland* case, Alameda Superior Court Case No. RG04-188200, Order Granting Writ of Administrative Mandamus (2005), where no reasonable potential exists, no effluent limit is required. Federal rules require a reasonable potential analysis *first* (40 C.F.R. §122.44(d)(l)(ii)), and then if an effluent limitation is required, the permitting authority shall ensure that the effluent limits are consistent with the assumptions and	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control

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		requirements of any available waste load allocation (WLA) in a TMDL (40 C.F.R. §122.44(d)(l)(vii)(B)). To address the need to demonstrate compliance with the TMDL, the WLAs could be applied as Receiving Water Limitations, where compliance is determined in the receiving water, rather than effluent limits. If NELs remain in the permit without a finding of reasonable potential, then these limits are more stringent State law-based requirements and the factors in Section 13241 must be considered.	Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
11.23	City of Los Angeles Sanitation	**The Permit Amendments Should Include Recognition of Self-Contained Prospective Injunctive Relief as the Appropriate Remedy for NAL/RWL Exceedances.** Under the Permit, as revised in 2014/15, permittees were required to develop and implement a new and improved Storm Water Pollution Prevention Plan ("SWPPP") with both minimum and advanced BMPs. (Permit at Section X.) If, despite implementation of the new SWPPP, a permittee exceeded any NAL, then the permittee moved to "Level 1" status in July of the next year, and was required to undertake additional tasks and reporting obligations called "Exceedance Response Actions" or "ERAs." (Id. at pp. 49-50, Section XII.C, and Fact Sheet at pp. 6-7.) If NAL exceedances continued during the second year for those same pollutants, not with standing the additional efforts in Level 1, then the permittee moved to "Level 2" status in July of 2017 and incurred additional compliance obligations. (Id. at pp. 50-55, Section XII.D.) The Permit recognizes "[i]t is not a violation of the	While the ERAs are the appropriate method for dealing with exceedances of NALs, Water Quality Based Corrective Actions (WQBCAs) are not the exclusive manner of dealing with exceedances of receiving water limitations.

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		General (2015] Permit to exceed the NAL values; it is a violation of the permit, however, to fail to comply with the Level I status and Level 2 status ERA requirements in the event of NAL exceedances." (Permit Fact Sheet at p. 60 (emphasis added); *see also id*. at p. 45, Figure 3 (Compliance Determination Flowchart).) The Permit provides appropriate redress and concrete steps for permittees to take if NAL or RWL exceedances occur (e.g., Level 1 and 2 ERAs, SWPPP modifications, and, where applicable, Water Quality Based Corrective Actions). Because the Permit itself contains prospective injunctive relief, court intervention to order such relief is unnecessary and duplicative. The requested changes would be consistent with the State Board's conclusion that significant revisions to the 1997 version of the Permit were "necessary for implementation, consistency and objective enforcement." (Permit, Fact Sheet at p. 2 (emphasis added).) ***Request: The Permit should include modifications to clarify that the ERA and Water Quality Based Corrective Action pathways are the exclusive manner to address NAL and RWL exceedances, respectively.***	
11.24	City of Los Angeles Sanitation	The Permit's technology-based effluent limitations and the Clean Water Act's "BAT/BCT standards" are not clear, which has led to allegations of non-compliance that are unwarranted.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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11.25	City of Los Angeles Sanitation	The Permit must more clearly recognize that EPA has not set any ELGs or BAT/BCT standards for most categories and classes of industry. (See Permit at p. 10, Finding 58; p. 12, Finding 64, 17 4-17 5 (listing all industries for which EPA has promulgated ELGs with defined BAT/BCT standards).) without promulgated ELGs, there are no applicable "BAT/BCT standards" to be compared to sampling data, or to be otherwise achieved. Because no "BAT /BCT standard" has been set for most industries, it is impossible to demonstrate compliance with this requirement or, on the flip side, to avoid allegations of noncompliance. To avoid this conundrum, the Permit must be modified to state that, for industries without promulgated ELGs, implementation of the minimum and additional BMPs specified for the facility in its SWPPP constitutes compliance with BAT/BCT. However, if NALs are not met, notwithstanding implementation of the SWPPP' s BMPs, then the permittee must attend to the ERA Level 1 and Level 2 reporting and action plan tasks to continue to be considered compliant with BAT/BCT. Currently, these requirements are confused and contradictory, particularly since the Permit states that "NALs are not intended to serve as technology-based or water quality-based effluent limitations." (Permit at p. 11, Finding 63.) Similar concerns exist about the TNALs, since these values seem to be somehow tied to the TMDL, but yet are not	Changes have been made to the Amendment to clarify that TNALs are BMP-based WQBELs. The BAT/BCT standard aspects of this comment are outside the scope of the Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		indicators of technology or water quality-based requirements. Because NALs are being used as indicators of non-compliance with both technology-based and water quality based requirements, and TNALs are likely to be used in the same way, the Permit must be clarified. ***Request: To eliminate the current regulatory uncertainty, Effluent Limitation VA. should be modified in one of the following ways:*** "Dischargers shall implement BMPs that comply with the ~~BAT/BCT~~ requirements of this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability. Implementation of such BMPs, in accordance with the terms of the facility's SWPPP. and updated as needed under Section XII. Exceedance Response Actions (ERAs). shall constitute BAT/BCT for industries not subject to storm water ELGs in Subchapter N." OR "Dischargers shall implement BMPs that comply with ~~the~~ any applicable BAT/BCT requirements ~~of~~ for the industry regulated by this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability. If no BAT/BCT standards exist for a particular industry, the Discharger shall implement the	

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		BMPs required in Section X.H, as supplemented by modifications required as a result of Section XII. Exceedance Response Actions (ERAs)."	
11.26	City of Los Angeles Sanitation	Adding Numeric Effluent Limitations ("NELs") is Contrary to Previous Permit Findings that Numeric Limits are Infeasible, and Lacks Supporting Evidence of Feasibility. ***Request: Remove TNELs and utilize a BMP-based approach for TMDL compliance related to industrial storm water sources.***	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers.

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			While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit's ERAsif the TNAL is exceeded. In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL. No changes have been made to address this comment.
11.27	City of Los Angeles Sanitation	New Findings on RWL Compliance Point Conflict with Permit Provisions. ***Request: Remove findings attempting to modify the point of compliance for Receiving Water Limitations.***	The language referred to in the comment has been removed from the Fact Sheet. The discussion in the Fact Sheet was intended to explain how receiving water-based WLAs were translated to Permit requirements implemented at a facility's discharge point. New language addressing this has been added to the Fact Sheet. This does not have the effect of altering a Responsible Discharger's obligation to comply with Section VI.A's requirements.

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11.28	City of Los Angeles Sanitation	Reinsert Standard Provisions to Cover Treatment Systems The CWA provides just two affirmative defenses, bypass and upset. However, in the most recent amendments to the Permit, the State Water Board removed the standard upset and bypass provisions set forth in the regulations for all NPDES permits. See 40 C.F.R. §122.41(m)&(n)("The following conditions apply to all NPDES permits ... (m) (Bypass) . . . (n)(Upset).") These provisions should be reinserted into Provision XXI. {Standard Conditions) of the Permit because technology-based BMPs and treatment can fail for reasons beyond the reasonable control of the permittee. See FMC Corp. v. Train, 539 F.2d 973 (4th Cir.1976) and Marathon Oil v. EPA, 564 F.2d 1253 (9th Cir. 1977). In the Marathon Oil case, the Ninth Circuit Court of Appeal concluded that a facility using proper technology operated in an exemplary fashion would not necessarily be able to comply one hundred percent of the time, and thus an upset defense in the permit was necessary. Further, in the Marathon Oil case, the Ninth Circuit Court of Appeal concluded an upset defense in the permit was necessary to cover instances of equipment failure and human error. (Id at 1273.) ***Request: Reinsert the Standard Provisions for Upset and Bypass into the Permit.***	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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11.29	City of Los Angeles Sanitation	Pg. 9 - Finding 50 - This finding should also be incorporated into the NEC and NONA sections of the Permit because findings are not enforceable provisions.	The Findings are an enforceable part of this General Permit. No changes have been made to address this comment.
11.30	City of Los Angeles Sanitation	Pg. 9 -Finding 51 - "This General Permit's NALs found in Table 2, as applicable to the particular discharge and SIC code, shall continue to apply .... "	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.31	City of Los Angeles Sanitation	Pg. 13 -Finding 77 - " ... NAL/TNAL exceedances defined in this General Permit are not~~, in and of themselves~~, violations of the General Permit and do not indicate that BAT /BCT is not being met."	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.32	City of Los Angeles Sanitation	Pg. 14 - Finding 80 - "Exceedances of the NALs that are attributable ~~solely~~ predominantly to pollutants originating from non-industrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the Discharger's property, or aerial deposition) are not a violation of this General Permit because the NALs are designed to provide feedback on industrial sources of pollutants. Dischargers may submit a Non-Industrial Source Pollutant Demonstration as part of their Level 2 ERA Technical Report to demonstrate that the presence of a pollutant causing an NAL/TNAL exceedance is attributable ~~solely~~ predominantly to pollutants originating from non-industrial pollutant sources."	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		This change is needed because it is virtually impossible to show that no molecule of the constituents monitored is added by the industrial storm water. If the amount not attributed by industrial storm water exceeds the NAL/TNAL, that is not an industrial storm water issue.	
11.33	City of Los Angeles Sanitation	Pg. 22 - Discharge Prohibition III.A. - "All discharges of storm water associated with industrial activities to waters of the United States are prohibited except as specifically authorized by this General Permit or another NPDES permit." This change is needed because not all storm water is regulated by this permit.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.34	City of Los Angeles Sanitation	If a State Law Only section is included in the Permit, Sections III.C-E. Discharge Prohibitions, VI. Receiving Water Limitations, VIII.B. ASBS Exceptions, XVIII. Conditional Exclusion - NEC, should be placed in that section as these are based on State Law.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.35	City of Los Angeles Sanitation	Pg. 25 - Provision VII.C. - Clarify whether Compliance Groups can undertake TMDL reporting. Currently, the proposed language includes only the "Responsible Discharger."	Order Finding 82 states that Compliance Group Participants who are Responsible Dischargers may participate in Compliance Groups with other Responsible Dischargers.
11.36	City of Los Angeles Sanitation	Pg. 25 - Provision VII.C.2. -Add language specifying that exceeding a TNAL does not constitute a violation of the permit, but requires compliance with Provision VII.D. l.	Order Finding 76 states: "The NAL/TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit."
11.37	City of Los Angeles Sanitation	Pg. 26 - Provision VII.E. - If NELs are maintained over the objections provided herein, then the Permit should recognize or clarify that these exceedances would be subject to Mandatory Minimum Penalties ("MMPs").	Language has been added to the Fact Sheet to address the potential applicability of mandatory minimum penalties (MMPs) to NEL exceedances.

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11.38	City of Los Angeles Sanitation	Pg. 78 - Provision XXI.Q.1. - The civil penalty amount in this section is inaccurate. Currently, the civil penalty amount for Clean Water Act violations is $53,484, not $37,500 as stated. *See* 83 Fed.Reg. 1190 (January 10, 2018).	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.39	City of Los Angeles Sanitation	Fact Sheet, pg. 24, Section b. - "The Clean Water Act requires NPDES permits to include technology-based effluent limitations and any more stringent limitations necessary to meet water quality standards. Industrial storm water NPDES permits must: (1) require compliance with technology-based standards, (2) prohibit unauthorized ~~nonstorm water discharges~~ NSWDs, (3) require reduction of pollutants in the storm water discharge to ~~the~~ any applicable standard of BPT/BAT/BCT for the industry type ~~in all cases,~~ and (4) include additional limitations necessary to meet water quality standards.	The suggested change regarding non-stormwater discharges has been made. The remainder of this comment regarding BAT/BCT is out of scope for this Amendment and can be addressed during the reissuance of this General Permit.
11.40	City of Los Angeles Sanitation	Fact Sheet, pg. 28 - Section 7 - The sentence stating that: "Discharges from BMP(s) implemented for the purposes of compliance with the On-Site Compliance Option smaller or equal to the 85th percentile 24-hour storm event (daily volume) are prohibited and a violation of this General Permit, unless the discharge sample data are below any applicable NELs and compliant with the ERA requirements." It is not clear why such discharges would be a violation if otherwise compliant with the Permit.	If the Discharger selects the On-Site Compliance Option as a method to comply with this General Permit, they must be in compliance with the requirements in Attachment I including the compliance storm standard for this option. If the BMP is no longer meeting the standards set forth in Attachment I, then the Discharger would no longer be eligible for the Compliance Option and must implement conventional methods for compliance with this General Permit and any additional TMDL-specific requirements.
11.41	City of Los Angeles Sanitation	Fact Sheet, pgs. 44-45 - Subsection c on Water Effect Ratios ("WERs") allows for amendment of the Permit to incorporate WERs. However, where WERs already exist, those should be	Existing Regional Water Board-adopted WERs that were amended into the TMDLs addressed by this General Permit have already been incorporated.

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		incorporated into the Permit now to avoid having to reopen the permit later.	No changes have been made to address this comment.
11.42	City of Los Angeles Sanitation	The City of Los Angeles Bureau of Sanitation (LASAN) supports the proposed Amendments to the IGP related to incorporating the United States Environmental Protection Agency's (U.S. EPA) sufficiently sensitive methods analytical testing requirements given that Dischargers covered by the IGP should be required to generate data which allows for an assessment of water quality criteria.	Responsible Dischargers are required to use U.S EPA approved analytical methods that are sufficiently sensitive and are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. The SSM shall be used for compliance with NALs, TNALs, and NELs. See language added in the Fact Sheet Section J.3.b.
11.43	City of Los Angeles Sanitation	LASAN supports the proposed amendments related to the addition of two compliance options that allow dischargers to demonstrate compliance either on-site by capturing and using, infiltrating, and/or evapotranspiring the runoff volumes generated up to and including the 85th percentile, 24-hour storm event OR off-site by participating in agreements with municipalities resulting in offsite retention best management practice (BMPs). The explicit language within the proposed amendments stating that dischargers have an off-site compliance option may open the dialogue between the LASAN and dischargers regarding coordination on BMPs which could have benefits to all stakeholders within the watersheds. Although LASAN is supportive of the compliance options, the infiltration requirements are too complex as currently written to encourage such activity. LASAN requests that the infiltration requirements be relaxed and simplified to encourage such activity.	The infiltration requirements are designed to be protective of water quality and are based on a model that evaluated the pollutant removal efficiency associated with the use of the 85th percentile 24-hour storm event as further explained in the Fact Sheet. If the BMP design is not feasible for a Discharger to utilize on-site, then this option may not be an appropriate selection for compliance with this General Permit.

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11.44	City of Los Angeles Sanitation	LASAN generally supports the proposed IGP amendments related to the addition of TMDL related requirements given that the appropriate application of the TMDLs is needed to ensure that all responsible parties actively participate in solving the region's water quality issues. LASAN supports the use of TNALs as a trigger for an adaptive management and monitoring program leading to the development of BMPs that comply with BAT/BCT. However, the current MS4 Permit is under legal challenge. Included in that challenge is opposition to the TMDLs as water quality based effluent limitation requirements (WQBELs) and waste load allocations (WLA) limitations in receiving waters. Consequently, none of the TMDLs, including those for the several watersheds located in the Los Angeles Basin, should be recommended for inclusion into the IGP as WQBELs or WQS based receiving water limits until litigation is resolved.	The pending litigation regarding the Los Angeles MS4 Permit will not alter the obligation to incorporate applicable TMDLs into this General Permit. The issues presented in that litigation are distinguishable because the standards applicable to MS4 and industrial storm water are different. No changes have been made to address this comment.
11.45	City of Los Angeles Sanitation	Both the US EPA (Defenders of Wildlife v. Browner (9th Cir. 1999) 191 F.3d 1159) and State Water Board (WQO 99-05 & WQO 2001-15) endorse the use of BMP control measures and compliance with a facility's SWPPP as a mechanism to ensure compliance with WQSs in receiving waters. The SWPPPs of individual industrial facilities are the mechanism to achieve compliance with WQS. The State Water Board chose to adopt an iterative approach for complying with WQSs in receiving waters, wherein municipalities must	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		report instances where they cause or contribute to exceedances and then review and improve BMPs so as to protect the receiving waters. This should be the same for municipalities covered by the industrial storm water permit. The holding in the Browner allows the issuance of storm water permits that limit their provisions to BMPs that control pollutants to the maximum extent practicable (MEP), and which do not require compliance with WQSs (Defenders of Wildlife v. Browner (9th Cir. 1999) 191 F.3d 1159.)	
11.46	City of Los Angeles Sanitation	The Permit should not prescribe effluent limitations for any constituents without demonstrated reasonable potential (RP). Under 40 C.F.R. section 122.44(d)(l)(i), limits must control conventional, nonconventional, and toxic pollutants only where those pollutants will be discharged "at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality." (See also Water Code section 13377 (requiring effluent limitations to be "necessary"). The proposed Permit newly imposes NELs based upon proximity to 303(d) listed waters with TMDLs, instead of relying upon the actual data that demonstrates a reasonable potential to exceed the applicable water quality objectives. The State Water Board is bound by court and previous precedential decisions, which hold that	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement

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		in the absence of a showing of reasonable potential for a pollutant to be contained in the effluent, the Permit should not contain any limitations on that substance. Where substances were not detected, or were detected at low levels not rising to RP, limits are not required and may be removed from NPDES permits. Under the ruling in the City of Woodland case, where no reasonable potential exists, no effluent limit is required. Federal rules require a reasonable potential analysis first (40 C.F .R. § 122.44(d)(l)(ii)), and then if an effluent limitation is required, the permitting authority shall ensure that the effluent limits are consistent with the assumptions and requirements of any available waste load allocation (WLA) in a TMDL (40 C.F.R. § 122.44(d)(l)(vii)(B)). To address the need to demonstrate compliance with the TMDL, the WLAs could be applied as Receiving Water Limitations, where compliance is determined in the receiving water, rather than effluent limits. If NELs remain in the permit without a finding of reasonable potential, then these limits are more stringent State law based requirements and the factors in Section 13241 must be considered.	relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
11.47	City of Los Angeles Sanitation	IGP Section VII.B.3 states that the discharge of any listed pollutant will not cause or contribute to an exceedance of a water quality standard. This is demonstrated if: (I) the discharge complies with the water quality standard at the point of discharge or (2) if TMDL and the discharge is	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		controlled at least as stringently as similar discharges subject to that TMDL. An exceedance of a WQS at the point of discharge does not imply that a violation of WQS exists in the receiving water just because an impaired pollutant is present in the discharge. WQS apply to the quality of the receiving water, not to the quality of the storm water discharge. Compliance with receiving water limitations cannot be determined solely by the storm water's water quality characteristics. The City requests that the State Water Board add the following language. "Water Quality Standards apply to the quality of the receiving water, not to the quality of the storm water discharge. Therefore, compliance with receiving water limitations cannot be determined solely by the storm water's water quality characteristics. Additional surface water monitoring required by other NPDES permits or other State Water Board programs can be used to inform dischargers whether receiving water limitations have been exceeded."	
11.48	City of Los Angeles Sanitation	The IGP needs to make it clear that Qualified Storm Events only need to be sample, analyzed, and reported if there is a discharge to a Water of the US.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.49	City of Los Angeles Sanitation	Section XI B of the IGP requires dischargers to analyze storm water samples for additional parameters identified by the discharger in in IGP	Responsible Dischargers are required to conduct a pollutant source assessment and identify in their SWPPP of any pollutants that are industrial

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		Section X.G.2.a.ix -Assessment of Potential Pollutant Sources - including parameters related to receiving waters with 303(d) listed I impairments or approved TMDLs. If a discharger determines that a TMDL or 303(d) listed constituent is a potential pollutant at the facility, the discharger must include that constituent in the MIP. Additional parameters may be added or removed in accordance with any updated SWPPP pollutant source assessment. Just because industrial pollutants are present at an industrial facility does not necessarily mean the pollutant it is likely to be in their storm water discharge in significant amounts to cause a violation of receiving water WQSs. The proposed IGP Amendment should allow monitoring prior to incorporation of TMDLs into the IGP for pollutants with existing TMDLs already established within a facility's HUC 10 Watershed to establish the presence of the pollutant within the storm water discharge or lack thereof. The proposed IGP Amendment needs to make it clear that each facility's SWPPP and MIP determine whether TMDL or 303(d) listed constituents are potential storm water pollutants that require additional monitoring.	pollutants present at the facility with a potential to be discharged, and are required to identify in their SWPPP of the applicable 303(d) pollutants (Section XI.B.6.e) in the facility's watershed (sized at the Hydrologic Unit Code 10 watershed) and whether those 303(d) listed pollutants are industrial pollutants present at the facility with a potential to be discharged. Responsible Dischargers are required to demonstrate that they are meeting applicable NALs/TNALs/NELs by following the monitoring, sampling, and reporting requirements of this General Permit for all pollutants identified in a facility's SWPPP.

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11.50	City of Los Angeles Sanitation	Change "Cn" for Cyanide to "CN". Similarly, change "NH" for Ammonia to "NH3" as it is used in Table I.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.51	City of Los Angeles Sanitation	The proposed lGP amendment refers to methods and method #s from Std. Methods 18th Edition. LASAN suggests that the proposed IGP amended IGP refer to the updated 22nd Ed., 2012 version.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.52	City of Los Angeles Sanitation	The geometric mean is routinely used, in lieu of an average, for the summary of bacterial densities, as it is not influenced by very large values in a skewed population. LASAN requests that the geometric mean be used for bacterial densities.	As described in the Fact Sheet, geometric mean sampling is inconsistent with the monitoring and sampling requirements of this General Permit and single sample limits are instead used. No changes have been made to address this comment.
11.53	City of Los Angeles Sanitation	Clear distinction should be made between "Total PCBs" and "PCBs." To illustrate the need for Table this clarity, footnotes 1 and 3 state the same parameters (Polychlorinated biphenyls), but each refers to a different entity in Table E-1 . Additionally, the form of PCBs of interest should be stated (i.e. Aroclors or congeners). The Water Board glossary (https://www.waterboards.ca.gov/water_issues/programs/stormwater/igp 20140057 dwq .shtmI) does not provide this information.	Changes have been made in the Amendment (Fact sheet and Attachment E) to ensure that the distinction on the pollutant type is clear.
11.54	City of Los Angeles Sanitation	In Footnote #2, Dichlorodiphenyltrichloroethane is a single compound, but is listed as DDTs. Please clarify whether DDTs means Dichlorodiphenyltrichloroethane or the molecule	Changes have been made in the Amendment (Fact sheet and Attachment E) to ensure that each TMDL translation clearly distinguishes the pollutant type. The footnotes have been removed

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		DDT plus its five (5) transformation products (i.e. 2,4'-DDE; 4,4'-DDE; 2,4'-DDD; 2,4'-DDT; 4,4'-DDD; 4,4'-DDT).	from Attachment E so it is not confused with the specific pollutant type assigned in the Fact Sheet for each TMDL.
11.55	City of Los Angeles Sanitation	The use of "Organochlorine Pesticides" and "Pesticides" is confusing. LASAN requests that the IGP clarify whether they referring to the same thing - as chemical names need to be consistent.	Changes have been made to ensure the pollutant type is labeled as Organochlorine Pesticides all throughout the Amendment (Fact Sheet and Order).
11.56	City of Los Angeles Sanitation	PAHs need to be defined and the compound list should be included.	Changes have been made in the Amendment (Fact sheet and Attachment E) to ensure that PAHs are defined.
11.57	City of Los Angeles Sanitation	The Total Zinc Instantaneous Maximum TMDL Numeric Action Level (TNAL) proposed to be incorporated into Attachment E of the IGP for Ballona Creek and Sepulveda Canyon Channel is 0.10777 mg/L. This value is inconsistent with the Ballona Creek Metals TMDL wet-weather numeric target identified in the BPA which is 0.104 77 mg/L. Please revise the Total Zinc Instantaneous Maximum TNAL to be consistent with the Ballona Creek Metals TMDL BPA.	The total zinc instantaneous maximum value in the Amendment has been changed to reflect the correct value assigned in the TMDL.
11.58	City of Los Angeles Sanitation	The Total Lead Instantaneous Maximum TNAL proposed to be incorporated into Attachment E of the IGP for Dominguez Channel Estuary (Pg. 18 of Attachment E), the Greater Los Angeles/Long Beach Harbor waters including: Inner and Outer Harbor, Main Channel, Southwest Slip, Cabrillo Marina, Inner Cabrillo Beach, Los Angeles River Estuary, and San Pedro Bay (Pg. 19 of Attachment E), Consolidated Slip (Pg. 20 of Attachment E), and Fish Harbor (Pg. 22 of Attachment E) is 0.00853 mg/L. This value is inconsistent with the Los Angeles and Long Beach Harbor Waters TMDL	The total lead instantaneous maximum value in the Amendment has been changed to reflect the correct value assigned in the TMDL.

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		receiving (salt) water column concentration based Waste Load Allocation (WLA) identified in the BPA which is 0.00852 mg/L. Please revise the Total Lead Instantaneous Maximum TNAL to be consistent with the Los Angeles and Long Beach Harbor Waters TMDL BPA.	
11.59	City of Los Angeles Sanitation	The polycyclic aromatic hydrocarbon (PAH) Instantaneous Maximum TNAL proposed to be incorporated into Attachment E of the IGP for Dominguez Channel Estuary is 0.00049 mg/L. This value is inconsistent with the Los Angeles and Long Beach Harbor Waters TMDL receiving (salt) water column concentration-based WLA identified in the BPA which is 0.000049 mg/L. Please revise the PAH Instantaneous Maximum TNAL to be consistent with the Los Angeles and Long Beach Harbor Waters TMDL BPA.	The PAH instantaneous maximum TNAL value in the Amendment has been changed to reflect the correct value assigned in the TMDL.
11.60	City of Los Angeles Sanitation	The Echo Park Lake Trash TMDL incorporation into the General Permit does not include a TNAL for trash. Instead, the IGP includes a required action to "comply with this General Permit and install minimum and advanced BMPs to control the discharges of trash". The LASAN requests that the General Permit includes a TNAL of zero trash for Dischargers to help ensure that industrial dischargers are working as hard as MS4 permittees at eliminating the challenges posed by trash.	Attachment E has been changed to require the installation of minimum and advanced BMPs to meet the TMDL target of 0 (zero) trash in or on the water and on the shoreline.
11.61	City of Los Angeles Sanitation	The Total Copper Instantaneous Maximum TNAL proposed to be incorporated into Attachment E of the IGP for the Los Angeles River and Tributaries is 67.49 mg/L. This value is inconsistent with the Los Angeles River Metals TMDL wet-weather numeric target	The total copper instantaneous maximum value in the Amendment has been changed to reflect the correct value assigned in the TMDL.

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		identified in the BPA which is 0.06749 mg/L (0.017 mg/L multiplied by a water-effect ratio of3.97). Please revise the Total Copper Instantaneous Maximum TNAL to be consistent with the Los Angeles River Metals TMDL BPA.	
11.62	City of Los Angeles Sanitation	Both DCT and LAG are included in the LA River Watershed Bacteria TMDL, whose only indicator bacteria target is E. Coli (Attachment A to Resolution No. R10-007). Fecal coliform analysis is no longer performed by the City's EMD laboratory and has been removed from the City's certification. Enterococcus is not a fresh water bacterial indicator and is only required for ocean waters. EMD analyses E. Coli and Enterrococcus for discharges to ocean waters and E. Coli for discharges to the LA River. Attachment E requires Total Coliforms, Fecal Coliforms, and Enterococcus for the Harbor Bacteria TMDL. LASAN requests that Attachment E (LA Harbor Bacteria TMDL) be updated to reflect current approved monitoring for these TMDLs.	The Los Angeles Harbor Bacteria TMDL addresses direct discharges into the Los Angeles Harbor (Inner Cabrillo Beach and Main Ship Channel). For a TMDL and the associated sampling requirements to be applicable to a Responsible Discharger, they must be directly discharging to the Los Angeles Harbor or through a MS4 discharging directly into the Los Angeles Harbor. The sampling requirements in Attachment E apply because the Los Angeles Harbor is a salt water body. The Responsible Discharger will need to identify their receiving water body and, per a pollutant source assessment, know what they are discharging to apply the correct requirements. No changes have been made to address this comment.
11.63	City of Los Angeles Sanitation	Table 2 of the General Permit does not include numeric action levels (NALs) for nitrate-nitrogen or nitrite-nitrogen. Therefore, LASAN requests TNALs for nitrate-nitrogen, nitrite-nitrogen, and nitrate-nitrogen plus nitrite-nitrogen be added to Table 2 of the IGP.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
11.64	City of Los Angeles Sanitation	The units assigned to the Instantaneous Maximum TNALs proposed to be incorporated into Attachment E of the IGP for Marina del Rey Harbor are µg/L. These units are inconsistent	The units of measurement in Attachment E identified as µg/L were incorrect and have been updated to µg/kg.

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		with the Marina del Rey Harbor Toxics TMDL numeric targets for organic compounds in sediment identified in the BPA which are µg/kg. Please revise the units to be consistent with the Marina del Rey Harbor Toxics TMDL BPA.	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. The proposed NELs and TNALs are consistent with the WLAs assigned to Responsible Dischargers. They have been assigned to protect and restore the quality of the waterbodies identified in the Harbor Toxics TMDL.
11.65	City of Los Angeles Sanitation	The General Permit Fact Sheet states "Attachment E of this General Permit lists the watersheds with U.S. EPA-approved and U.S. EPA-established TMDLs that include TMDL requirements for Dischargers covered by this General Permit." However, it appears as if two U.S. EPATMDL approved TMDLs that include requirements for Dischargers were omitted when adopted in 2014: 1. Santa Monica Bay Beaches Bacteria TMDL 2. Los Angeles River Bacteria TMDL	At this time, the TMDLs considered for implementation into this General Permit are those currently listed in Attachment E. The State Water Board will consider additional adopted TMDLs that require implementation into this General Permit during the next General Permit reissuance. TMDLs adopted in the future will be considered for implementation in future General Permit reissuances. No changes have been made to address this comment.

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		For consistency, the General Permit should be revised to incorporate the Santa Monica Bay Beaches Bacteria TMDL through the assignment of Instantaneous Maximum TNALs equivalent to the Santa Monica Bay Beaches Bacteria TMDL single sample numeric targets. For consistency, the General Permit should be revised to incorporate the Los Angeles River Bacteria TMDL through the assignment of Instantaneous Maximum TNALs equivalent to the Los Angeles River Bacteria TMDL single sample numeric targets.	
12.1	City of Redlands	On behalf of the City of Redlands, I would like to thank you for the opportunity to comment on the proposed amendment of the NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITIES ORDER NPDES NO. CAS000001 ORDER 2014-0057-DWQ, AMENDED BY ORDER 2015-0122-DWQ. I respectively submit the following with regard to ATTACHMENT I, COMPLIANCE OPTIONS of the proposed order.	Comment noted.
12.2	City of Redlands	ATTACHMENT I COMPLIANCE OPTIONS, SECTION II (B) states that "The Discharger may include the BMPs that capture and divert the required storm water runoff volumes to a publicly owned sanitary sewer treatment facility, or to an on-site facility for on-site use. The minimum required storm water volume to be diverted shall be in accordance with the Section E.1 and E.2 below. The diverted or used volume	Language has been added to Attachment I Section II.B to address this comment. Dischargers complying with the On-Site Compliance Option are required to comply with all requirements from the POTW prior to and while diverting the discharge into the POTW's system.

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		of storm water is not authorized to discharge from the industrial facility." The preceding excerpt of the proposed amendment contains language that causes concern. Indicating that a Discharger has the option to "capture and divert the required storm water runoff volumes to a publicly-owned sanitary sewer treatment facility" infers permission to discharge into a Publicly Owned Treatment Works (POTW), which may not be allowed. The effect of hydraulic overload during a rain event is a concern for POTW s. This condition has the potential to attribute to Sanitary Sewer Overflows (SSO) due to the decrease of capacity in collection systems during rain events. There is additional energy, chemical and operational costs involved in the treatment of stormwater at the POTW. Additionally, increased flow during rain events has the potential to cause pass through and/or interference at a POTW.	
12.3	City of Redlands	I recommend that the ATTACHMENT I COMPLIANCE OPTIONS, SECTION II (B) include language that specifies a compliance option shall be approved by the local regulatory agency, in writing, prior to acceptance by the SWRCB. This type of statement would eliminate any implied permission as well as direct the Discharger to obtain the proper authority.	Language has been added to Attachment I Section II.B to address this comment. Dischargers complying with the On-Site Compliance Option are required to comply with all requirements from the POTW prior to and while diverting the discharge into the POTW's system.
13.1	City of San Diego	The City of San Diego (City) appreciates the opportunity to provide comments on the	Comment noted.

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		proposed amendment to the Statewide Storm Water Industrial General Permit, Order 2014-0057-DWQ as amended by Order No. 2015-0122-DWQ (Industrial General Permit). The City understands that the State Water Resources Control Board (State Board) is proposing the revisions to include statewide compliance options to allow compliance with water quality objectives through onsite and regional storm water capture best management practices (BMPs), and including Total Maximum Daily Load (TMDL)-related requirements. The City supports the use of statewide compliance options to incentivize storm water capture and use and storm water infiltration.	
13.2	City of San Diego	The City purveys drinking and recycled water, operates fixed industrial facilities (e.g., wastewater and landfill operations) covered under the Industrial General Permit, and manages and operates a vast municipal separate storm sewer system (MS4) that receives flow from other industrial facilities. The City's interests align with the benefits of this amendment including 1) improving groundwater recharge; 2) reducing pollutant loads discharged to surface waters; and 3) incorporating transparent compliance options for National Pollutant Discharge Elimination System (NPDES) permitees (Responsible Parties). The City's primary comments are discussed in the body of this letter, and detailed comments and recommendations are provided in Attachment A.	Comment noted.
13.3	City of San Diego	The City supports efforts by Responsible Parties covered under the Industrial General Permit to	The infiltration requirements are designed to be protective of water quality and are based on a

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		responsibly infiltrate storm water and supports the language to incentivize infiltration, where feasible. The City recommends removing overly restrictive requirements that may prevent Responsible Parties from proposing infiltration BMPs that pose a low risk to receiving groundwater quality. The City's detailed comments table includes some of the overly restrictive language with recommended changes.	model that evaluated the pollutant removal efficiency associated with the use of the 85th percentile 24-hour storm event as further explained in the Fact Sheet. If the BMP design is not feasible for a Discharger to utilize on-site, then this option may not be an appropriate selection for compliance with this General Permit.
13.4	City of San Diego	The City supports the addition of offsite compliance options that use the 85th percentile design storm. If this option is included in the Industrial General permit, the City requests that equivalent compliance options with identical design storm sizes be incorporated into all NPDES storm water permits so there is equal accountability for all permittees.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
13.5	City of San Diego	The City recommends adding language indicating TMDL-specific permit requirements do not apply to Responsible Parties that meet the no exposure certification (NEC) coverage requirements for the applicable TMDL-specific parameter(s), for Responsible Parties that do not have industrial pollutants related to the receiving waters with the approved TMDLs, or for facilities that do not drain to receiving waters with approved TMDLs.	The inapplicability of TMDL-specific permit requirements to Dischargers with No-Exposure Certification (NEC) coverage is discussed in Order Finding 50.
13.6	City of San Diego	The City recommends additional effort be made to differentiate and define TMDL Numeric Action Levels (TNAL), Numeric Effluent Limitations (NELs), and TNAL and NEL exceedances. There were several inconsistencies and missing table references (i.e. General Permit TMDL	Changes have been made throughout the Amendment to clarify and define TNALs, NELs, and TNAL/NEL exceedances. Additionally, missing table references have been identified.

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		Compliance Table) throughout the Industrial General Permit amendment documents.	Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
13.7	City of San Diego	IGP I.F. Item 50 Total Maximum Daily Loads (TMDL)-specific permit applicability needs to be modified. The Industrial General Permit (IGP) does not clearly identify/link TMDL applicability to the Pollutant Source Assessment in the IGP, to industrial sources, or exposure to industrial sources. **Recommendation** Recommend adding language indicating TMDL-specific permit requirements do not apply to	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the

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		Responsible Parties with IGP coverage that meet the NEC coverage requirements for the applicable TMDL-specific parameter(s) or for Responsible Parties that do not have industrial pollutants related to the receiving waters with approved TMDLs, or for facilities that do not drain to receiving waters with approved TMDLs.	monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified. The inapplicability of TMDL-specific permit requirements to Dischargers with NEC coverage is discussed in Order Finding 50.
13.8	City of San Diego	IGP I.F. Item 51	Clarifications have been made in the Amendment to address this comment.

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		Item 51 references the General Permit TMDL Compliance Table, but the table location is not provided. **Recommendation** Recommend including the location of the table and reference it consistently throughout the document. The reference is for the second table in Attachment E, which should be referenced as Table E-2 in Attachment E.	The name and location of the table has been noted as: Attachment E Table E-2.
13.9	City of San Diego	IGP I.F. Item 51 Item 51 states TNALs and NELs are found in the General Permit TMDL Compliance Table. The differences between the TNALs and NELs is unclear and needs to be explained in detail. **Recommendation** NEL exceedances should be defined in the Glossary. Recommend differentiating between TNALs and NELs.	The Glossary (Attachment C) has been updated with definitions for “Numeric Effluent Limitation” and “Numeric Effluent Limitation Exceedance”. Existing Glossary language defined “TMDL Numeric Action Level” and TNAL Exceedance.
13.10	City of San Diego	IGP I.F. Item 55 NELs are not defined in Section XII.A.2 as described in Item 55. **Recommendation** Section XII.A.2 should reference NELs (see Comment 6 within this table).	The referenced language has been changed and language added to the Glossary to define NELs.
13.11	City of San Diego	IGP I.F. Item 56 Attachment I Compliance Options should be applicable to NALs, TNALs, and NELs. The statement complying with the applicable NALs infer that the NALs are effluent limits. **Recommendation** Revise the language in Item 56 as follows: “The State Board allows Responsible Parties statewide to comply with the alternative compliance options below instead of complying	Changes have been made to the Order’s Findings and throughout the Amendment to clarify the benefits of the Compliance Options.

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		with applicable NALs***/TNALs/NELs or demonstration requirements under the ERA process***, Discharge Prohibitions Section III.C, TMDL waste load allocations (WLAs), and Receiving Water Limitations. Responsible Parties are still required to comply with the applicable Subchapter N effluent limitations."	
13.12	City of San Diego	IGP I.M. Item 76 The IGP amendments need to improve the descriptions/definitions of the TNALs and NELs. **Recommendation** 1) Revise section to include instantaneous maximum TNALs and NELs in the initial paragraph and separate TNALs and NELs within their own section (76.c and 76.d). 2) Include language on how the TNALs and NELs were established. 3) References should be included for the second table in Attachment E, Table E-2.	The Glossary (Attachment C) has been updated with definitions for "Numeric Effluent Limitation" and "Numeric Effluent Limitation Exceedance". Existing Glossary language defined "TMDL Numeric Action Level" and "TNAL Exceedance".
13.13	City of San Diego	IGP VII.A.3 There is an incorrect reference in the text. **Recommendation** Revise reference to Table X to Table E-2 in Attachment E.	The suggested revision has been made.
13.14	City of San Diego	IGP VII.C.1 and 2 There is an incorrect reference in the text. **Recommendation** Table X is not in Attachment E. Recommend changing Table X to Table E-2, as described in comment 7 above.	The suggested revision has been made.
13.15	City of San Diego	IGP VII.E The IGP amendments need to clarify distinction between NEL exceedances and TNAL exceedances.	Section VII.E of the Amendment applies only to NEL exceedances and does not purport to apply to TNAL exceedances. Order Finding 76 further states that "The NAL/TNAL exceedances defined

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		Recommendation Add reference to Table E-2. Clarify this only applies to NEL exceedances and not TNAL exceedances.	in this General Permit are not, in and of themselves, violations of this General Permit."
13.16	City of San Diego	IGP XI.C.7.g This section needs to incorporate NELs. **Recommendation** Include NELs in statement.	Section XI.C.7. has been updated to include NELs.
13.17	City of San Diego	IGP.XII.A The IGP amendments need to improve the descriptions/definitions of the TNALs and NELs. **Recommendation** Revise section to include instantaneous maximum TNALs and NELs in the initial paragraph and separate TNALs and NELs within their own section (3 and 4). Item 3 should be added to Section XII.A as follows: "Instantaneous maximum TNAL exceedance: The Discharger shall compare sampling and analytical results from each distinct effluent sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum TNAL value in Table E-2 in Attachment E. An instantaneous maximum TNAL exceedance occurs when two (2) or more analytical results from samples taken from any single parameter within a reporting year exceed the instantaneous maximum TNAL value. An instantaneous maximum TNAL exceedance requires Water Quality Based Corrective Actions as specified in Section XX.B."	The Glossary (Attachment C) has been updated with definitions for "Numeric Effluent Limitation" and "Numeric Effluent Limitation Exceedance". Existing Glossary language defined "TMDL Numeric Action Level" and "TNAL Exceedance".

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		Item 4 should be added to Section XII.A as follows: “Instantaneous maximum NEL exceedance: The Discharger shall compare sampling and analytical results from each distinct effluent sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NEL value in Table E-2 in Attachment E. An instantaneous maximum TNAL exceedance occurs when two (2) or more analytical results from samples taken from any single parameter within a reporting year exceed the instantaneous maximum NEL value. An instantaneous maximum NEL exceedance requires Water Quality Based Corrective Actions as specified in Section XX.B.”	
13.18	City of San Diego	Attachment C/ Glossary The IGP amendments need to use consistent terminology throughout the document when referring Alternative Compliance Options. The term should be added to the glossary. **Recommendation** Add definition of Alternative Compliance Options (see comments re: Attachment I).	The terminology used in the Amendment has been updated to be consistent throughout.
13.19	City of San Diego	Attachment C/ Glossary Responsible Discharger should be limited to the discharge of industrial-sourced pollutants and identified in the respective TMDL for purposes of IGP Implementation. **Recommendation** A Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges pollutants associated with industrial activities in storm water and Authorized NSWDs	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section

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		to impaired waterbodies or to an upstream reach or tributary to impaired waterbodies either directly or through a municipal separate storm sewer system (MS4) and is included in a U.S. EPA approved TMDL as a potential industrial source of pollutants contributing to the impairment.	XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
13.20	City of San Diego	Attachment C/ Glossary The TNAL exceedance definition is not properly defined. **Recommendation** TNAL Exceedance – Recommend revising the definition using the NAL Exceedance language. “The Responsible Discharger shall compare sampling and analytical results from each distinct effluent sample (individual or composite) to the corresponding Instantaneous maximum TNAL values in Table E-2 in Attachment E of this General Order. An instantaneous maximum TNAL exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum TNAL value.”	No changes have been made in response to this comment.
13.21	City of San Diego	Attachment C/ Glossary NEL and NEL exceedance are not defined in the glossary. **Recommendation** Include definition of NEL and NEL exceedance in the glossary.	The Glossary (Attachment C) has been updated with definitions for “Numeric Effluent Limitation” and “Numeric Effluent Limitation Exceedance”. Existing Glossary language defined “TMDL Numeric Action Level” and “TNAL Exceedance”.
13.22	City of San Diego	Attachment C/ Glossary	This is addressed in the Fact Sheet.

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		Clarify that waste load allocations are allocated through TMDLs. **Recommendation** The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution through a TMDL.	No changes have been made to address this comment.
13.23	City of San Diego	Attachment E/List of Existing TMDLs Applicable to Industrial Storm Water Discharges When reading this section, it would be helpful to cite the table number when referencing. **Recommendation** For clarity, we recommend adding “Table E-2” to the table title.	The TMDL Compliance Table has been labeled as Table E-2.
13.24	City of San Diego	Attachment E/List of Existing TMDLs Applicable to Industrial Storm Water Discharges Implementation of applicable TMDLs (and 303-d list impairments listed in SMARTS) should be more accurately represented both in the inclusion of TMDLs and application of 303(d) listings in the SMARTS annual reporting. This should be based on specific areas, facilities, and sources that drain to the impaired water body and not based on general hydrologic area delineations (i.e. simply being located in the larger watershed), and allocations for non-specific industrial sources. For example, some facilities are downstream from or do not drain to impaired water	The TMDL modeled a unique watershed boundary to assess sources contributing to the load to address the impaired water body which is different than the Hydrologic Unit Code 10 sized watershed used as part of the industrial pollutant source assessment for impairment-pollutant combinations. Dischargers with facilities located in a TMDL watershed will need to know what watershed, water body, or tributary it discharges into. The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL

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		bodies with a TMDL or 303(d) listing even though they are in the same hydrologic subarea. A specific example of this is the Point Loma Wastewater Treatment Plant (PLWTP), which has been identified by SMARTS as being subject to the Shelter Island Copper TMDL requirements because it is an industrial Discharger. Industrial Discharges are identified as a source in the TMDL, and it is located in the Pueblo Hydrologic Sub-area (908.1) or the "Shelter Island Yacht Basin watershed". However, p.75 of the fact sheet identifies the industrial Responsible Parties and activities associated with the source of copper for this TMDL and does not identify wastewater treatment; nor does the TMDL. This is application of the TMDL to PLWTP inappropriate because: 1. The PLWTP does not drain to Shelter Island or to San Diego Bay, which is on the eastern side of Point Loma (it drains to the Pacific Ocean on the western side of Point Loma); and 2. The industrial activity/Responsible Parties identified in the TMDL are associated with boating operations, hull cleaning, and copper antifouling paint used on watercraft, not wastewater treatment. **Recommendation** Add an exception for PLWTP for all Shelter Island TMDLs because the PLWTP does not drain to this water body and was not identified as a contributing source in the TMDL, refer to the figure provided on the next page.	WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole. When the receiving waters are identified, a Responsible Dischargers shall review Attachment E and identify the applicable TMDL-specific requirements that they will need to comply with. Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. An industrial facility is only applicable to the requirements for a TMDL if they are discharging the pollutant identified into the watershed/water body/tributary specific for TMDL compliance in Attachment E Table E-2. The Factsheet provides information on the translation of the Shelter Island Yacht Basin into this General Permit. Responsible Dischargers

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			were not directly assigned a WLA since the TMDL defined them as a part of urban runoff, therefore, a reduction of copper load is not required because urban runoff is an insignificant source of copper contributing to the impairment. Compliance with this General Permit is compliance with the Shelter Island Yacht Basin. The compliance dates in Attachment E are drawn from the TMDLs and cannot be altered by a permitting action.
13.25	City of San Diego	Attachment I Title The title “Compliance Options” should be changed as Responsible Parties have other compliance options not specified in Attachment I. “Alternative compliance options” was used on Item 56, Page 9. **Recommendation** Recommend revising the attachment title and any other applicable references to “Alternative Compliance Options.”	Clarifications have been made in Attachment I to address the comment. The Compliance Options in Attachment I are optional pathways to compliance with this General Permit and the traditional compliance pathway is available, which includes demonstrating compliance with Sections III.C, V.A, V.C, and VI.
13.26	City of San Diego	Attachment I Section I.B. and C Support this update. **Recommendation** Add equivalent compliance options into other storm water permits so that there is equal accountability for all permittees.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
13.27	City of San Diego	Attachment I Section II.B The last sentence of this section should be revised for consistency, and to clarify that storm	The suggested revisions have been made, with minor changes in phrasing.

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		water that is diverted or captured and used on site is not authorized to discharge to a receiving water, but may be allowed to discharge to waters of the state under Section J. **Recommendation** The diverted or used volume of storm water is not authorized to discharge to a receiving surface water body or to the MS4 from the industrial facility.	
13.28	City of San Diego	Attachment I Section II.D What constitutes groundwater "degradation" is not defined, and therefore Responsible Parties cannot ensure non-degradation. Meeting other requirements of Attachment I is more than necessary to document that the infiltration BMPs pose low risk to receiving groundwater quality. **Recommendation** Recommend striking entire paragraph.	The requirement that infiltration BMPs not degrade groundwater refers to Sections IV.B and IV.C of Attachment I, which specify the actions necessary to meet this requirement.
13.29	City of San Diego	Attachment I Section II.E.1 Footnote 2 The more stringent compliance storm standard requirement to capture, infiltrate, and/or use storm water for a specific daily storm volume will be challenging for most facilities to achieve. For example, recovery of capacity within 24 hours is overly restrictive for evapotranspiration (ET) BMPs and infiltration BMPs constructed in hydrologic soil group (HSG) C and D soils. ET BMPs cannot meet this standard as written, and is likely economically infeasible for sites with HSG C or D soils. A site that meets NONA	The Fact Sheet has been updated with the addition of continuous simulation modeling/analysis (i.e. SWMM model) information further justifying the 24-hour drawdown time (or equivalent) requirement. Attachment I has been updated to provide the option to include additional storage volume to meet the compliance storm standard (85th percentile 24-hour storm) to offset a longer drawdown time.

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		exemption using ET only will not meet this standard, as currently written. **Recommendation** Provide an additional option for a Discharger to run a continuous simulation model. A Discharger should be deemed in compliance if the BMP meets a standard such as retaining at least 90% of the annual average runoff. If this option is selected, the Discharger should provide annual flow data demonstrating they met this compliance option.	
13.30	City of San Diego	Attachment I Section II.E.2 Responsible Parties should be provided options based on tributary areas. All flows from "all areas" associated with industrial activity at the facility is overly restrictive. Responsible Parties may not have the ability to meet these requirements in certain areas of their property, while complying with the options at others. Other options may be implemented such as preventing exposure. **Recommendation** Revise the language as follows: "2. Include all flows from areas associated with industrial activity covered under the Alternative Compliance Options at the facility for the following discharges:"	Using a Compliance Option for a portion of a facility's compliance with this General Permit while using other methods in different portions of the facility is not available option at this time, although the State Water Board may consider modifications to the Compliance Options, such as the modifications suggested here, at a future date. No changes have been made to address this comment.
13.31	City of San Diego	Attachment I Section II.E.2.c For consistency with Section XII.D.2.b, this should be clarified as run-on within the facility and not from run-on from adjacent properties. **Recommendation**	Dischargers are responsible for the flow of run-on and the commingling that occurs with the facility's industrial storm water. Dischargers will need to asses and consider diverting excess non-industrial flow running onto their property and/or non-industrial flow running into industrial areas

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		"Non-industrial run-on from within the facility that commingles with the industrial storm water flowing into the BMP(s)."	within the facility for the sizing and design of the BMP(s) for meeting the On-Site Compliance Option requirements.
13.32	City of San Diego	Attachment I Section II.E.3 Same as comment 23 for II.E.1, Footnote 2. **Recommendation** Provide an additional option for a Discharger to run a continuous simulation model and retain at least 90% of the annual average runoff.	The Fact Sheet has been updated with the addition of continuous simulation modeling/analysis (i.e. SWMM model) information further justifying the 24-hour drawdown time (or equivalent) requirement. Attachment I has been updated to provide the option to include additional storage volume to meet the compliance storm standard (85th percentile 24-hour storm) to offset a longer drawdown time.
13.33	City of San Diego	Attachment I Section II.E.6.a Applicability of MCLs for infiltration BMPs should be limited to areas with the groundwater recharge or municipal/domestic supply beneficial uses and to areas where drinking water wells are within a specified range downstream. **Recommendation** "a. The Discharger shall ensure that all influent entering the infiltration BMP(s) meets applicable Maximum Contaminant Level (MCL) criteria for industrial pollutants at the facility with groundwater recharge or municipal/domestic supply beneficial uses or in close proximity to drinking water wells, as specified in Table A below."	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
13.34	City of San Diego	Attachment I Section	The suggested revision has been made.

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		II.E.6.a.ii Lysimeters monitor soil moisture, not groundwater. Monitoring devices could include lysimeters or monitoring wells. **Recommendation** Remove the word “groundwater.”	
13.35	City of San Diego	Attachment I Section II.E.6.b Evaluate removal of more restrictive requirements for drywells. Drywells can be monitored similarly to other infiltration BMPs. They are installed in the vadose zone, not the saturated zone. Drywells can be monitored using downgradient monitoring wells, or lysimeters installed between the bottom of the drywell and historical high groundwater elevation. **Recommendation** Delete entire entry.	Infiltrating storm water above the MCL criteria into a dry well could potentially impact groundwater. Therefore, where the influent is not meeting MCLs, pretreatment is necessary to ensure all pollutants associated with industrial activities in the influent of the dry well meet MCL criteria, additionally Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to groundwater. No changes have been made to address this comment.
13.36	City of San Diego	Attachment I Section II.E.6.b There is an incorrect reference. **Recommendation** Item II.E.6.b. should refer to II.E.6.a.i, not II.E.5.a.i	The suggested revision has been made.
13.37	City of San Diego	Attachment I Section II.E, Table A The water quality objectives in this table should reference the respective regional basin plan objectives, if they exist, because those objectives better reflect and are more applicable to local conditions.	Per Attachment I Footnote 12 (formerly Footnote 7), if the applicable Regional Water Board's basin plan water quality objectives are more stringent, it will supersede the pretreatment limits in Table A. No changes have been made to address this comment.

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		Recommendation Add a footnote to state these limits apply if the regional basin plans do not specifically address that pollutant and that, if addressed in a basin plan for the water body and pollutant, the local basin plan limits supersede the IGP.	
13.38	City of San Diego	Attachment I Section II.F.1 Clarify that this section applies to all Responsible Parties that are not being elevated to a higher status because current permit requirements do not require ERA reports or action plans unless their status is elevated after the amendment effective date. **Recommendation** "A Discharger with Baseline Status <u>for all pollutants</u> as of (insert amendment effective date) <u>or that is already at Level 1 status as of (insert amendment effective date) or subsequently returns to baseline status before selecting to implement an alternative compliance option..."</u>	Changes have been made in the Amendment to address this comment. Attachment I defines Baseline status for the purpose of implementing the On-Site Compliance Option.
13.39	City of San Diego	Attachment I Section II.F.2 Clarify that this section requires Responsible Parties to be raised to Level 1 status for any constituent after the effective date. If a Discharger is already at Level 1 status and remains there or returns to baseline, they will not be submitting an ERA report. **Recommendation**	Changes have been made in the Amendment to address this comment. Attachment I defines Level 1 for the purpose of implementing the On-Site Compliance Option.

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		"A Discharger ~~with~~ raised to Level 1 Status for any pollutant ~~as of~~ after (insert amendment effective date)."	
13.40	City of San Diego	Attachment I Section II.F.3 Clarify that this section requires Responsible Parties to be raised to Level 2 status for any constituent after the effective date. If a Discharger is already at Level 2 status or if BMPs implemented bring their status down, they will not be submitting an ERA action plan and technical report. **Recommendation** "A Discharger ~~with~~ raised to Level 1 Status for any pollutant ~~as of~~ after (insert amendment effective date)."	Changes have been made in the Amendment to address this comment. Attachment I defines Level 2 status for the purpose of implementing the On-Site Compliance Option.
13.41	City of San Diego	Attachment I Section II.H.1.d The term "representative" is subject to interpretation in terms of sample frequency. Also, Table A should be referenced for the constituent list for infiltration BMPs as well as the applicable monitoring frequency. In addition, please clarify this section does not apply to sewer diversions. **Recommendation** "Conduct one annual representative analytical sampling of the influent... Infiltration BMP influent samples should also be analyzed for the constituents listed in Table A annually. Although separate monitoring and permitting may be required by a sewer agency, sampling is not required under this permit for diversions to a sanitary sewer system."	Sampling and analysis of influent is only applicable to infiltration BMP(s). A minimum sampling frequency of influent entering the infiltration BMP(s) has been added.

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13.42	City of San Diego	Attachment I Section II.H.3.b SWPPP upload requirements should be consistent with permit SWPPP upload requirements for major modifications, allowing for 30 days to upload after initial operation. This provides Responsible Parties an opportunity to test, operate, and troubleshoot the BMP on a short-term basis, if necessary, before the BMP is considered implemented and officially seeking an alternate compliance option. **Recommendation** "The updated SWPPP shall be available at the facility 7 30 days prior after to the initial operation of the BMP(s). The Discharger shall certify and submit the updated SWPPP via SMARTS 7 days prior to the initial operation of the BMP(s)."	A SWPPP is to be updated and uploaded onto SMARTS prior to BMP operation to provide information on the Discharger's progress in the implementation of the Compliance Option. The Order allows Dischargers to update and revise the SWPPP as define in Section X.B.
13.43	City of San Diego	Attachment I Section II.K.4 The wrong tense is used in this sentence. **Recommendation** Change authorized to "authorize".	The suggested revision has been made.
13.44	City of San Diego	Attachment I Section II.K.4 Metrics should be added to provide Responsible Parties clarity on when infiltration would not be considered a threat. **Recommendation** Add metrics to identify when infiltration is not a threat to groundwater such as removal after four (4) consecutive QSEs that were sampled subsequent to BMP implementation indicating no additional MCL exceedances have occurred	Per Order Section XIX.I and Attachment I Section II.K.4, the Regional Water Board has the authority to consider changes in compliance on a case by case basis if found that no threat the groundwater is made. No changes have been made to address this comment.

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		and are not anticipated to occur for that parameter.	
13.45	City of San Diego	Fact Sheet The Fact Sheet needs improved descriptions/definitions of the TNALs and NELs. **Recommendation** Modify Fact Sheet with recommendations on TNAL and NEL definitions above.	The Glossary (Attachment C) has been updated with definitions for “Numeric Effluent Limitation” and “Numeric Effluent Limitation Exceedance”. Existing Glossary language defined “TMDL Numeric Action Level” and “TNAL Exceedance”.
13.45.1	City of San Diego	Section II.E.2.b The IGP amendments also provide TNALs and NELs which needs to be clear in the Fact Sheet. **Recommendation** “This General Permit requires compliance with receiving water and effluent limitations. Responsible Parties may be deemed in compliance with those limitations through compliance with the On-Site Compliance Option or the Off-Site Compliance Option.”	The distinction between TNALs and NELs are clear within the Amendment, no additional revisions are made.
13.46	City of San Diego	Fact Sheet Section II.E.2.b References to the MSGP should clarify that the EPA document is used as guidance only and compliance requirements set forth in that permit may differ from the IGP, in which case the IGP is the primary authority to determine compliance. **Recommendation** Add a footnote to each reference to the MSGP, “In any case that the MSGP may differ from the IGP, the IGP is the primary authority to determine compliance.”	Please see Section II.E.2.b of the Fact Sheet.

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13.47	City of San Diego	Fact Sheet Section II.E.2.b The State Board can encourage, but should not require a Discharger to enter into an agreement with a local jurisdiction. **Recommendation** "The Alternative Compliance Options in this General Permit ~~require~~ encourage the Discharger to: Enter into agreements with local jurisdictions to utilize off-site BMPs for compliance with specific General Permit requirements described in Attachment I."	The Compliance Options are a method for: compliance with V.A, to be deemed in compliance with Section III.C, V.C, and VI of this General Permit, and are an optional compliance path for a Discharger in this General Permit. Changes have been made throughout the Amendment to clarify that a Discharger is not required to implement a Compliance Option.
14.1	CR&R Incorporated	The purpose of this letter is to provide comments on the proposed Industrial General Permit (IGP) Amendment (Amendment) issued by the State Water Resources Control Board (Board) on December 15, 2017. The Board adopted Order 2014-0057-DWQ (known as the IGP or General Order) on April 1, 2014 regulating storm water discharges associated with industrial activities. The new IGP became effective on July 15, 2015 and so has been in place for about 30 months. The proposed Amendment to the IGP incorporates Total Maximum Daily Load (TMDL) requirements for implementing the TMDLs identified as an industrial source of the receiving water impairment. This comment letter provides both general comments and specific comments (addressed by section) to the proposed Amendment of the IGP and some related to the new (2015) IGP.	Comment noted.

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14.2	CR&R Incorporated	The new IGP has been in effect since July 2015 with, at most, two (2) years of data available to evaluate the impacts to the regulated industry and storm water improvements. The changes implemented in 2015 to the IGP required major effort on the part of industry to put the new compliance systems, site plans, staffing, professional assistance, and BMPs into place in order to meet the new monitoring and reporting requirements. Our company expended significant effort and funds to implement the changes required by the new IGP, and we are still in the process of implementing the necessary changes required to meet the requirements. During this process we found numerous areas of the IGP that could be improved or revised to meet the real world applications of these regulations. We have also seen significantly cleaner run off from our sites since the implementation of the IGP in 2015 and, as a result, lowered the impacts from storm water discharge to the receiving water bodies.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered to be point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements.
14.3	CR&R Incorporated	We believe more time is needed for the State and industry to work out issues that have been encountered with the new IGP and to evaluate how the new permit helped to clean up storm water. In our opinion, the State is moving too quickly with the current proposed Amendment and we would like you to consider allowing more time to figure out evaluate the issues with the current permit.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements.

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			Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. A public comment period has been offered to provide stakeholders an opportunity to review the Amendment and provide feedback. Additional public comment periods may be held, if necessary, prior to adoption of the Amendment. Further, State Water Board staff is planning to conduct workshops and public outreach efforts prior to an adoption meeting to allow further discussion of the Amendment.
14.4	CR&R Incorporated	One example of a case that requires more time for evaluation of the IGP is sites that are located in “arid” environments. Typically those sites only receive one QSE (or less) in a 12 month period of time, and some of these sites have not received any QSEs since implementation of the new IGP in 2015. The result is a significant disadvantage for those sites since they cannot use the QSE averaging approach that is spelled out in the new IGP. If any of the NALs at those sites are exceeded (with results above the annual NAL but below the instantaneous maximum NAL, if applicable), and only one QSE occurs, that site goes to Level 1 and may go to Level 2 without any averaging being applied. This is a major problem for those sites because the current IGP language acts as a de-facto	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		instantaneous exceedance for any of the required monitoring parameters at a given site. This also makes getting back to Baseline status very problematic. The State should consider changing the IGP for sites in arid environments so at least two (2) separate QSE storm sampling events are required before going to Level 1 or Level 2. If there is only 1 QSE in a reporting year, the results could be averaged across multiple reporting years to see if the average should bump the given parameter up a level.	
14.5	CR&R Incorporated	The current IGP requirement for an 85th percentile design storm for infiltration design is still in an evaluation mode and may not work across the board for every site. We have implemented infiltration BMPs at a couple of our sites and the use of the 85th percentile design appears to be working so far based on very limited information. However, the jury is still out because the storms since the new 2015 IGP have not reached design levels. Also, the impact of required (regular) maintenance on the long term sustainability of infiltration systems is not fully understood. Based on our experience, it is too early to evaluate the impact of regular maintenance may have on the long term performance of the systems. There is not enough experience yet with the use of this design approach and the other parameters involved in the overall design to know if it is adequate for implementation by industry and adequate for decreasing impacts to storm water.	Clarifications have been made in the Amendment (Attachment I) to address this comment. The Compliance Options are an optional method for compliance with Section V.A and deemed compliance with Section III.C, V.C, and VI of this General Permit and participating in a Compliance Option is not a compliance requirement for this General Permit.
14.6	CR&R Incorporated	In some cases the use of the 85th percentile design cannot be used because the systems will	The sizing requirements for the installation of an On-Site BMP are based on the compliance storm

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		not physically fit into the site due to the size requirements. In addition, each site has different geologic and hydrogeologic conditions that result in significantly different outcomes with regard to the size of the system. Our understanding based on public comments is that some groups are asking for an increase in this design parameter to the 95th percentile design storm requirement. Based on our personal experience, changing the requirement with the proposed Amendment to the IGP to a 95th percentile design storm could make that option physically impossible for most or all sites due to the size requirements, as well as being cost prohibitive for any infiltration treatment system to be installed. More time is needed for industry and the State to evaluate the current design requirements which may or may not be very effective in reaching the goals of cleaner storm water discharge. The State should delay any decision on changes to this design requirement until more evaluation is conducted of the existing system designs, and installations which have only been in place for months or one year.	standard which was modeled to retain the volume of water necessary to be protective of water quality and attain compliance with the effluent limitations and receiving water limitations in this General Permit, including the TMDL requirements proposed in this Amendment. If there is a sizing, geologic, or hydrogeologic concern, then this Compliance Option may not be an appropriate method of compliance with this General Permit for the facility.
14.7	CR&R Incorporated	The proposed Amendment to the IGP includes TNALs and NELs for triggering Level 1 and/or 2 requirements. We support the continued use of the NALs for evaluation of the BMPs implemented at the sites with IGP permits and are open to the including TMDL requirements. However, not providing translation of the TMDLs in the proposed Amendment will leave the TMDLs open to interpretation. During workshops conducted by the Board staff regarding the	This General Permit's monitoring and reporting scheme will be used to implement the TMDL requirements. The exceedance type identified for all TMDL requirements are Instantaneous Maximum exceedances, which is defined in General Permit Section XII.A. Responsible Dischargers will be required to comply with the NAL requirements of this

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		proposed Amendment, the translation of TMDLs was explained to have various methods, depending on how the TMDLs were written. This uncertainty could lead to a vast array of requirements for different sites based on the same TMDL and open the permit holders to citizen suit enforcement if there is a disagreement. If the Board provides those translations with the proposed Amendment, it will remove much of the availability for interpretation, and should provide a pathway for all parties involved to protect the environment, and avoid costly and unproductive litigation as well. This will also aid the representatives of the industry that take their environmental stewardship seriously and are currently doing their best to follow the IGP requirements.	General Permit and any additional TMDL-specific TNAL or NEL requirements. At the effective date of this General Permit, or when the TMDL requirements go into effect (whichever is latter), Responsible Dischargers will start at Baseline Status for applicable Instantaneous Maximum TNAL(s) if they are in Baseline for the same applicable NAL, or if the applicable TNAL has not yet been sampled. Responsible Dischargers shall be in Level 1 status for an applicable TNAL if they are in Level 1 status for an applicable NAL. Responsible Dischargers shall be in Level 2 status for an applicable TNAL if they are in Level 2 status for an applicable NAL. Responsible Dischargers complying with Instantaneous Maximum NELs do not go through the ERA process. Exceedance of an Instantaneous Maximum NEL is a violation of this General Permit. This Amendment, including Attachment E contains the translations of the TMDLs and the required actions for Responsible Dischargers. These clarifications have been made in the Order and the Fact Sheet.
14.8	CR&R Incorporated	**II.E.1:** *Comment: Based on the referenced information provided below and our own experience, the proposed 24-hour drawdown period should be extended to a minimum of 48 hour, or up to 96 hours given proper design. The Caltrans Project*	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in

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		Planning and Design Guide include a 96-hour drawdown time. The City of Los Angeles Low Impact Development Handbook allows a 48-hour drawdown time for surface basins and a 96-hour drawdown time for subsurface basins. The Orange County Technical Guidance Document allows a 48-hour drawdown period for surface and subsurface basins. The Orange County TGD also allows for a 96-hour drawdown time for surface basins and allows the 96 hours to be exceeded for subsurface basins if additional volume is provided to compensate for longer drawdown time by following the Capture Efficiency Method for Volume-Based, Constant Drawdown BMPs. This comment also applies to section II.E.3.	Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
14.9	CR&R Incorporated	**II.E.5.:** *Comment: Are existing infiltration BMPs (installed prior to the proposed Amendment to the IGP) without shutoff valves required to be retrofitted or are they grandfathered in since having a shutoff mechanism was not required at the time of installation?*	Language has been added to Attachment I to give Dischargers the option to implement appropriate spill prevention, response, and training when including a shutoff mechanism is infeasible. Attachment I requirements for existing infiltration BMPs would only apply if the Discharger is pursuing the implementation of one of the Compliance Options.
14.10	CR&R Incorporated	**II.E.6.a.i.:** *Comment: The probability of storm water runoff from any ground surface meeting MCL criteria is highly unlikely, even with pretreatment (notwithstanding mechanical/chemical treatment) regardless of whether or not the storm water is impacted by an industrial activity. The requirement to treat to MCL levels is very problematic for industry since the water arrives at our locations with many MCL's exceeded*	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the

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		prior to touching our facilities. If a treatment system of that type (capable of producing effluent that meets MCL criteria) is installed at a site to pretreat storm water, it would make more sense to retain and reuse the water on site or redistribute the product as potable water rather than to infiltrate it into the ground. For many reasons, this is not a feasible approach for industrial site infiltration BMPs and would preclude this as an option for our industry. The State should reconsider this requirement and propose an alternative performance based pre-treatment option (i.e. minimum BMPs, installation of standard clarifiers with regular maintenance, and infiltration system effluent monitoring). The Boards staff should also make it clear if this requirement will apply to existing infiltration systems installed before the proposed Amendment was issued.	discharger demonstrates no threat to groundwater via monitoring. Retention and reuse of the water on site or redistribution of the product as potable water is allowed for the purposes of the Compliance Options in Attachment I. If the data shows that industry is not threatening groundwater quality, the future requirements of this General Permit can be re-evaluated. Infiltration systems are not required to meet the requirements of Attachment I unless the system is being used for the purposes of compliance with this General Permit via the Compliance Options. No changes have been made to address this comment.
14.11	CR&R Incorporated	**II.E.6.a.ii.** *Comment: What about areas with significant depth to groundwater? For example, the depth to groundwater in the San Fernando Valley can be over 200 feet. What depth would be required for ground water monitoring or for the lysimeters in that case? In some cases where the groundwater is very far below the ground surface, a site would need to conduct an significant groundwater/vadose zone investigation into the feasibility of infiltration, because it may not be known if there are already man made or naturally occurring contaminants in the groundwater (or vadose zone) under the proposed infiltration BMP or*	The depth required for monitoring infiltrated water beneath the infiltration BMP depends on site-specific conditions. Per Attachment I Section IV, the Discharger shall ensure infiltration BMP(s) are designed and operated to prevent the migration of existing soil contamination to groundwater and not interfere with any active remedial activities for existing groundwater contamination in the vicinity of the facility. Per Attachment I Section II.E.6.a.ii, the Discharger may use monitoring data of infiltrated water below the infiltration BMP, that is not a dry well, to demonstrate meeting the MCL criteria in the influent of the infiltration BMP.

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		between the monitoring locations and the infiltration BMP. If the groundwater is already impacted by other sources of contamination other than the subject site, how will the State or citizen suits evaluate that condition? If there are exceedances of MCLs up-gradient of the infiltration BMP, and there is minimal impact to the contaminant levels downgradient of the infiltration BMP, will this monitoring provide sufficient evidence that the infiltration BMP is treating the storm water properly? Based on our experience, most groundwater in California requires treatment prior to meeting MCL limits so the receiving water quality has to be considered by the Board staff in the establishment of these treatment criteria. In addition, soil moisture may not be readily available enough to collect monthly samples. If there is not enough water to sample monthly, how will the facility maintain compliance with this requirement?	This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. Additionally, Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to groundwater. No changes have been made to address this part of the comment. Attachment I Section II.E.6.a.ii has been revised to require collection of monthly samples, when feasible, of infiltrated water below the infiltration BMP(s).
14.12	CR&R Incorporated	**II.H.1.d.** *Comment: How many influent samples will be required to be collected? Will QSE criteria apply to these samples?*	Changes have been made to Attachment I Section H.1 to include a minimum sampling frequency of influent entering the infiltration BMP(s).
14.13	CR&R Incorporated	**II.H.3.i.** *Comment: In the case of an underground infiltration BMP, are photographs during installation required to show the infiltration BMP? Otherwise, the photograph would simply show a catch basin or similar input device located at the ground surface. Many of the existing infiltration BMPS are installed below*	The requirement to provide photographs pertains to installed BMP and delineated footprint to provide a visual demonstration of where the BMP is located.

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		parking lots in order to avoid the loss of valuable space and to meet building code requirements.	
14.14	CR&R Incorporated	**II.J.3.d.** *Comment: What exactly is the "appropriate cation exchange capacity, organic content, and clay content that supports compliance with required infiltration rates and storm water treatment" and where is the documentation or research to back up the appropriateness of the soil conditions? The information we have obtained from the literature varies regarding the appropriate soil conditions for infiltration, and we are not aware of literature regarding specific cation exchange capacity, organic content, and clay content for infiltration and storm water treatment. Also, how will this requirement be applied to existing infiltration BMPs (installed prior to the proposed Amendment to the IGP)?*	The referenced language has been removed.
14.15	CR&R Incorporated	I**I.K.1.** *Comment: What is the timeframe between a discharger submitting a plan to install an On-Site Compliance Option (i.e. infiltration BMP) and the applicable Regional Water Board Executive Officer disapproving the submitted plan? How long must the discharger wait before proceeding with the submitted plan if no word has been received? Again, how will this authority be applied to existing infiltration BMPs (installed prior to the proposed Amendment to the IGP)?*	The Discharger is encouraged to work up front with the appropriate Regional Water Board to ensure approval of the of the Discharger's Compliance Option implementation plan. Existing infiltration BMPs may be used for compliance with Attachment I if all requirements of Attachment I can be met.
14.16	CR&R Incorporated	**II.K.3.b.** *Comment: If the groundwater is not designated with a beneficial use, do any of these requirements apply? What about ground water basins that have long standing (well known)*	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local

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		contamination problems, in some cases for over 30 years) and are under investigation or remedial action by another agency (i.e. Superfund Sites)?	water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
14.17	CR&R Incorporated	**II.K.4.** *Comment: How many samples and what criteria would be necessary to discontinue groundwater monitoring?*	The site-specific requirements for discontinuing groundwater monitoring shall be determined by the State Water Board Executive Director or the applicable Regional Water Board Executive Director. The request is to be made by the Discharger. No changes have been made to address this comment.
15.1	Department of Defense, Department of the Navy	Most significantly, Attachment I attempts to regulate a discharge to groundwater as opposed to a surface water body (lysimeters and Maximum Contaminant Levels (MCLs)). It is well established in law that the Clean Water Act's (CW A) National Pollutant Discharge Elimination System (NPDES) permits are only applicable to discharges to surface water bodies and not to ground water. This requirement could open up the IGP to lawsuits which could delay implementation and result in an unfavorable decision against California.	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and 13377. As a WDR, this General Permit may include provisions authorized by state law, such as those aimed at protecting the quality of groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to

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			the Findings to address this exercise of state authority.
15.2	Department of Defense, Department of the Navy	Additionally, we wish to point out that the IGP Amendment's proposed Total Maximum Daily Load (TMDL) Numeric Action Levels (TNALs) are not adequately linked to the respective implementation schedule associated with each TMDL. Full attainment of the TNAL should only be required after the end of the specific TMDL implementation schedule, and not upon immediate adoption of the IGP amendment. TMDLs are designed to be phased to achieve compliance and not create an immediate attainment; therefore TNALs should also be phased.	If the compliance date in the Implementation Schedule of the associated TMDL has passed, Responsible Dischargers shall comply with the ERAs of the assigned TNAL upon the effective date of this Amendment. If the compliance date in the Implementation Schedule of the associated TMDL is in the future, Responsible Dischargers are not required to comply with the ERAs of the assigned TNAL up until that date. Responsible Dischargers will be required to comply with applicable NEL requirements upon the effective date of this Amendment if the compliance deadline has passed. If the NEL compliance deadline is in the future, NEL compliance is not required up until the compliance date.
15.3	Department of Defense, Department of the Navy	The proposed IGP applies Safe Drinking Water Act (SDWA) Maximum Contaminant Levels (MCLs) to a storm water discharge. No other Waste Discharge Requirement (WDR) for land discharges has to meet SDWA MCLs and it is our professional opinion that the MCL requirement will be nearly impossible to meet by any discharger. As such, we believe this requirement is unreasonable and unattainable. This also ignores site specific non-beneficial use areas.	This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. Additionally, Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to groundwater. If the data shows that industry is not threatening groundwater quality, the future requirements of this General Permit can be re-evaluated.

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			No changes have been made to address this comment.
15.4	Department of Defense, Department of the Navy	Finally, DoD supports the provision that provides the State Water Board Executive Director the authority to "incorporate a reanalyzed Regional Water Board adopted Water Effects Ratio (WER) into this General Permit" to better protect beneficial uses. DoD also recommends this Permit makes clear that this authority applies to both NALs and TNALs. Enclosure (1) provides these and additional comments/recommendations.	The quoted language pertains to the incorporation of water effect ratios (WERs) into this General Permit. NALs are not water quality based limits and therefore the incorporation of a WER does not apply. No changes have been made to address this comment.
15.5	Department of Defense, Department of the Navy	1) The proposed TMDL Numeric Action Levels (TNALs) are not adequately linked to the respective implementation schedules associated with each TMDL. Many adopted TMDLs have interim waste load allocations (WLAs) that are not reflected in the proposed TNALs. Full attainment of the TNAL and final WLAs should only be required in accordance with a specific TMDL implementation schedule and not upon immediate adoption of the IGP amendment. TMDLs are designed to be phased to achieve compliance and not an immediate attainment. TNALs should be phased as well or be adjusted to account for interim WLAs as outline in the specific TMDL implement schedule. Implementation of WLAs in TMDLs are over a period of time to allow for implementation of the BMPs and BMP management plans, as well as coordination with educational programs, special studies, and associated monitoring. TNALs as proposed disrupt these current and ongoing activities	If the compliance date in the Implementation Schedule of the associated TMDL has passed, Responsible Dischargers shall comply with the ERAs of the assigned TNAL upon the effective date of this Amendment. If the compliance date in the Implementation Schedule of the associated TMDL is in the future, Responsible Dischargers are not required to comply with the ERAs of the assigned TNAL up until that date. Responsible Dischargers will be required to comply with applicable NEL requirements upon the effective date of this Amendment if the compliance deadline has passed. If the NEL compliance deadline is in the future, NEL compliance is not required up until the compliance date. Clarifications have been made in the Amendment to ensure the compliance dates of each TMDL are appropriately translated into the Amendment and the interim WLAs are appropriately incorporated. The interim WLA compliance dates in the TMDL Implementation Schedules are

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		that many dischargers have already been involved in. Recommended change: Adjust TNALs to account for interim WLAs and TMDL implementation schedules from adopted TMDLs. This will allow for implementation of the BMPs, BMP management plans, as well as coordination with educational programs, special studies, and associated monitoring.	incorporated into the Amendment if the interim compliance date has not passed. Where the interim WLA compliance dates have passed, only the final WLA is incorporated into the Amendment.
15.6	Department of Defense, Department of the Navy	2) TNALs are proposed ONLY as instantaneous values/exceedances and not annual averages as the IGP NALs. TMDLs are based upon overall load allocations within each affected 303(D) water body and not an instantaneous end of pipe value. An average TNAL is more appropriate for episodic storm water in a TMDL than an instantaneous TNAL.	The instantaneous maximum exceedance type is an appropriate measurement for compliance with the more stringent TMDL requirements needed to protect waterbodies that are identified as impaired. These translations are based on the language of the TMDL WLAs. This is further described in the Fact Sheet. This General Permit allows Dischargers to implement flow weighted composite sampling for obtaining an accurate and representative concentration of constituents in the industrial storm water discharge for a specific storm event. No changes have been made to address this comment.
15.7	Department of Defense, Department of the Navy	3) It is not clear in the IGP amendment that industrial dischargers in a watershed subject to a TDML should only monitor for constituents linked to their SIC code listed in the IGP, or if they must monitor for all TMDL constituents in addition to the IGP parameters? Recommend limiting the provision to SIC code monitoring consistent with other program requirements	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of

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		Please insert a new Section VII.A.4 that states: "Existing dischargers are required to the conduct the TMDL monitoring and reporting actions identified in Section VII.C, as well as Attachment E, only if the discharger has identified in their SWPPP the applicable TMDL pollutant(s) as industrial pollutant(s) present at their facility, in accordance with Section X.G.2.a.ix of this General Permit."	this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
15.8	Department of Defense, Department of the Navy	4) TNALs are unfair to industrial facilities downwind of area sources (aerial deposition from freeways, etc) who may never be able to bring TNAL discharges to compliant levels via on-site controls. Similar to the other parts of the IGP, DoD recommends adding a provision to allow a facility to make a demonstration that "but for" aerial deposition, their facility would be deemed in compliance with the TNALs.	TNALs are implemented through the ERA process and Dischargers may develop a Level 2 natural or non-industrial source demonstration. No changes have been made to address this comment.
15.9	Department of Defense, Department of the Navy	I.F.52 DoD supports this provision that provides the State Water Board Executive Director the authority to "incorporate a reanalyzed Regional Water Board adopted Water Effects Ratio {WER) into this General Permit" to better protect beneficial uses. Additionally, DoD recommends this Permit makes clear that this authority applies to both NALs and TNALs.	The quoted language pertains to the incorporation of WERs into this General Permit. NALs are not water quality based limits and therefore the incorporation of a WER does not apply. No changes have been made to address this comment.
15.10	Department of Defense, Department of the Navy	I.A DoD recommends adding a section to define and discuss TMDL Numeric Action Levels (TNALs) in the General Findings portion of the permit.	TNALs are defined in the Glossary (Attachment C) and discussed throughout this Amendment, including in the Order Findings and the Fact Sheet.

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			No changes have been made to address this comment.
15.11	Department of Defense, Department of the Navy	VIII.C.3 This provision requires a discharger to self-calculate TMDL violations for SMARTS reporting, placing an unreasonable burden on the discharger. DoD recommends adding this functionality to SMARTS.	SMARTS provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining TMDL applicability and monitoring TMDL compliance. No changes have been made to address this comment.
15.12	Department of Defense, Department of the Navy	Attachment I The proposed IGP applies Safe Drinking Water Act (SDWA) Maximum Contaminant Levels (MCLs) to a storm water discharge. No other Waste Attachment Discharge Requirement (WDR) for land discharges has to meet SDWA MCLs and it is our professional opinion that the MCL requirement will be impossible to meet by any discharger. As such, we believe this requirement	This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. Additionally, Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to

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		is unreasonable and unattainable. This also ignores site specific nonbeneficial use areas.	groundwater. If the data shows that industry is not threatening groundwater quality, the future requirements of this General Permit can be re-evaluated. No changes have been made to address this comment.
15.13	Department of Defense, Department of the Navy	Attachment I Attachment I regulates a discharge to groundwater as opposed to a surface water body (lysimeters and MCLs). It is well established in law that NPDES permits are only applicable to discharges to surface water bodies and is only applicable to discharges to ground water in specific cases where there is a connection between the groundwater and a jurisdictional surface water body the groundwater must act as a "discernible conveyance[s]" to Attachment navigable waters" to be subject to an NPDES permit. This requirement could I open up the IGP to lawsuits which could delay implementation and result in unfavorable decision against California. We recommend complete removal of Attachment I to enable the proposed IGP amendment to be enacted within a minimal number of successful lawsuits against attachment I and the IGP as a whole. We suggest that the SWRCB establish streamlined General Waste Discharge Requirement (WDR) that apply to infiltration Best Management Practices (BMPs). The General WDR could rely on the future work product that will be developed under RFQ No. 17-083-250 entitled, Statewide	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and 13377. As a WDR, this General Permit may include provisions authorized by state law, such as those aimed at protecting the quality of groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to the Findings to address this exercise of state authority.

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		Standards for Storm Water Capture and Infiltration Dry Wells. In the interim, the implementation of infiltration BMPs would rely on Best Professional Judgment by a California licensed professional engineer.	
15.14	Department of Defense, Department of the Navy	Amendment Effective Date It is impracticable for industry to immediately comply with the TMDLs. Accordingly, we request sufficient time between the Permit Amendment adoption date and its effective date be provided. This is necessary to plan, design, permit, construct, and commission the BMPs necessary to comply with the TMDLs. For Federal agencies such as the Department of Defense, it takes approximately two to five years to budget, request funding from Congress, and complete many other Congressionally mandates fiscal actions before projects for implement advanced BMPs can be started. We also recommend the amendment include discussion on the steps needed to seek a time scheduled order in accordance with Section 13300 of the California Water Code if additional time is necessary to implement advanced BMPs.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board should be contacted to discuss these appropriate procedural actions. No changes have been made to address this comment.
15.15	Department of Defense, Department of the Navy	Attachment C Responsible Discharger Responsible Discharger 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	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the

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		sewer system (MS4) included in a U.S. EPA approved TMDL. To clarify that only a responsible discharger that has identified the TMDL pollutant(s) as industrial pollutant(s) present at their facility is required to conduct the TMDL monitoring and reporting actions identified in Section VII.C, as well as Attachment E, please add the following sentence to the description of a responsible discharger: "A responsible discharger is required to conduct the TMDL monitoring and reporting actions identified in Section VII.C, as well as Attachment E, only if the discharger has identified in their SWPPP the applicable TMDL pollutant(s) as industrial pollutant(s) present at their facility, in accordance with Section X.G.2.a.ix of this General Permit."	monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
15.16	Department of Defense, Department of the Navy	Attachment I Section II.6.a The Discharger shall ensure that all influent entering the infiltration BMP(s) meets applicable Maximum Contaminant Level (MCL) criteria for industrial pollutants at the facility, as specified in Table A below. Prior to Attachment I Section 11.6.a, please insert the following text: "The MCL criteria do not apply where the discharger is infiltrating storm water in a groundwater area that is excepted from municipal beneficial uses in the applicable Regional Water Quality Control Board's Basin Plan."	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.

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16.1	Downey Brand on behalf of several clients	One of the key goals for permittees during the 2014/15 reissuance of the Permit was to reduce unnecessary third party citizen enforcement under the Clean Water Act ("CWA") by modifying the Permit to provide permittees with a clear pathway to compliance through the Exceedance Response Action ("ERA") process. However, instead of the desired reduction, the number of threatened citizen enforcement actions is seemingly at an all-time high, with dozens of notice letters being sent out monthly to virtually every type of facility covered by the Permit across the state, from an ever-expanding set of citizen groups and law firms not previously involved in Permit enforcement.	The intent of this Amendment is to provide a clear TMDL compliance framework for Responsible Dischargers. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. No changes have been made to address this comment.
16.2	Downey Brand on behalf of several clients	Notwithstanding the clear wording of the Permit, these actions continue to center around allegations that because the Permit's Numeric action Levels ("NALs") are being exceeded while a facility adjusts to the new requirements and implements new or revised Best Management Practices ("BMPs"), the facility is automatically in non-compliance with the CWA (whether that be with technology or water-quality based requirements). Such actions represent an unnecessary cost to businesses and municipalities trying to comply and thrive in California.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.3	Downey Brand on behalf of several clients	Just as California's Proposition 65 has a well-deserved reputation for "shakedown" lawsuits,2 businesses and municipalities are now suffering through this same problem under the Permit. We certainly recognize the need for citizen enforcement to correct actual violations, and	Comment noted.

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		such enforcement can be valuable as an adjunct to oversight and enforcement by state and federal agencies, when those agencies are not closely monitoring Permit compliance.4 However, in many cases, the actions being instituted under the Permit do not reflect that reality. As such, we believe that siphoning off the same limited monies that businesses or municipalities could otherwise use to implement new or improved BMPs and protect water quality does not represent an effective use of resources. The following comments are made with the goal of clarifying what is and is not a violation under the Permit, and to focus citizen enforcement to those instances where genuine violations exist that are not being addressed by the Water Boards.	
16.4	Downey Brand on behalf of several clients	The addition of mew Compliance Option language to the Permit may be helpful. However, the implication of such language is that permittees not taking one of the compliance options will be deemed out of compliance.	Language has been added to Attachment I, section I.A to clarify that the Compliance Options are optional and Dischargers are not required to implement one of the Compliance Options.
16.5	Downey Brand on behalf of several clients	Currently, the proposed amendments contain a new Attachment I, and the following new Finding 56: 56. The State Water Board allows Dischargers statewide to comply with the alternative compliance options in Attachment I instead of complying with applicable numeric action levels (NALs), Discharge Prohibitions Section III.C, TMDL waste load allocations (WLAs), and Receiving Water Limitations. Dischargers are	The Amendment contains the requirements for the Compliance Options in the proposed addition of Attachment I to this General Permit. Language has been added to Order Finding 51 and in a new Footnote 4 to clearly incorporate Attachment I into this General Permit. Attachment I, if adopted, will be an enforceable component of this General Permit.

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		still required to comply with applicable Subchapter N effluent limitations. We recommend rather than merely a Finding, there needs to be an enforceable provision in the Order portion of the Permit that specifically and clearly authorizes this option to comply with Discharge Prohibitions, Receiving Water Limitations, and Waste Load Allocations ("WLAs"). The Compliance Options need to be included in each of the relevant areas for which such options maybe available in order to provide adequate clarity and avoid narrowly focused interpretations where the State Board is trying to provide flexibility. ***Request: Add Provision the Order portion of the Permit authorizing the use of Compliance Options in Attachment I.***	
16.6	Downey Brand on behalf of several clients	Attachment I, Paragraph II.B states: "Discharger may include the BMPs that capture and divert the required storm water runoff volumes to a publicly-owned treatment works [POTWs] ..." The Permit must recognize that separately enforceable requirements may need to be met prior to permittees being able to implement such diversions, and that diversions to the sanitary sewer may not be possible in many locations. POTWs mad not have capacity to accept storm water during and after wet weather events, or may be unable to accept the additional pollutants present in industrial storm water and still meet the POTW's effluent limitations. In addition, sewer use or pretreatment permits will	Language has been added to Attachment I Section II.B to address this comment. Dischargers complying with the On-Site Compliance Option are required to comply with all requirements from the POTW prior to and while diverting the discharge into the POTW's system.

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		likely be required before any such diversions would be authorized by the POTW. The Permit amendments appear to assume that an industrial facility can unilaterally plumb their storm drains to the sanitary sewer and discharge unlimited quantities of untreated storm water to that sewer. POTWs may need to be given incentives and regulatory relief if this is a solution that the State Board wishes to pursue. ***Request: Clarify that these are other requirements that must be met before diversions to a POTW can be used as a Compliance Option.***	
16.7	Downey Brand on behalf of several clients	Storm water discharges solely to land or groundwater do not require coverage under the Permit. *See* Permit at Provision II.B.1. (requiring coverage for discharges to waters of the United States). While the State Water Board has the authority under California law to permit discharges to land that could affect groundwater, that regulation should not be included in a federally enforceable NPDES permit. A straightforward reading of the CWA demonstrates that when Congress wanted certain provisions of the CWA to apply to groundwater, it stated so explicitly.	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and 13377. As a WDR, this General Permit may include provisions authorized by state law, such as those aimed at protecting the quality of groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to the Findings to address this exercise of state authority.
16.8	Downey Brand on behalf of several clients	Therefore, regulation of infiltration discharges to groundwater should be addressed in a separate state-only general (or individual) Waste Discharge Requirements ("WDR") promulgated pursuant to the California Water Code, to avoid	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and 13377. As a WDR, this General Permit may include provisions authorized by state law, such

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		federal enforcement of state-only requirements that are not required by and more stringent than the CWA. ***Request: Remove requirements related to discharges to land/groundwater from the Permit and only regulate discharges to waters of the United States.***	as those aimed at protecting the quality of groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to the Findings to address this exercise of state authority.
16.9	Downey Brand on behalf of several clients	A standard amount of rain water (e.g., 1 inch) should be used instead of the 85th percentile, 24 hour storm, so as to avoid confusion and to provide a unified framework. Because the table in the Fact Sheet on p. 31 shows that the 85th percentile, 24 hour storm ranges generally from .61 to 1.16 inches, the selection of a standard amount in that range would be justified based on this data. In addition, any rain event that exceeds that selected value is likely to be large enough to provide ample dilution water for any remaining flows that the constituents discharged to be of less regulatory and water quality concern. ***Request: Select a standard rain volume for use statewide.***	A standard rain volume for compliance may not be appropriate because of varying precipitation levels throughout the state. Capturing a standard volume of the storm may not result in sufficient removal of pollutant mass that is protective of the receiving water in high precipitation areas and may create greater burden on Dischargers located in low precipitation areas. No changes have been made to address this comment.
16.10	Downey Brand on behalf of several clients	Attachment I proposes to require that all water entering infiltration BMPs meet Maximum Contaminant Levels ("MCLs"). (Attachment I, p. 3, Section II.E.6.a.) MCLs were designed to apply to finished drinking water supplied by public water suppliers at the point of consumption. While many Basin Plans have	Per Attachment I Section II.E.6.a.ii, the Discharger may use monitoring data of infiltrated water below the infiltration BMP, that is not a dry well, to demonstrate meeting the MCL criteria in the influent of the infiltration BMP. Dry wells are required to meet applicable MCLs concentrations, and pretreatment is required

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		incorporated MCLs as water quality objectives, these objectives do not apply in storm water ponds; rather, assessment is appropriately in the groundwater or upon extraction for beneficial use. Further, requiring compliance with MCLs prior to storm water entering an infiltration pond, dry well, or underground gallery is overly stringent, since the value of the infiltration process itself in protecting groundwater is not taken into account. Such stringent requirements will not encourage adoption of infiltration BMPs. In fact, just the opposite: if dischargers must pretreat the water, permittees may choose to discharge the water instead. ***Request: Remove requirements from Attachment I regarding compliance with MCLs for water entering infiltration BMPs.***	when necessary to attain MCLs. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the Discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
16.11	Downey Brand on behalf of several clients	If storms above the design storm standard and treatment levels occur, Attachment I proposes that the bypass/overflow be sampled. If such monitoring data is required and made public, this will become a new area of alleged violation, as the Permit does not clearly state what requirements exist related to this discharge. The Fact Sheet contains Footnote 8, which says "This information is not to be used for enforcement of WQS or permit compliance but to provide feedback on the effectiveness of this Compliance Option" and other related text. However, this information contained only in the Fact Sheet is not adequate to put people on notice of how or why this information is being collected and what will be done with the data.	The monitoring requirements for discharges that exceed the compliance storm standards for the Compliance Options will not be removed. This information is needed to ensure that the Compliance Options are as effective as our modeling shows they will be. The Amendment requirements are clear, however, that this information is not to be used to determine Discharger compliance with the requirements of the General Permit, though it may inform the imposition of future requirements should it reveal that Compliance Options are not adequate to protect the water body's beneficial uses.

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		The Permit should contain a Compliance Determination section to describe specifically what constitutes compliance. Further, this language raises concerns that permittees maybe hesitant to invest substantial capital in a particular Compliance Option that may cease to be an available option in the future. ***Request: Remove requirements to monitor bypass/overflow water above the capacity of the On-Site Compliance BMPs.***	
16.12	Downey Brand on behalf of several clients	Attachment I states that Dischargers compliant with the On-Site Compliance Option are exempt from several provisions of the Permit. However, to ensure that is the case, Attachment I should be expressly incorporated into the enforceable provisions of the Permit. In addition, it is unclear why the TMDL and Water Quality Corrective Action provisions are not also included in the exempted provisions. ***Request: Place or clearly cross reference the Compliance Option provisions and exemptions in the Provisions past of the Permit Include all other provisions that should be exempted.***	The TMDL and water quality corrective actions are included in Attachment I's deemed compliance provisions via its grant of deemed compliance with this General Permit's TMDL requirements (section V.C) and receiving water limitations (section VI).
16.13	Downey Brand on behalf of several clients	There are internal inconsistencies in Attachment I. For example, Section II.J.l.b. prohibits the discharge of authorized Non-Storm Water Discharges ("NSWDs"), yet this is contrary to Finding 33, Provision III.B., and Section IV of the Permit, which explain why and what authorized NSWDs are permitted for discharge.	A proposed discharge prohibition on authorized NSWD sources is proposed for compliance with the On-Site Compliance Option. All authorized NSWD sources shall be included in the BMP design so as to not discharge to a surface water (e.g., diverted via POTW, captured, infiltrated).
16.14	Downey Brand on behalf of several clients	It is unclear how an infiltration BMP can be built and maintained to recover	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile

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		capacity within a day (not 24 hours, but 12:00 am to 11:59 pm). Beyond the fact that this is micromanaging compliance in a manner contrary to Water Code section 13 3 60(a), this may not be technically feasible. An alternative would be to require two times the water volume standard, so that if there are two back-to-back days of heavy rain, that volume would be contained. If rains extend for longer periods, the dilution would be significant and help minimize the pollutant concentrations.	24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
16.15	Downey Brand on behalf of several clients	Remove the word "influent" from Attachment I (and elsewhere from the proposed amendments and Permit). This is a wastewater term. In this context, influent means storm Water, sot e term "storm water" should replace "influent."	A definition of influent applicable to Attachment I's requirements has been added to the Amendment.
16.16	Downey Brand on behalf of several clients	Clarify Section II.K.1 of Attachment I applies only to infiltration Compliance Options, not diversions, as follows: "The applicable Regional Water Board Executive Officer has the authority to review site-specific information, and disapprove ~~any~~ On-Site infiltration BMPs ~~Compliance Option~~ as a permissible Compliance Option for the Discharger where findings are made that such an option would raise ~~to address~~ regional groundwater concerns."	Changes have been made in the Amendment (Attachment I Section IV) to address this comment. The infiltration BMPs are the types of BMPs that would cause concern to groundwater impacts. Therefore, Section IV has been added to apply groundwater protection requirements to On-Site and Off-Site BMPs.
16.17	Downey Brand on behalf of several clients	If groundwater requirements are maintained in the permit over the objections provided herein, then the following modification in Section II.K.4 of Attachment I should be made regarding monitoring: "The State Water Board Executive Officer or the applicable Regional Water Board Executive Officer may exempt a site from or	This is already addressed in Attachment I Section II.K.4. No changes have been made to address this comment.

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		authorized [sic] the discontinuation of groundwater monitoring if no threat to groundwater is determined."	
16.18	Downey Brand on behalf of several clients	Section III.A.3. of Attachment I, which prohibits use of waters of the United States ("WOTUS") or waters of the State ("WOTS"), will unduly constrain Off-Site Compliance Options. Since this is an NPDES permit, such discharges may be authorized. Further, the use of ditches, which might be characterized as WOTUS or WOTS, may require other adverse environmental impacts to achieve an off-site solution. As worded, large infiltration basins in the Los Angeles River and other southern California areas might be construed as falling under this prohibition. For these reasons, this provision should be removed or substantially modified.	The Off-Site Compliance Option is only available where there is no water of the United States or water of the State being used to convey industrial storm water to the Off-Site BMP. Otherwise, sufficient controls would not be in place to protect WQS, water quality objectives, and/or beneficial uses.
16.19	Downey Brand on behalf of several clients	The Permit should not prescribe effluent limitations for any constituents without demonstrated reasonable potential (RP). Under 40 C.F.R. section 122.44(d)(l)(i), limits must control conventional, nonconventional, and toxic pollutants only where those pollutants will be discharged "at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality." (*See also* Water Code section 13377 (requiring effluent limitations to be "necessary"). The proposed Permit newly imposes NELs based upon proximity to 303(d) listed waters with TMDLs, instead of relying upon the actual data that demonstrates a	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual

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		reasonable potential to exceed the applicable water quality objectives.	(updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
16.20	Downey Brand on behalf of several clients	The State Water Board is bound by court and previous precedential decisions, which hold that in the absence of a showing of reasonable potential for a pollutant to be contained in the effluent, the Permit should not contain any limitations on that substance. Where substances were not detected, or were detected at low levels not rising to RP, limits are not required and may be removed from NPDES permits. Under the ruling in the *City of Woodland* case, Alameda Superior Court Case No. RG04-188200, Order Granting Writ of Administrative Mandamus (2005), where no reasonable potential exists, no effluent limit is required.	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those

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			that formed the bases for the NELs; therefore, the NELs are implementing federal law.
16.21	Downey Brand on behalf of several clients	Federal rules require a reasonable potential analysis *first* (40 C.F.R. §122.44(d)(l)(ii)), and then if an effluent limitation is required, the permitting authority shall ensure that the effluent limits are consistent with the assumptions and requirements of any available waste load allocation (WLA) in a TMDL (40 C.F.R. §122.44(d)(l)(vii)(B)). To address the need to demonstrate compliance with the TMDL, the WLAs could be applied as Receiving Water Limitations, where compliance is determined in the receiving water, rather than effluent limits.	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law. The WQBELs of the Amendment are consistent with the assumptions and requirements of the TMDL WLAs. Group monitoring and/or on-going receiving water monitoring are not options at this time.

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			No changes have been made to address this comment.
16.22	Downey Brand on behalf of several clients	If NELs remain in the permit without a finding of reasonable potential, then these limits are more stringent State law-based requirements and the factors in Section 13241 must be considered.	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law. The factors of Section 13241 have been considered and addressed throughout this General Permit, including in the Order's Findings and Fact Sheet.

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16.23	Downey Brand on behalf of several clients	The Permit provides appropriate redress and concrete steps for permittees to take if NAL or RWL exceedances occur (e.g., Level 1 and 2 ERAs, SWPPP modifications, and, where applicable, Water Quality Based Corrective Actions). Because the Permit itself contains prospective injunctive relief, court intervention to order such relief is unnecessary and duplicative. The requested changes would be consistent with the State Board's conclusion that significant revisions to the 1997 version of the Permit were "necessary for implementation, consistency and objective enforcement." (Permit, Fact Sheet at p. 2 (emphasis added).) ***Request: The Permit should include modifications to clarify that the ERA and Water Quality Based Corrective Action pathways are the exclusive manner to address NAL and RWL exceedances, respectively.***	While the ERAs are the appropriate method for dealing with exceedances of NALs, WQBCAs are not the exclusive manner of dealing with exceedances of receiving water limitations.
16.24	Downey Brand on behalf of several clients	The Permit must more clearly recognize that EPA has not set any ELGs or BAT/BCT standards for most categories and classes of industry. (See Permit at p. 10, Finding 58; p. 12, Finding 64, 17 4-17 5 (listing all industries for which EPA has promulgated ELGs with defined BAT/BCT standards).) without promulgated ELGs, there are no applicable "BAT/BCT standards" to be compared to sampling data, or to be otherwise achieved.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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16.25	Downey Brand on behalf of several clients	Because no "BAT /BCT standard" has been set for most industries, it is impossible to demonstrate compliance with this requirement or, on the flip side, to avoid allegations of noncompliance. To avoid this conundrum, the Permit must be modified to state that, for industries without promulgated ELGs, implementation of the minimum and additional BMPs specified for the facility in its SWPPP constitutes compliance with BAT/BCT. However, if NALs are not met, notwithstanding implementation of the SWPPP' s BMPs, then the permittee must attend to the ERA Level 1 and Level 2 reporting and action plan tasks to continue to be considered compliant with BAT/BCT. Currently, these requirements are confused and contradictory, particularly since the Permit states that ''NALs are not intended to serve as technology-based or water quality-based effluent limitations." (Permit at p. 11, Finding 63.) Similar concerns exist about the TNALs, since these values seem to be somehow tied to the TMDL, but yet are not indicators of technology or water quality-based requirements. Because NALs are being used as indicators of non-compliance with both technology-based and water quality based requirements, and TNALs are likely to be used in the same way, the Permit must be clarified.	Changes have been made to the Amendment to clarify that TNALs are BMP-based WQBELs. The BAT/BCT standard aspects of this comment are outside the scope of the Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.26	Downey Brand on behalf of several clients	***Request: To eliminate the current regulatory uncertainty, Effluent Limitation VA. should be modified in one of the following ways:*** "Dischargers shall implement BMPs that comply with the ~~BAT/BCT~~ requirements of this General	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for

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		Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability. Implementation of such BMPs, in accordance with the terms of the facility's SWPPP. and updated as needed under Section XII. Exceedance Response Actions (ERAs). shall constitute BAT/BCT for industries not subject to storm water ELGs in Subchapter N." OR "Dischargers shall implement BMPs that comply with ~~the~~ any applicable BAT/BCT requirements ~~of~~ for the industry regulated by this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability. If no BAT/BCT standards exist for a particular industry, the Discharger shall implement the BMPs required in Section X.H, as supplemented by modifications required as a result of Section XII. Exceedance Response Actions (ERAs)."	consideration during the public comment period for the reissuance of this General Permit.
16.27	Downey Brand on behalf of several clients	Adding Numeric Effluent Limitations ("NELs") is Contrary to Previous Permit Findings that Numeric Limits are Infeasible, and Lacks Supporting Evidence of Feasibility. ***Request: Remove TNELs and utilize a BMP-based approach for TMDL compliance related to industrial storm water sources.***	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are “consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by

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			U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based

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			on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
16.28	Downey Brand on behalf of several clients	New Findings on RWL Compliance Point Conflict with Permit Provisions.	The language referred to in the comment has been removed from the Fact Sheet. The discussion in the Fact Sheet was intended to explain how receiving water-based WLAs were translated to Permit requirements implemented at a facility's discharge point. New language addressing this has been added to the Fact Sheet. This does not have the effect of altering a Responsible Discharger's obligation to comply with Section VI.A's requirements.
16.29	Downey Brand on behalf of several clients	Newly proposed language turns this finding on its head by stating: "the point of compliance established in this General Permit is at the discharge point of the facility and not at the receiving waters." Proposed Fact Sheet at p. 41, Section F.S.a.2. This is contrary to the language in Provision VI.A that ensures industrial storm water discharges are not causing or contributing to "an exceedance of any applicable water quality standards in any affected receiving	The language referred to in the comment has been removed from the Fact Sheet. The discussion in the Fact Sheet was intended to explain how receiving water-based WLAs were translated to Permit requirements implemented at a facility's discharge point. New language addressing this has been added to the Fact Sheet. This does not have the effect of altering a Responsible Discharger's obligation to comply with Section VI.A's requirements.

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		water." If there are no exceedances in the receiving water, then there can be no violations of this section, even if the concentrations of the storm water leaving the facility exceed standards. The amendments should not make this type of modification without more extensive public involvement on this topic. ***Request: Remove findings attempting to modify the point of compliance for Receiving Water Limitations.***	
16.30	Downey Brand on behalf of several clients	The CWA provides just two affirmative defenses, bypass and upset. However, in the most recent amendments to the Permit, the State Water Board removed the standard upset and bypass provisions set forth in the regulations for all NPDES permits. See 40 C.F.R. §122.41(m)&(n)("The following conditions apply to all NPDES permits ... (m) (Bypass) . . . (n)(Upset).") These provisions should be reinserted into Provision XXI. {Standard Conditions) of the Permit because technology-based BMPs and treatment can fail for reasons beyond the reasonable control of the permittee. See FMC Corp. v. Train, 539 F.2d 973 (4th Cir.1976) and Marathon Oil v. EPA, 564 F.2d 1253 (9th Cir. 1977). In the Marathon Oil case, the Ninth Circuit Court of Appeal concluded that a facility using proper technology operated in an exemplary fashion would not necessarily be able to comply one hundred percent of the time, and thus an upset defense in the permit was necessary. Further, in the Marathon Oil case, the Ninth Circuit Court of Appeal concluded an	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		upset defense in the permit was necessary to cover instances of equipment failure and human error. (Id at 1273.) ***Request: Reinsert the Standard Provisions for Upset and Bypass into the Permit.***	
16.31	Downey Brand on behalf of several clients	Pg. 9 - Finding 50 - This finding should also be incorporated into the NEC and NONA sections of the Permit because findings are not enforceable provisions.	The Findings are an enforceable part of this General Permit. No changes have been made to address this comment.
16.32	Downey Brand on behalf of several clients	Pg. 9 -Finding 51 - "This General Permit's NALs found in Table 2, as applicable to the particular discharge and SIC code, shall continue to apply .... "	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.33	Downey Brand on behalf of several clients	Pg. 13 -Finding 77 - " ... NAL/TNAL exceedances defined in this General Permit are not~~, in and of themselves~~, violations of the General Permit and do not indicate that BAT /BCT is not being met."	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.34	Downey Brand on behalf of several clients	Pg. 14 - Finding 80 - "Exceedances of the NALs that are attributable ~~solely~~ predominantly to pollutants originating from non-industrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the Discharger's property, or aerial deposition) are not a violation of this General Permit because the NALs are designed to provide feedback on industrial sources of pollutants. Dischargers may submit a Non-Industrial Source Pollutant Demonstration as part of their Level 2 ERA	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		Technical Report to demonstrate that the presence of a pollutant causing an NAL/TNAL exceedance is attributable ~~solely~~ predominantly to pollutants originating from non-industrial pollutant sources." This change is needed because it is virtually impossible to show that no molecule of the constituents monitored is added by the industrial storm water. If the amount not attributed by industrial storm water exceeds the NAL/TNAL, that is not an industrial storm water issue.	
16.35	Downey Brand on behalf of several clients	Pg. 22 - Discharge Prohibition III.A. - "All discharges of storm water associated with industrial activities to waters of the United States are prohibited except as specifically authorized by this General Permit or another NPDES permit." This change is needed because not all storm water is regulated by this permit.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.36	Downey Brand on behalf of several clients	If a State Law Only section is included in the Permit, Sections III.C-E. Discharge Prohibitions, VI. Receiving Water Limitations, VIII.B. ASBS Exceptions, XVIII. Conditional Exclusion - NEC, should be placed in that section as these are based on State Law.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.37	Downey Brand on behalf of several clients	Pg. 25 - Provision VII.C. - Clarify whether Compliance Groups can undertake TMDL reporting. Currently, the proposed language includes only the "Responsible Discharger."	Order Finding 82 states that Compliance Group Participants who are Responsible Dischargers may participate in Compliance Groups with other Responsible Dischargers.
16.38	Downey Brand on behalf of several clients	Pg. 25 - Provision VII.C.2. -Add language specifying that exceeding a TNAL does not constitute a violation of the permit, but requires compliance with Provision VII.D. l.	Order Finding 76 states: "The NAL/TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit."

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16.39	Downey Brand on behalf of several clients	Pg. 26 - Provision VII.E. - If NELs are maintained over the objections provided herein, then the Permit should recognize or clarify that these exceedances would be subject to Mandatory Minimum Penalties ("MMPs").	Language has been added to the Fact Sheet to address the potential applicability of MMPs to NEL exceedances.
16.40	Downey Brand on behalf of several clients	Pg. 78 - Provision XXI.Q.1. - The civil penalty amount in this section is inaccurate. Currently, the civil penalty amount for Clean Water Act violations is $53,484, not $37,500 as stated. *See* 83 Fed.Reg. 1190 (January 10, 2018).	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
16.41	Downey Brand on behalf of several clients	Fact Sheet, pg. 24, Section b. - "The Clean Water Act requires NPDES permits to include technology-based effluent limitations and any more stringent limitations necessary to meet water quality standards. Industrial storm water NPDES permits must: (1) require compliance with technology-based standards, (2) prohibit unauthorized ~~nonstorm water discharges~~ NSWDs, (3) require reduction of pollutants in the storm water discharge to ~~the~~ any applicable standard of BPT/BAT/BCT for the industry type ~~in all cases,~~ and (4) include additional limitations necessary to meet water quality standards.	The suggested change regarding non-stormwater discharges has been made. The remainder of this comment regarding BAT/BCT is out of scope for this Amendment and can be addressed during the reissuance of this General Permit.
16.42	Downey Brand on behalf of several clients	Fact Sheet, pg. 28 - Section 7 - The sentence stating that: "Discharges from BMP(s) implemented for the purposes of compliance with the On-Site Compliance Option smaller or equal to the 85th percentile 24-hour storm event (daily volume) are prohibited and a violation of this General Permit, unless the discharge sample data are below any applicable NELs and compliant with the ERA requirements."	If the Discharger selects the On-Site Compliance Option as a method to comply with this General Permit, they must be in compliance with the requirements in Attachment I including the compliance storm standard for this option. If the BMP is no longer meeting the standards set forth in Attachment I, then the Discharger would no longer be eligible for the Compliance Option and must implement conventional

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		It is not clear why such discharges would be a violation if otherwise compliant with the Permit.	methods for compliance with this General Permit and any additional TMDL-specific requirements.
16.43	Downey Brand on behalf of several clients	Fact Sheet, pgs. 44-45 - Subsection c on Water Effect Ratios ("WERs") allows for amendment of the Permit to incorporate WERs. However, where WERs already exist, those should be incorporated into the Permit now to avoid having to reopen the permit later.	Existing Regional Water Board-adopted WERs that were amended into the TMDLs addressed by this General Permit have already been incorporated. No changes have been made to address this comment.
16.44	Downey Brand on behalf of several clients	As practitioners dealing with interpretation of this Permit on almost a daily basis, for clients that are all trying hard to comply while also conducting their industrial activities, we respectfully request that the State Water Board consider these comments and make the requested modifications prior to adopting the final Permit amendments.	Comment noted.
17.1	Environmental Law Group LLP Varco & Rosenbaum	The proposed amendment to the IGP, which would incorporate new discharge levels associated with Total Maximum Daily Loads ("TMDLs"), requires dischargers to reduce certain pollutants in stormwater discharges to incredibly low levels. I have attended several meetings to discuss the proposed amendment, and many in the scientific community do not believe that the proposed levels can be physically accomplished. Given the significant change in the proposed discharge levels, we request that the State Water Resources Board ("Board") consider the following modifications to the IGP amendment.	Comment noted.
17.2	Environmental Law Group	First, it is hugely important that the timelines to meet the new discharge limits be phased in. The IGP adopted in 2014 was a significant change	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting.

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	LLP Varco & Rosenbaum	from the 1997 permit, and operators are doing their best to comply with this new permit. Many operators have taken significant steps to install treatment systems and implement other practices to meet the current IGP. If the new limits are implemented immediately, operators will have no time to budget, permit and install new systems. Given that these effluent limits could subject operators to penalties, it is imperative that operators be given time to determine how best to respond. Stormwater treatment cannot occur overnight, and operators should be given the opportunity to design the best system and not be forced to spend significant dollars without the benefit of thoughtful planning.	No changes have been made to address this comment.
17.3	Environmental Law Group LLP Varco & Rosenbaum	Second, for the same reason the Board should incorporate a process that will allow an operator to negotiate a Time Schedule Order with its Regional Board. Meeting these new discharge levels will be extremely challenging. Operators need time to consult with experts, design and plan systems, obtain necessary permits, and install the systems, and they should be able to engage in this process without the fear of being sued. Indeed, the resolution of most Clean Water Act lawsuits accomplish the same a result – a timeline by which the operator will implement certain treatment systems. However, the operator is also then required to pay significant dollars (in both attorneys' fees and penalties), which diverts monies from actual stormwater treatment efforts and makes it more difficult for the operator to budget for treatment systems. A	A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board should be contacted to discuss these appropriate procedural actions. No changes have been made to address this comment.

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		Time Schedule Order process which requires the operator to use its best efforts to achieve compliance is a necessary piece to realistically allow operators to meet the goals of the proposed amendment.	
17.4	Environmental Law Group LLP Varco & Rosenbaum	Third, the proposed Attachment I includes a compliance option which would allow a discharger to meet the requirements of the IGP if the operator retains a certain amount of stormwater on site. Currently the compliance option requires retention of the 85th percentile of a 24 hour storm, and requires the discharger to be able to use the stormwater within 24 hours so that the discharger can then retain an additional 85th percentile of a 24 hour storm event. We ask the Board to consider reducing this total capture capacity to the 85th percentile of a 24-hour storm event, with the water to be discharged within 72 hours, as the capture quantity as currently written is extremely difficult to achieve. The Board should also consider reducing the infiltration requirements and not require infiltrating stormwater to meet MCLs. While we understand the need to protect groundwater resources, if operators are required to treat to such a high level, it seems more likely that they will simply discharge the stormwater to the storm sewer system. If municipalities want to capture this stormwater for future use, the infiltration requirements should be a more practical level that will encourage operators to infiltrate the stormwater.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement. The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.

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17.5	Environmental Law Group LLP Varco & Rosenbaum	Last, the scope of the amendment is unclear. For example, do the new TNALs or NELs apply to only those operators who discharge directly to the listed water body, or to any operator who discharges somewhere that can reach the listed water body? We ask the Board to clarify that the TMDLs only apply to operators who actually discharge to the portion of the water body that is listed as impacted. It is unclear why operators who discharge to those portions of water bodies that are not impacted must meet these significantly lower levels, when the water bodies to which they discharge have not shown similar impacts. For example, the proposed TNALs or NELS for Chollas Creek should be limited to the 3.5 miles of Chollas Creek that is actually listed as impaired.	The definition of Responsive Dischargers specifies that the TMDL requirements apply to those Dischargers who discharge storm water associated with industrial activities (and authorized NSWDs) either directly or through a MS4 to impaired waterbodies identified in a U.S. EPA approved TMDL with a WLA assigned to industrial storm water sources. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the

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			Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
17.6	Environmental Law Group LLP Varco & Rosenbaum	The economic impact of compliance with the current IGP is overwhelming for many operators. Responding to the new proposed amendments will be equally costly, and many are concerned that compliance will be scientifically impossible. We ask that you please consider these comments to give operators time to plan and budget for what in many cases will be	In general, there are no public funding opportunities for the implementation of this General Permit, including TMDL requirements by Responsible Dischargers, because many of the Permittees are private entities. However, the Off-Site Compliance Option, in particular provides potential for economic incentives and cost sharing for Dischargers through the formation of local agreements with the local jurisdiction(s)

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		overwhelming costs. Thank you for your consideration of these comments.	and/or other Dischargers. There is a potential in the future for some of these projects (which include local public jurisdictions) to be eligible for public funding based on project-specific details and the funding guidelines which would describe which project-types are eligible. Additionally, the State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
18.1	Industrial Environmental Association	We appreciate the open communication and public involvement that the State Water Resources Control Board (SWRCB) staff has fostered during the development of the Proposed Amendment. Furthermore, we are pleased that the proposed amendment includes Compliance Options as a method for compliance with specific General Permit provisions.	Comment noted.
18.2	Industrial Environmental Association	**Total Maximum Daily Load (TMDL) Numeric Action Levels (TNALs) established when target deadlines are beyond General Permit's Term** The SWRCB staff proposes TNALs when compliance deadlines are beyond this General Permit's term. As discussed in the Fact Sheet, Waste Load Allocations that are translated into TNALs are not enforceable. Leaving TNALs in the amendment only creates confusion and establishes a condition that could likely cause	The translation of the WLA is not subject to whether the compliance deadline has passed or not. If the compliance date in the Implementation Schedule of the associated TMDL has passed, Responsible Dischargers shall comply with the ERAs of the assigned TNAL upon the effective date of this Amendment. If the compliance date in the Implementation Schedule of the associated TMDL is in the future, Responsible Dischargers are not required to comply with the ERAs of the assigned TNAL up until that date. Responsible

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		inappropriate threats of law suits from citizen groups. Accordingly, we recommend that TNALs be removed from the Proposed Amendment. However, we do see the importance of informing industry of future TMDL targets that need to be achieved and suggest that these targets be included in the Fact Sheet as an informational item that is not enforceable in this General Permit.	Dischargers will be required to comply with applicable NEL requirements upon the effective date of this Amendment if the compliance deadline has passed. If the NEL compliance deadline is in the future, NEL compliance is not required up until the compliance date. A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. TNALS are BMP-based WQBELs. Responsible Dischargers subject to complying with TNALs are required to comply with all the monitoring and reporting requirements in this General Permit, including the ERA process. Failure to do so, like the implementation of NALs, is subject to enforcement and is a violation of this General Permit. The Fact Sheet describes the enforceability of the TNALs.
18.3	Industrial Environmental Association	**Regulation and protection of groundwater by an NPDES Permit**	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and

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		As authorized by the Clean Water Act (CWA), the NPDES Permit Program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. The proposed amendment includes provisions that expand this authority to regulate discharges to groundwater, which are not waters of the United States. We recognize the importance of protecting groundwater that have beneficial uses. Accordingly, we suggest that the SWRCB establish streamlined General Waste Discharge Requirement (WDR) that apply to infiltration Best Management Practices (BMPs). The General WDR could rely on the future work product that will be developed under RFQ No. 17-083-250 entitled, Statewide Standards for Storm Water Capture and Infiltration Dry Wells. In the interim, the implementation of infiltration BMPs would rely on Best Professional Judgment by a California licensed professional engineer.	13377. As a WDR, this General Permit may include provisions authorized by state law, such as those aimed at protecting the quality of groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to the Findings to address this exercise of state authority.
18.4	Industrial Environmental Association	**TMDL Applicability** There is a significant amount of confusion about which TMDLs apply to an industrial facility. The scenarios are numerous and complex. For example, many are uncertain if a facility is subject to a TMDL if the facility discharges to an unimpaired segment of a receiving water that then flows to a downstream segment that is impaired and has a TMDL. We request that the SWRCB develop specific instruction so that a discharger can determine which TMDLs apply to their facility.	Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole.

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			The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial

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			facilities are notified of their requirements to comply with this General Permit.
18.5	Industrial Environmental Association	**Amendment Effective Date** It is impracticable for industry to immediately comply with the TMDLs. Accordingly, we request sufficient time between the Permit Amendment adoption date and its effective date be provided. This is necessary to plan, design, permit, construct, and commission the BMPs necessary to comply with the TMDLs. Our experience indicates that it takes approximately two years to implement advanced BMPs from the time of concept to completion of construction. We also recommend the amendment include discussion on the steps needed to seek a time scheduled order in accordance with Section 13300 of the California Water Code if additional time is necessary to implement advanced BMPs.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board should be contacted to discuss these appropriate procedural actions. No changes have been made to address this comment.
18.6	Industrial Environmental Association	The SWRCB staff proposes TNALs when compliance deadlines are beyond this General Permit's term. As discussed in the Fact Sheet, Waste Load Allocations that are translated into TNALs are not enforceable. Leaving TNALs in the amendment only creates confusion and establishes a condition that could likely cause inappropriate threats of law suits from citizen groups. Accordingly, we recommend that TNALs be removed from the Proposed Amendment. However, we do see the importance of informing industry of future TMDL targets that need to be achieved and suggest that these targets be included in the Fact Sheet as an informational	The translation of the WLA is not subject to whether the compliance deadline has passed or not. If the compliance date in the Implementation Schedule of the associated TMDL has passed, Responsible Dischargers shall comply with the ERAs of the assigned TNAL upon the effective date of this Amendment. If the compliance date in the Implementation Schedule of the associated TMDL is in the future, Responsible Dischargers are not required to comply with the ERAs of the assigned TNAL up until that date. Responsible Dischargers will be required to comply with applicable NEL requirements upon the effective date of this Amendment if the compliance

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		item that is not enforceable in this General Permit. If the SWRCB decides to retain TNALs in the Permit Amendment, then applicable comments presented below should be considered.	deadline has passed. If the NEL compliance deadline is in the future, NEL compliance is not required up until the compliance date. A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. TNALS are BMP-based WQBELs. Responsible Dischargers subject to complying with TNALs are required to comply with all the monitoring and reporting requirements in this General Permit, including the ERA process. Failure to do so, like the implementation of NALs, is subject to enforcement and is a violation of this General Permit. The Fact Sheet describes the enforceability of the TNALs.
18.7	Industrial Environmental Association	Attachment I As authorized by the Clean Water Act (CWA), the NPDES Permit Program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. The proposed amendment includes	An NPDES permit adopted by the Water Boards also serves as waste discharge requirements (WDRs) under Water Code sections 13267 and 13377. As a WDR, this General Permit may include provisions authorized by state law, such as those aimed at protecting the quality of

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		provisions that expand this authority to regulate discharges to groundwater, which are not waters of the United States. We recognize the importance of protecting groundwater that have beneficial uses. Accordingly, we suggest that the SWRCB establish streamlined General Waste Discharge Requirement (WDR) that apply to infiltration Best Management Practices (BMPs). The General WDR could rely on the future work product that will be developed under RFQ No. 17-083-250 entitled, Statewide Standards for Storm Water Capture and Infiltration Dry Wells. In the interim, the implementation of infiltration BMPs would rely on Best Professional Judgment by a California licensed professional engineer. If the SWRCB decides to retain language regarding protection of groundwater in the Permit Amendment, then applicable comments presented below should be considered.	groundwater and waters of the state. (Wat. Code, § 13263.) While adopting a general WDR for infiltration BMPs is an option and could occur in the future, the inclusion of the requirements in this General Permit streamlines the process for Dischargers interested in pursuing a Compliance Option and prevents the need to pay fees for a separate WDR. Language has been added to the Findings to address this exercise of state authority.
18.7.1	Industrial Environmental Association	There is a significant amount of confusion about which TMDLs apply to an industrial facility. The scenarios are numerous and complex. For example, many are uncertain if a facility is subject to a TMDL if the facility discharges to an unimpaired segment of a receiving water that then flows to a downstream segment that is impaired and has a TMDL. We request that the SWRCB develop specific instruction so that a discharger can determine which TMDLs apply to their facility.	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope

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			of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified.
18.8	Industrial Environmental Association	It is impracticable for industry to immediately comply with the TMDLs. Accordingly, we request sufficient time between the Permit Amendment adoption date and its effective date be provided. This is necessary to plan, design, permit, construct, and commission the BMPs necessary to comply with the TMDLs. Our experience indicates that it takes approximately two years to implement advanced BMPs from the time of concept to completion of construction. We also recommend the amendment include discussion on the steps needed to seek a time scheduled order in accordance with Section 13300 of the California Water Code if additional time is necessary to implement advanced BMPs.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board should be contacted to discuss these appropriate procedural actions. No changes have been made to address this comment.
18.9	Industrial Environmental Association	I.M. (Pg. 13) The language in Section I.M. discusses the role of NALs, TNALs, and Exceedance Response Actions but the section heading does not include TNALs. *Recommended change shown in redline/strikeout text:* M. Role of Numeric Action Levels (NALs), TMDL NALs (TNALs), and Exceedance Response Actions (ERAs)	The suggested revision has been made, with minor modifications.
18.10	Industrial Environmental Association	VII.E. (Pg. 26) It would be helpful to provide an appendix with the MMPs that would be expected in the event of an NEL exceedance.	Language has been added to Fact Sheet Section F.5.E addressing the potential assessment of MMPs.

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18.11	Industrial Environmental Association	VII.F. (Pg.26) This provision is appropriate and should be retained.	Comment noted. No changes have been made to address this comment.
18.12	Industrial Environmental Association	VII.G. (Pg. 26) This provision is helpful. Need to clarify that implementing the compliance option yields the same.	See Order Finding 51, this Amendment's new Footnote 4, and Attachment I, Sections I.B-C A Discharger in compliance with either the On-Site Compliance Option or Off-Site Compliance Option and all applicable requirements of the General Permit is in compliance with Section V.A, and deemed in compliance with Section III.C, V.C, and VI of this General Permit.
18.13	Industrial Environmental Association	VII.. (Pg. 26) *Recommended change shown in redline/strikeout text:* H. The State Water Board allows Dischargers statewide to comply with the alternative compliance options in Attachment I in lieu of complying with applicable NALs, Discharge Prohibitions, TMDL waste load allocations (WLAs), and Receiving Water Limitations. Dischargers are still required to comply with applicable Subchapter N effluent limitations.	Changes have been made to the Order's Findings and throughout the Amendment to clarify the benefits of the Compliance Options.
18.14	Industrial Environmental Association	Glossary: Attachment C (Pg. 2) Clarify that the Land Owner is not considered the discharger if the land owner is not the person, company, agency, or other entity that is the operator of the industrial facility covered by this General Permit. *Recommended change shown in redline/strikeout text:* **Discharger**	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		A person, company, agency, or other entity that is the operator of the industrial facility covered by this General Permit. A Land owner is not considered the discharger if the land owner is not the person, company, agency, or other entity that is the operator of the industrial facility covered by this General Permit.	
18.15	Industrial Environmental Association	Glossary: Attachment C (Pg. 3) Recommend including a definition of groundwater. **Groundwater** Subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.	A definition of groundwater has been added to the Glossary (Attachment C) of this General Permit.
18.16	Industrial Environmental Association	Glossary: Attachment C (Pg. 3) Recommend adding a definition for aquifer: **Aquifer** Ground water bearing formations sufficiently permeable to transmit and yield significant quantities of water.	Comment noted. A definition of groundwater has been added to the Glossary (Attachment C) of this General Permit, but it is not necessary to further define groundwater hydrologic principles.
18.17	Industrial Environmental Association	Glossary: Attachment C (Pg. 3) Recommend adding a definition for groundwater basin: **Groundwater Basin** A hydrogeologic unit containing one large aquifer or several connected and interrelated aquifers.	Comment noted. A definition of groundwater has been added to the Glossary (Attachment C) of this General Permit, but it is not necessary to further define groundwater hydrologic principles.
18.18	Industrial Environmental Association	Glossary: Attachment C (Pg. 3) Recommend adding a definition for Compliance Option-regulated Groundwater: **Compliance Option-regulated Groundwater** Groundwater that is to be protected as an existing or potential sources of municipal and domestic water supply. This includes all	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater

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		groundwater except: 1. Where the Regional Board has deleted the Municipal and Domestic Supply (MUN) beneficial use designation in the portion of hydrologic groundwater units, areas or subareas. These are locations where available information indicated that the MUN beneficial use in portions of these hydrologic groundwater basins did not occur and were not likely to occur in the future. or 2. In accordance with Resolution No. 88-63, *Sources of Drinking Water Policy*, groundwaters except where: - The total dissolved solids concentration of groundwaters exceed 3,000 milligrams per liter (mg/l); - The water source has a low sustainable yield of less than 200 gallons per day for a single well; - There is contamination that cannot reasonably be treated for domestic use with either best management practices or best economically available treatment practices; - The groundwaters are regulated geothermal energy ground waters.	use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.19	Industrial Environmental Association	Glossary: Attachment C (Pg. 6) This infers the industrial discharger must comply with the downstream TMDLs even if the discharger first discharges directly or indirectly into an unimpaired water body or an impaired water body that does not have a TMDL, which then flows to a water body with a TMDL. Please confirm this is the intent.	The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally

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			impose WLAs on tributaries or the watershed as a whole. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.

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18.20	Industrial Environmental Association	Glossary: Attachment C (Pg. 7) A TMDL also includes a margin of safety to account for uncertainty in predicting how well pollutant reductions will result in meeting water quality standards. *Recommended change shown in redline/strikeout text:* **Total Maximum Daily Load (TMDL)** The sum of the individual Waste Load Allocations (WLAs) for point sources and load allocations for nonpoint sources, natural background, and a margin of safety.	The suggested revision has been made.
18.21	Industrial Environmental Association	Attachment E (Pg. 1) Consider deleting this table. The subsequent table contains this information.	This table is kept to maintain a simple directory of all TMDLs that are addressed in Attachment E. No changes have been made to address this comment.
18.22	Industrial Environmental Association	Attachment E, Table E-1 (Pg. 2) *Recommended change shown in redline/strikeout text:* Marina Del Rey Harbor-Back Basins Copper, Lead, Chlordane, an	The definition of PCBs has been defined in the factsheet and removed as a footnote in Attachment E.
18.23	Industrial Environmental Association	Attachment E (Pg. 2) Recommended change shown in redline/strikeout text: ~~13~~ Polychlorinated biphenyls 2 Dichlorodiphenyltrichloroethane	The definition of PCBs has been defined in the factsheet and removed as a footnote in Attachment E.
18.24	Industrial Environmental Association	Attachment E (Pg. 45) Should the Chollas Creek TMDL pollutants be dissolved or total Copper, Lead, and Zinc?	All pollutant forms are in Total and changes will be made to ensure all dissolved pollutants are translated into Total in Attachment E and explained in the Fact Sheet.

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18.25	Industrial Environmental Association	Attachment E (Pg. 45) Need to add a footnote that accounts for the WER associated with Copper once it has been approved.	Order Finding 46 allows the State Water Board Executive Director to incorporate reanalyzed WERs following the adoption of this Amendment.
18.26	Industrial Environmental Association	Attachment E (Pg. 45) Need to add a footnote that accounts for the WER associated with Zinc once it has been approved.	Order Finding 46 allows the State Water Board Executive Director to incorporate reanalyzed WERs following the adoption of this Amendment.
18.27	Industrial Environmental Association	Attachment E (Pg. 46) What is considered to be the representative flow rate? Does the RWQCB want to know about flow rate or flow volume. If flow rate, then is it peak flow rate or some other flow rate. Note that there are an infinite amount of flow rates that could occur. If the RWQCB is interested in knowing about flow volume, then it is recommended that the rainfall amount for the measured event be included. Please clarify	The Los Peñasquitos Lagoon Sediment TMDL Fact Sheet Section II.F.6.d.i explains the rationale for requiring monitoring for flow rates and the coordination that is required between Responsible Dischargers and the Phase I MS4 co-permittees and the California Department of Transportation. No changes have been made to address this comment.
18.28	Industrial Environmental Association	Attachment I: I.B and I.C (Pg. 1) Recommend combining Provision B and C together.	Provisions I.B and I.C in Attachment I are legally distinct and, as a result, remain separate. No changes have been made to address this comment.
18.29	Industrial Environmental Association	Compliance Options - Attachment I: C (Pg. 2) So there is no confusion, it is recommended that a California Licenses Civil Engineer be specified. This type of professional engineer is the only one qualified to perform this work in accordance with the California Professional Engineers Act.	Clarifications to Attachment I have been made to address this comment.
18.30	Industrial Environmental Association	Compliance Options - Attachment I: D (Pg. 2) Recommend replacing "groundwater" with "Compliance Option-regulated Groundwater". See Definition provided in a prior comment.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse

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		Recommended change shown in redline/strikeout text: The Discharger shall ensure that groundwater Compliance Option-regulated Groundwater is not degraded as a result of any infiltration BMP(s) as described in Section J.2 below.	storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.31	Industrial Environmental Association	Compliance Options - Attachment I: E.3 (Pg. 2) Recommend not specifying the 24-hr period. Storm event timing will dictate the specific 24-hr recovery capacity period. Suggest defining the 24-hour period begin at the end of the rain event. The end of the rain event could be defined when there is no more the 0.01 inch of rainfall measured in each of six consecutive hours. Additionally, this provision should account for storage sized to exceed the 85th percentile, 24-hr event as well as any captured storm volume that has been worked off prior to the end of the event. *Recommended change shown in redline/strikeout text:* Recover capacity within a 24-hour period ~~(the 24-hour time-period is 12:00a.m. to 11:59p.m~~) to capture and use, infiltrate, and/or evapotranspire runoff volumes generated up to and including the 85th percentile 24-hour storm event. <u>The end of the rain event is defined when there is no more the 0.01 inch of rainfall measured in each of six consecutive hours.</u>	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.

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		Storage capacity that exceeds the 85th percentile, 24-hr event shall be accounted for when assessing the recovered capacity. Any captured storm volume that has been vacated shall also be accounted for when assessing the recovered capacity.	
18.32	Industrial Environmental Association	Compliance Options -Attachment I: Footnote (Pg. 2) See prior comment.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
18.33	Industrial Environmental Association	Compliance Options -Attachment I: 6 (Pg. 3) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* The Discharger implementing infiltration BMP(s) shall address possible ~~groundwater~~ contamination of Compliance Option-regulated Groundwater from the BMP(s) operation by using one or more of the following methods:	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.

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18.34	Industrial Environmental Association	Compliance Options - Attachment I: 6.a. (Pg. 3) The definition of instantaneous needs to be clarified. The quality of the infiltrated runoff will not be known until laboratory results are provided.	The referenced language has been removed.
18.35	Industrial Environmental Association	Compliance Options - Attachment I: 6.a.i (Pg. 3) Recommend monitoring be reduced to four times per year and be associated with the QSEs. *Recommended change shown in redline/strikeout text:* Install groundwater monitoring devices (e.g., lysimeters) to collect ~~monthly~~ samples of the infiltrated water below the infiltration BMP(s) to demonstrate compliance with MCLs for pollutants associated with industrial activities in the influent of the infiltration BMP(s). Samples shall be collected four times per year in accordance with the QSE sampling frequency and periods.	Attachment I Section II.E.6.a.ii has been revised to require collection of monthly samples, when feasible, of infiltrated water below the infiltration BMP(s).
18.36	Industrial Environmental Association	Compliance Options -Attachment I: 6.b (Pg. 3) This provision is too broadly constrictive and does not account for situation in which drywells are installed significantly above groundwater. The use of a lysimeter is intended to help determine if groundwater is being impacted. The differences between drywells and other infiltration technologies do not affect the purpose of using a lysimeter.	Infiltrating storm water above the MCL criteria into a dry well could potentially impact groundwater. Therefore, where the influent is not meeting MCLs, pretreatment is necessary to ensure all pollutants associated with industrial activities in the influent of the dry well meet MCL criteria, additionally Dischargers are required to ensure certain constituents in Table B of Attachment I are not causing a threat to groundwater beneficial uses if identified and with the potential to discharge to groundwater. No changes have been made to address this comment.

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18.37	Industrial Environmental Association	Compliance Options - Attachment I: Table A (Pg. 4) Basin Plans contain some groundwaters that have higher allowable concentrations. Statement should be revised to be consistent with Basin Plan water quality standards. *Recommended change shown in redline/strikeout text:* Pollutants associated with industrial activities in the influent of the infiltration BMP(s) shall not exceed 500 mg/L <u>unless the Basin Plan allows for a higher concentration.</u>	Footnote 12 contains a provision that if the Regional Water Board's Basin Plan contains more stringent water quality objectives for groundwater, then the Basin Plan water quality objectives supersede the pretreatment requirements as laid out in Attachment I Table A. Flexibility is not offered to assign a criteria less stringent than the MCL Criteria because even if a groundwater is not a drinking water source currently, groundwater may be designated in the future for a drinking water supply/municipal and domestic supply (MUN) beneficial use. No changes have been made to address this comment.
18.38	Industrial Environmental Association	Compliance Options - Attachment I: F.4 - Implementation Schedule (Pg. 5) We agree with this provision and request that it be retained.	Comment noted. This concept will be retained in this Amendment.
18.39	Industrial Environmental Association	Requiring the BMP to recover capacity between 12:00 a.m. and 11:59 p.m. is too specific and does not account for storm events occurring during at any time during the day. Compliance Options - Attachment I: Footnote (Pg. 6) See prior comment.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
18.40	Industrial Environmental Association	Compliance Options - Attachment I: J.2. - Protection of Waters of the State (Pg. 7)	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit

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		Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* The migration of pollutants that cause or contribute to the exceedance of a water quality objective in ~~groundwater~~ Compliance Option-regulated Groundwater is prohibited.	projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.41	Industrial Environmental Association	Compliance Options - Attachment I: J.2.a - Protection of Waters of the State (Pg. 8) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* Prevent captured and/or infiltrated storm water from causing or contributing to the exceedance of a water quality objective in ~~groundwater~~ Compliance Option-regulated Groundwater.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.42	Industrial Environmental Association	Compliance Options - Attachment I: J.2.b - Protection of Waters of the State (Pg. 8) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:*	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater

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		Prevent the migration of existing soil contamination to ~~groundwater~~ Compliance Option-regulated Groundwater and not interfere with any current remedial activities for existing groundwater contamination in the vicinity of the facility; and,	use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.43	Industrial Environmental Association	Compliance Options - Attachment I: J.2.c - Protection of Waters of the State (Pg. 8) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* Address other similar factors which may degrade ~~groundwater~~ Compliance Option-regulated Groundwater.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.44	Industrial Environmental Association	Compliance Options - Attachment I: 3.a - Infiltration and Groundwater Protection (Pg. 8) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* Infiltration BMPs must not cause or contribute to an exceedance of an applicable ~~groundwater~~ Compliance Option-regulated Groundwater quality objective.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the

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			discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.45	Industrial Environmental Association	Compliance Options - Attachment I: 3.b - Infiltration and Groundwater Protection (Pg. 8) Recommend the opportunity to install drywells below a perched groundwater zone so long as the drywell is sealed in the zone above and within the perched groundwater zone.	Per Attachment I Section IV, infiltration BMPs used for compliance with the On-Site Compliance Option shall comply with applicable municipal ordinances. Therefore, infiltration BMPs, including dry wells, must be designed and installed according to any applicable local design standards. For example, if the local ordinance does not permit installation of drywells below a perched groundwater zone, the Discharger would not be locally approved for the BMP installation and this would violate the design requirements in Attachment I of this General Permit for this location. No changes have been made to address this comment.
18.46	Industrial Environmental Association	Compliance Options - Attachment I: 3.e - Infiltration and Groundwater Protection (Pg. 8) Please provide the timing by which the Executive Officer will review and approve or deny.	Working up front with the appropriate Regional Water Board is encouraged to facilitate review and potential approval of an Off-Site Compliance Option agreement. Dischargers are encouraged to work with the appropriate Regional Water Board to obtain feedback on the On-Site Compliance Option designs. Although the Regional Water Boards may review the proposed BMPs and provide feedback, they are not required to approve the On-Site BMPs proposed for installation. Dischargers are required to design and install BMPs according to any applicable local design standards.

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			No changes have been made to address this comment.
18.47	Industrial Environmental Association	Compliance Options - Attachment I: K.1. - Additional Regional Water Board Authorities for Dischargers Implementing the On-Site Compliance Option (Pg. 8) What are regional groundwaters?	The referenced language pertains to regional groundwater concerns, i.e. concerns about groundwater in the relevant region.
18.48	Industrial Environmental Association	Compliance Options - Attachment I: K.2. - Additional Regional Water Board Authorities for Dischargers Implementing the On-Site Compliance Option (Pg. 8) What are regional groundwaters?	The referenced language pertains to regional groundwater concerns, i.e. concerns about groundwater in the relevant region.
18.49	Industrial Environmental Association	Compliance Options - Attachment I: 3.a -The Regional Water Board may require additional information or modifications to the facility's SWPPP and/or BMP(s) to address: (Pg. 9) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* Exceedances of ~~groundwater~~ Compliance Option-regulated Groundwater standards;	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.50	Industrial Environmental Association	Compliance Options - Attachment I: 3.b -The Regional Water Board may require additional information or modifications to the facility's SWPPP and/or BMP(s) to address: (Pg. 9) Statement should be revised reflect protection of groundwater that needs to be protected.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the

Comment ID	Commenter(s)	Comment	Comment Response
		Recommended change shown in redline/strikeout text: Impacts to ~~groundwater~~ Compliance Option-regulated Groundwater beneficial uses; or,"	protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.51	Industrial Environmental Association	Compliance Options - Attachment I: 3.c -The Regional Water Board may require additional information or modifications to the facility's SWPPP and/or BMP(s) to address: (Pg. 9) Statement should be revised reflect protection of groundwater that needs to be protected. *Recommended change shown in redline/strikeout text:* Impacts to the ~~groundwater~~ Compliance Option-regulated Groundwater quality due to the infiltration of the industrial authorized NSWDs and/or storm water discharges at the Discharger's industrial facility.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
18.52	Industrial Environmental Association	Compliance Options - Attachment I: 4 -The Regional Water Board may require additional information or modifications to the facility's SWPPP and/or BMP(s) to address: (Pg. 9) Please explain the criteria that need to be met and the process that must be followed to seek discontinuation of groundwater monitoring.	The site-specific requirements for discontinuing groundwater monitoring shall be determined by the State Water Board Executive Director or the applicable Regional Water Board Executive Director. The request is to be made by the Discharger. No changes have been made to address this comment.

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18.53	Industrial Environmental Association	Compliance Options - Attachment I: III.A -Off-Site Compliance Option (Pg. 9) Recommend Off-site compliance also include private projects.	Attachment I has been revised to include the option for agreements between private entities.
18.54	Industrial Environmental Association	Compliance Options - Attachment I: III.A - Off-Site Compliance Option (Pg. 9) This must be broadened to allow for other BMP avenues. For example, the City of San Diego's PURE Water Program should be eligible as an off-site compliance option.	Attachment I has been revised to include the option for agreements between private entities. On-Site BMPs can "divert" to water projects for the On-Site Compliance Option for the volume of water specified in the compliance storm standard. PURE can use the Off-Site Compliance Option as long as the retention BMP is sized per Attachment I's compliance storm standard, however, we are not providing pathways solely for treatment BMPs because the modeling to support and compare treatment BMPs is not available and comparable to the mass-based WLA for volume reduction in this Amendment.
18.55	Industrial Environmental Association	Compliance Options - Attachment I: Footnote (Pg. 9) The industrial discharger should not be responsible for verifying the Off-site Compliance BMPs meet this standard. It should be the responsibility of the owner/operator of the BMP.	Details regarding allocation of responsibility for meeting the design standards for the Off-Site Compliance BMP(s) are subject to the agreement made between the Discharger and the other party or parties involved. No changes have been made to address this comment.
18.56	Industrial Environmental Association	Compliance Options - Attachment I: F.1 - Monitoring, Reporting and Storm Water Pollution Prevention Plan (SWPPP) Update Requirements (Pg. 10) If there is no monitoring and associated records, then why is this provision necessary? Provision should be deleted.	Clarifications have been made in Attachment I Section III.I.1 (formerly Attachment I Section III.F.1) to address this comment.

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18.57	Industrial Environmental Association	Compliance Options - Attachment I: F.2.f - Update their SWPPP to include: (Pg. 11) Why is it the responsibility of the discharger to provide this document? This should be the responsibility of the organization operating the off-site BMP. Provision should be deleted.	The Discharger is required to demonstrate compliance with this General Permit by providing documentation that they are a part of the Off-Site agreement. No changes have been made to address this comment.
18.58	Industrial Environmental Association	Compliance Options - Attachment I: F.4.c (Pg. 11) Statement should be revised to only include items that discharger is responsible for.	The Discharger is required to demonstrate compliance with this General Permit by providing documentation that they are a part of the Off-Site agreement. No changes have been made to address this comment.
18.59	Industrial Environmental Association	Compliance Options - Attachment I: F.4.e (Pg. 11) This provision is the responsibility of the entities that are managing the off-site compliance BMPs and not the discharge. Provision should be deleted.	The Discharger is required to demonstrate compliance with this General Permit by providing documentation that they are a part of the Off-Site agreement. No changes have been made to address this comment.
18.60	Industrial Environmental Association	Compliance Options - Attachment I: F.4.f (Pg. 11) This provision is the responsibility of the entities that are managing the off-site compliance BMPs and not the discharge. Provision should be deleted.	The Discharger is required to demonstrate compliance with this General Permit by providing documentation that they are a part of the Off-Site agreement. No changes have been made to address this comment.
19.1	Industrial Environmental Coalition of Orange County	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.?	A Discharger opting into the On-Site or Off-Site Compliance Option are required to continue complying with the normally applicable General Permit requirements until the BMP is completed and operational.

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			No changes have been made to address this comment.
19.2	Industrial Environmental Coalition of Orange County	b. Is there any assistance with the cost of Attachment I options? Are Proposition 1 bonds available for dischargers?	Storm water capture projects are eligible projects for Proposition 1. The eligible applicants for Proposition 1 funding includes public agencies, nonprofit organizations, public utilities, federally recognized Indian tribes, state Indian tribes listed on Native American Heritage Commission's California Tribal Consultation List, and mutual water companies. An Off-Site Compliance Option project between a Discharger and a local jurisdiction(s) may be eligible for Proposition 1 funds depending on the project-specific details.
19.3	Industrial Environmental Coalition of Orange County	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.	The MCL requirements in Attachment I are for infiltration BMPs, if the onsite reuse was not using infiltration, these provisions would not apply. Dischargers are required to sample influent entering the infiltration BMP(s) to ensure it meets the MCL criteria for industrial pollutants at the facility. The requirement to apply MCL criteria is to protect the influent entering the infiltration (BMP) and into groundwater and it being a potential threat for future drinking water beneficial uses.
19.4	Industrial Environmental Coalition of Orange County	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.?	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are “consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7.

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			(40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. No changes have been made to address this comment.
19.5	Industrial Environmental Coalition of Orange County	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	The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the

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		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.	entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.

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19.6	Industrial Environmental Coalition of Orange County	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 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.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. A TSO is an enforcement action issued in accordance with section 13300 and 13308 of the California Water Code to provide the discharger time to comply. Each Regional Water Board has a different enforcement procedure for issuing a TSO and the appropriate Regional Water Board should be contacted to discuss these appropriate procedural actions. This General Permit's Fact Sheet (I.B, II.D) stated that additional NELs (Technology Based or Water Quality Based) were infeasible due to insufficient information at the time of the adoption and that an analysis of each TMDL needed to be performed. This process led to the inclusion in this Amendment of Permit-specific TMDL requirements. The TMDLs adopted by the Regional Water Boards being implemented into this General Permit through this Amendment contain the required information and regulatory requirements (e.g., WLAs) for implementing water quality-based NELs for industrial stormwater discharges regulated by this General Permit to meet mandated WQS. NPDES-regulated storm water discharges (including industrial storm water) must address the WLA in the TMDLs and translate the WLAs to WQBELs. (40 C.F.R. § 122.44(d)(1)(vii)(B).).

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			Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. No changes have been made to address this comment.
19.7	Industrial Environmental Coalition of Orange County	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.	Order Finding 45 is clear. No changes have been made to address this comment.
19.8	Industrial Environmental Coalition of Orange County	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).	Responsible Dischargers are required to use U.S EPA approved analytical methods that are sufficiently sensitive and are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. The SSM shall be used for compliance with NALs, TNALs, and NELs. See language added in the Fact Sheet Section J.3.b.
19.9	Industrial Environmental Coalition of Orange County	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	The Fact Sheet has been updated to include an evaluation of the increased incremental costs associated with these TMDL requirements.

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		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?	
19.10	Industrial Environmental Coalition of Orange County	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.	An industrial facility is only applicable to the requirements for a TMDL if they are discharging the pollutant identified into the watershed/water body/tributary specific for TMDL compliance in Attachment E Table E-2. Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. The TMDL modeled a unique watershed boundary to assess sources contributing to the load to address the impaired water body which is different than the Hydrologic Unit Code 10 sized watershed used as part of the industrial pollutant source assessment for impairment-pollutant combinations. Dischargers with facilities located in a TMDL watershed will need to know what watershed, water body, or tributary it discharges into. The definition of Responsible Discharger in the

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			Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole. When the receiving waters are identified, a Responsible Dischargers shall review Attachment E and identify the applicable TMDL-specific requirements that they will need to comply with.
19.11	Industrial Environmental Coalition of Orange County	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.	Changes have been made throughout the Amendment to clarify the processes required following TNAL and NEL exceedances.
19.12	Industrial Environmental Coalition of Orange County	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.	The instantaneous maximum exceedance type is an appropriate measurement for compliance with the more stringent TMDL requirements needed to protect waterbodies that are identified as impaired. These translations are based on the language of the TMDL WLAs. This is further described in the Fact Sheet. This General Permit allows Dischargers to implement flow weighted composite sampling for obtaining an accurate and representative

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			concentration of constituents in the industrial storm water discharge for a specific storm event. No changes have been made to address this comment.
19.13	Industrial Environmental Coalition of Orange County	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.	Attachment I Section I.C.2 deems Dischargers implementing a Compliance Option in compliance with TMDL requirements (Section V.C), which includes NELs and TNALs. Sections II and III include specific Permit provisions from which Dischargers implementing a Compliance Option are exempt, including Exceedance Response Actions. No changes have been made to address this comment.
19.14	Industrial Environmental Coalition of Orange County	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 compliance options ensure compliance with the TMDL? Clarification should be added one way or the other.	The intent of this Amendment is to provide a clear TMDL compliance framework for Responsible Dischargers. Finding 76 states that the TNAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit. Further, Sections VII.F and G provide that Responsible Dischargers in compliance with an NEL or with discharges that do not exceed the level of a TNAL are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the NEL or TNAL. Also, any Discharger implementing and complying with a Compliance Option in Attachment I is deemed in compliance with the Discharge Prohibitions in Section III.C, this General Permit's TMDL requirements Section V.C, and Receiving Water Limitations (Section VI). The authority to initiate a

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			citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment.
19.15	Industrial Environmental Coalition of Orange County	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?	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole
19.16	Industrial Environmental	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	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight

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	Coalition of Orange County	mg/L? If so, could the Water Board change the NELs to mg/L?	concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h.
19.17	Industrial Environmental Coalition of Orange County	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.	Clarifications have been made in Attachment I Section III.I.1 (formerly Attachment I Section III.F.1) to address this comment.
19.18	Industrial Environmental Coalition of Orange County	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.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
19.19	Industrial Environmental	The shutoff requirement in Attachment I, Section II.E.5. needs clarification. What is the purpose of	The purpose of the shutoff mechanism is to prevent and divert spills, process water,

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	Coalition of Orange County	the shutoff? Is this related to the bypass/overflow?	wastewater, materials in toxic concentration, and unauthorized NSWDs from entering the infiltration BMP. This is explained further in the Fact Sheet II.E.8.
19.20	Industrial Environmental Coalition of Orange County	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.	The influent sampling is required to demonstrate the effectiveness of the BMP and to monitor for pollutant concentrations that enter the BMP for comparison to the discharge (overflow discharge/bypass) concentrations. No changes have been made to address this comment.
19.21	Industrial Environmental Coalition of Orange County	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.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered to be point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. The instantaneous maximum exceedance type is an appropriate measurement for compliance with the more stringent TMDL requirements needed to protect waterbodies that are identified as impaired. These translations are based on the language of the TMDL WLAs. This is further described in the Fact Sheet.
19.22	Industrial Environmental	Many QISP certifications will expire this year. There is no information yet on how to even	The Qualified Industrial Storm Water Practitioner (QISP) Training Program will be updated to

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	Coalition of Orange County	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?	ensure QISPs understand the Amendment requirements.
19.23	Industrial Environmental Coalition of Orange County	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.	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach.
20.1	Latham & Watkins LLP	On behalf of Toyota Motor Engineering & Manufacturing N.A., and specifically its facility located in Long Beach, California, ("TABC"), we are providing comments on the above-referenced matter. TABC is committed to environmental stewardship and protection of waterways. In fact, a key aspect of TABC's environmental strategy is a commitment to water stewardship that focuses on conserving water, protecting water resources and sharing our know how with others. In that spirit, we have concerns that the draft permit amendment may frustrate implementation of effective stormwater controls by potentially failing to recognize adequately the burden of non-industrial and even natural background pollutant load.	Comment noted.
20.2	Latham & Watkins LLP	TABC appreciates the revised definition of TNAL and understands that exceedances of a proposed TNAL do not effect a permit violation, and that the TNALs are not NELs. This is critically important in watersheds where certain constituents such as zinc are ubiquitous, and where the facilities subject to the IGP are	Comment noted.

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		comparatively minor sources of loadings of such constituents to impaired water bodies. There are multiple sources of any subject constituent that contribute to its concentration in a watershed: the subject constituent may be part of the naturally occurring background, it may literally fall out of the sky in aerial deposition, it may be present due to other industrial sources, and/or it may be present from nonpoint source pollution.	
20.3	Latham & Watkins LLP	These are not academic concerns. The IGP itself recognizes that, "Background/ambient conditions in some hydrogeologic zones may contribute pollutant loadings that would significantly contribute to, if not exceed, the NEL values." (IGP Section II.D.4.) This statement is sequally true of TNALs. In our view, this recognition is critically important when it comes to ensuring achievable standards and availability of reasonable compliance plans and options for regulated entities, as more fully outlined below.	TNAL exceedances are subject to this General Permit's ERAsprovisions, which allow Responsible Dischargers to submit Non-Industrial Pollutant Source Demonstrations and Natural Background Pollutant Source Demonstrations.
20.4	Latham & Watkins LLP	While the agency plainly appreciates the difficulty of meeting stringent water quality standards where regulated constituents are ubiquitous, we are concerned that the proposed amendments to the IGP do not adequately recognize those burdens on industry. A Natural Background Pollutant Source Demonstration should not be available exclusively when a TNAL exceedance is "attributable solely" to natural background (Proposed IGP Section XII.D.2.b.i), which could be read to mean that the permittee cannot make such a demonstration if the permittee's on-site activities made *any* contribution. To address this, we urge	The criteria for the Natural Background Pollutant Source Demonstration are not being changed at this time. If it is no longer feasible to address the runoff from a site regulated by this General Permit, other demonstrations, such as the Industrial Activity BMP demonstration, are available to dischargers.

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		the agency to acknowledge that industry should be responsible for reasonable control of that constituent load which its industrial process generates, and is not responsible for natural background concentrations or contributions to the load outside of its control. Such recognition is critical to ensure standards that are achievable for the regulated community.	
20.5	Latham & Watkins LLP	Similarly, the industrial permit program does not require industry to clean up pollutant load in run-on from adjacent properties or from aerial deposition (each of which may contain offsite non-industrial pollutant load), or from on-site, non-industrial sources. We are concerned that while the proposed amended IGP recognizes that permittees should not be responsible for loads from these other sources, it allows for a Non-Industrial Pollutant Source Demonstration only when an exceedance is "attributable solely" to these other sources. (Proposed IGP Section XII.D.2.c.i.) Again, this is an unrealistic and inappropriate standard if interpreted to make the demonstration available only if the permittee's on-site activities make no contribution to the exceedance. We urge the agency to revise and clarify this provision to ensure it is not read to be relevant only when there is zero contribution from the regulated point source. To fail to do so risks eliminating this critical compliance option.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
20.6	Latham & Watkins LLP	In addition, the proposed amendments to the IGP helpfully recognize that additional BMPs are not required if the permittee can demonstrate that BMPs to eliminate a NAL or TNAL exceedance are not technically available or not	The language in the Fact Sheet is sufficiently descriptive of the standard applicable to the Industrial Activity BMP Demonstration.

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		economically practicable or achievable. (IGP Proposed Amendment Fact Sheet at 6.) This is an important element to help ensure that permittees can demonstrate where NALs or TNALs cannot be achieved on-site, or where the costs of doing so would be unduly burdensome to the facility or would be disproportionate to the environmental benefits. The permit fact sheet should further clarify that this demonstration is intended to be based on a broad and flexible standard that can be satisfied through a variety of factors and information.	No changes have been made to address this comment.
20.7	Latham & Watkins LLP	Finally, we question whether the TNALs and the underlying water quality standards are consistent with natural background. The standards may not reflect natural constituent levels to which the aquatic ecosystem has acclimated over time. Such levels may be discernible, for example, from sediment core data which can show the presence or absence of any number of constituents over time, going back many decades. Such data could be used to evaluate whether the subject TMDLs include the right level of natural background. We suspect the levels are underestimated, resulting in a TMDL that is too small, once again, potentially shifting inappropriate burdens onto industry. More fundamentally, we question whether the TNALs and TMDLs reflect an appropriate allocation of responsibility to industrial permittees, given these permittees' relatively small contribution to watershed loadings. Additional work is required to ensure that any additional regulatory requirements	At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs. (40 C.F.R. § 122.44(d)(1)(vii)(B).) The State Water Board cannot change or reevaluate the underlying TMDL at the permitting stage.

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		imposed on industrial permittees are both fairly allocated with regard to comparative contributions to impairments, and fully justified with regard to the environmental benefits to be achieved.	
21.1	Los Angeles Department of Water and Power	LADWP supports regulations that protect the environment and provides the following comments to improve implementation of the TMDL requirements. Specifically, LADWP supports the On-site and Off-site compliance options and appreciates the opportunity to use either compliance option as written in the Amendment. Allowing infiltration at a site has the potential to be another local water source. Reuse of storm water also helps offset the use of potable water. Both the on-site and off-site alternatives are beneficial for arid dry regions such as Southern California. The off-site option to be able to fund a watershed storm water project is the best option in terms of receiving the largest benefit for groundwater aquifer augmentation and improving local ground water supplies.	Comment noted.
21.2	Los Angeles Department of Water and Power	**Section II.6, page 3** The proposed language in this section requires that influent entering infiltration BMPs must meet applicable Maximum Contaminant Level (MCL) criteria, or that treatment be implemented to meet MCLs. LADWP believes this requirement assumes that the underlying groundwater is suitable for drinking water use and that no "treatment" will occur as the infiltrating water passes through the soil matrix. In addition, MCLs adopted under the Safe Drinking Water	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the

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		Act are intended to apply to drinking water at the point of use, and not to receiving waters in the environment. Imposing requirements to meet MCLs may have the effect of requiring extensive and expensive treatment when it may not be necessary to protect the beneficial uses of underlying groundwater, and thus will act to discourage on-site infiltration. For example, to require expensive treatment to reduce total dissolved solids (salt content) if underlying groundwater is too saline for use, or to require treatment to meet secondary MCLs for constituents that are major components of the soil matrix (e.g., iron, manganese). The language of Section J (Protection of Waters of the State against the migration of pollutants that cause or contribute to an exceedance of a water quality objective in groundwater) appears to be sufficient, such that language requiring infiltrated water to meet MCLs may not be necessary. LADWP recommends that these provisions be eliminated, as the provisions of Section J.2 (pages 7-8) appear to eliminate the need for this language.	discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
21.3	Los Angeles Department of Water and Power	**Section II.6, page 3** LADWP also recommends, separately, that the SWRCB consider developing guidance that clarifies the water quality and treatment requirements that must be met based upon the end use of the storm water captured and infiltrated on-site.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the

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			discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
21.4	Los Angeles Department of Water and Power	**Sections E.1, page 2 and H. 2. c.1 page 6** LADWP agrees that in order to be effective, an on-site BMP must be able to recover its capacity over a relatively short period of time. Attachment I includes a BMP design requirement that "the BMP will completely dewater and its capacity be fully available within 24 hours should back-to-back rainfall events occur". The SWRCB acknowledges that "Storm water discharges are highly variable in duration, volume and pollutant concentrations", yet has included this overly prohibitive design requirement. LADWP is concerned that this restriction may preclude otherwise beneficial projects that will require slightly longer to dewater. Therefore, LADWP requests that the requirement that on-site BMPs completely dewater within a 24-hour period be removed from Attachment I.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
21.5	Los Angeles Department of Water and Power	**Section H. 3. a. ii, page 6** The on-site compliance option as written currently requires a licensed professional engineer to certify operation and maintenance plans. LADWP believes that the Qualified Industrial Storm water Practitioner (QISP) has the qualifications to prepare and certify these plans. LADWP suggests that requiring a professional engineer to perform the aforementioned activities will require the	A California licensed civil engineer may work with a QISP to prepare operation and maintenance (O&M) plans. However, the California licensed civil engineer must certify that the O&M plans are adequate for the designed BMP(s).

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		additional commitment of limited financial resources for dischargers seeking to use the on-site compliance option, which in turn will dissuade some dischargers from utilizing this option. LADWP recommends that the SWRCB amend the On-Site Compliance section of Attachment I to allow QISPs to perform the function of plan preparer of the BMP operation and maintenance plans.	
21.6	Los Angeles Department of Water and Power	**Section J. 1. b. page 7** The prohibition against using the on-site compliance option for discharges of storm water associated with industrial activities occurring below the 85th percentile 24-hour storm event in section (J)(1)(2) of Attachment I appears to limit the use of on-site compliance options to only rain events that are above the 85th percentile 24-hour storm event. It is unclear to LADWP whether this section prohibits use of the on-site compliance option to storm events above the 85th percentile 24-hour storm event or merely acts to prohibit dischargers using an on-site BMP from discharging Stormwater offsite during an event below the 85th percentile 24-hour storm event. LADWP requests that the SWRCB revise this section to clarify the intent of the language.	Clarifications have been made in the Amendment (Attachment I Section IV.A.2) to prohibit discharges to surface waters of storm water associated with industrial activities occurring below the 85th percentile 24-hour storm event and/or authorized NSWDs.
21.7	Los Angeles Department of Water and Power	**Section III A. 2., page 9** LADWP requests that dischargers be allowed to enter into local agreements with other agencies and/or dischargers, as well as local municipality(ies) as part of an off-site storm water capture and infiltration BMP. In doing so,	Attachment I has been revised to include the option for agreements between private entities. The language of Attachment I has been revised to refer to local jurisdiction(s) rather than just to local municipality(ies).

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		there is more flexibility to plan, develop, and implement off-site BMPs, which has the potential to maximize the use of storm-water capture and infiltration BMPs. The end goal of any ground water infiltration BMP under the off-site compliance option should be to recharge the ground water supply. LADWP suggests that allowing dischargers to enter into agreements with other agencies and/or dischargers will maximize groundwater recharge, and for this reason requests that Attachment I be amended accordingly.	
21.8	Los Angeles Department of Water and Power	**Section III A. 2., page 9** LADWP requests that the SWRCB reconsider the requirement that a discharger's facility and the off-site BMP must be located within the same watershed and instead expand the requirement to a regional level. This will allow for more opportunities to augment the ground water supplies where it is favorable to do so and provide a local water supply. This is especially important for dischargers that may not be able to use the on-site option and also would not have the opportunity to use the off-site compliance option due to the location of their facility. In addition, LADWP believes the requirement that NSWDs and industrial storm water must be conveyed directly to the off-site BMP is overly restrictive, as it may not be possible for this to occur. Instead, LADWP requests that the language of this section be modified (or additional language added) that would allow for offsets or trading when the same volume of water can be captured in an off-site BMP that is	The requirement that a discharger's facility and the Off-Site BMP must be located in the same watershed has been removed. Per Attachment I, the authorized NSWDs and industrial storm water must not discharge to a water of the United States or water of the state prior to reaching the Off-Site BMP(s). Offsetting or trading volume is not proposed in this Amendment. No changes have been made to address this comment.

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		not located between the site and the receiving water, thus achieving similar water quality benefit and further expanding opportunities for storm water capture as well as the range of compliance options available to permittees.	
21.9	Los Angeles Department of Water and Power	**Section VII.E, page 261 and Section XII - Exceedance Response Actions for Numeric Effluent Limitations** LADWP suggests that numeric effluent limitation (NEL) exceedances follow the procedures for exceedance response actions (ERAs) prior to becoming a violation of the general permit. LADWP requests that an exceedance of a NEL should follow the iterative ERA process set forth for NAL or TNAL exceedances, rather than the WQBCA procedures, before being considered a violation of the general permit. This will allow industrial dischargers who act in good faith to remain in compliance with the general permit an opportunity to correct any exceedances before the NEL becomes a violation, while also providing protection to the discharger from citizen suits for NEL exceedances.	At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs. (40 C.F.R. § 122.44(d)(1)(vii)(B).) NELs are numeric WQBELs derived from TMDL WLAs, as opposed to the TNALs, which are BMP-based WQBELs. As numeric limitations, the iterative annual ERA process is not appropriate for NELs. Instead, exceedance of an NEL requires implementation of WQCAs.
21.10	Los Angeles Department of Water and Power	**Attachment C - Glossary** LADWP notes that the amended Glossary in Attachment C does not provide information for NELs. LADWP requests that the glossary is updated to include this information.	The Glossary (Attachment C) has been updated with definitions for "Numeric Effluent Limitation" and "Numeric Effluent Limitation Exceedance".
22.1	Los Angeles World Airports	LAWA is specifically concerned with the absence of the option for off-site regional treatment Best Management Practices (BMPs) for the Dominguez Channel and Greater Los Angeles, Long Beach Harbor Waters Total Maximum Daily Load (TMDL) for Toxic	The intent of the Compliance Options is to incentivize storm water capture and use to benefit groundwater recharge, restore lost watershed processes, and reduce pollutant loads discharged to surface waters.

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		Pollutants (Harbor Toxics TMDL), Los Angeles River TMDL, and the Santa Monica Bay TMDL. While we fully understand the State Water Resources Control Board's (SWRCB) goal is to incentivize the use of stormwater as a resource, it also penalizes those unable to utilize this option due to infrastructure and operational limitations. LAWA is faced with meeting TMDL timelines and all options for improving water quality should be made available including the use of regional treatment BMPs where possible. LAWA requests that the SWRCB include options for regional treatment solutions if off-site infiltration or connection to sanitary sewer is not available.	Marine terminal facilities may work on an On-Site requirement paired with an Off-Site agreement with the MS4 and/or other Dischargers and approved by the Regional Water Board. Per Attachment I, the authorized NSWDs and industrial storm water must not discharge to a water of the United States or surface water of the state prior to reaching the Off-Site BMP(s). Offsetting or trading volume is not proposed in this Amendment. No changes have been made to address this comment. The Amendment does not prohibit Dischargers from entering into a local agreement with the POTW as an Off-Site Compliance Option.
22.2	Los Angeles World Airports	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 due date will create an undue burden on Permittees abilities to comply with the Permit while simultaneously defending itself from lawsuits created by unreasonable compliance deadlines. LAWA requests the TMDL Compliance Due Dates be revised accordingly.	The compliance dates in Attachment E are drawn from the TMDLs and cannot be altered by a permitting action.
22.3	Los Angeles World Airports	LAWA is also concerned with the applicability of the TMDL based numeric action levels (TNALs)/numeric effluent limits (NELs) being applied at the end of pipe for an IGP facility. Many of the TMDLs have objectives that apply to the specific location of impairment in the receiving water and are not directly comparable	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum

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		for industrial discharger's effluent (i.e., TNAL/NEL sediment concentrations listed in mg/kg as opposed to mg/L). LAWA has provided specific comments where applicable in Attachment #1 and requests that those TMDLs be removed or revised for comparability to an IGP discharger.	NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. The Fact Sheet contains an explanation of how TMDL WLAs based in the receiving water were treated differently than WLAs based on end-of-pipe concentrations.
22.4	Los Angeles World Airports	Additionally, many of the TNALs/NELs do not appear to be practicably achievable. Treatment control or source control BMPs are not technologically able 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. LAWA is concerned that adoption and implementation of the draft TALs would result in IGP permittees endlessly installing numerous, disparate, and ineffective Stormwater BMP treatment systems in an attempt to treat stormwater runoff below TNALs/NELs. 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 discharges are not held to unachievable standards.	While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. In general, there are no public funding opportunities for the implementation of this General Permit, including TMDL requirements by Responsible Dischargers, because many of the Permittees are private entities. However, the Off-Site Compliance Option, in particular provides potential for economic incentives and cost sharing for Dischargers through the formation of

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			local agreements with the local jurisdiction(s) and/or other Dischargers. There is a potential in the future for some of these projects (which include local public jurisdictions) to be eligible for public funding based on project-specific details and the funding guidelines which would describe which project-types are eligible. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers.
22.5	Los Angeles World Airports	The Permit Amendments lack continuity with the Permit throughout the document. There are several disjointed items in reference to Attachment E and Attachment I. Specific information in comments are provided further in Attachment E and I comments below. We strongly suggest these amendments be revised and allow time for adequate vetting of the changes through the public comment process. We also feel that a specific public meeting be held 30 days after comments are due to provide public feedback to the SWRCB.	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. A public comment period has been offered to provide stakeholders an opportunity to review the Amendment and provide feedback. Additional public comment periods may be held, if necessary, prior to adoption of the Amendment. Further, State Water Board staff is planning to conduct workshops and public outreach efforts

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			prior to an adoption meeting to allow further discussion of the Amendment.
22.6	Los Angeles World Airports	During the Public Workshops, Jon Bishop specifically called out the fact that Attachment I Compliance Options are only related to infiltration or re-use so as to incentivize stormwater as a resource. This is inconsistent with the overall goal of improving water quality. All options for improving water quality should be on the table including options for regional watershed treatment options. By prohibiting off. site treatment BMPs the SWRCB is thereby not helping to improve coastal water impairments where infiltration or reuse is not possible or feasible. This also prohibits the ability for municipalities to seek outside funding for regional treatment BMPs.	Comment noted. The Compliance Options are proposed to incentivize and promote multi-benefit regional project to capture, infiltrate, and reuse storm water and support a sustainable local water supply.
22.7	Los Angeles World Airports	General Finding #45 acknowledges the fact that implementing TMDLs was a lengthy process. Due to the number of disparate TMDLs, timelines, and compliance methods, the SWRCB should take more time to re-evaluate the impact to discharger's implementation and the compliance values needed for each TMDL. Not only are the dischargers, the environmental consulting community unsure of how compliance will be measured, the SWRCB staff has also acknowledged the difficulty in understanding the compliance means.	A public comment period has been offered to provide stakeholders an opportunity to review the Amendment and provide feedback. Additional public comment periods may be held, if necessary, prior to adoption of the Amendment. Further, State Water Board staff is planning to conduct workshops and public outreach efforts prior to an adoption meeting to allow further discussion of the Amendment.
22.8	Los Angeles World Airports	General Finding #49 - Please clarify the definition of Responsible Discharger. It appears that anyone in a TMDL water body is a responsible discharger. Please clarify that the Responsible Discharger is one that determines	Changes have been made throughout the Amendment, including the Glossary (Attachment C) and the TMDL Implementation requirements (Attachment E) to clarify the definition of

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		through a pollutant source assessment, that their discharge may contain the TMDL pollutants of concern.	Responsible Discharger and the applicability of TMDL requirements. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
22.9	Los Angeles World Airports	General Finding #55 - "all NELs are applied as instantaneous maximum values as defined in Section XII.A.2" is not defined. There is no mention of NELs in Section XII.A.2, it only describes NALs/TNALs. Please add clarifying language.	The referenced language has been removed. Changes have been made throughout the Amendment, including in the Fact Sheet and the Glossary (Attachment C), to clarify the definition of NEL.
22.10	Los Angeles World Airports	Attachment I. However, Attachment I uses the term "compliance options". Please clarify this definition and use consistent terminology.	Changes have been made throughout the Amendment to make references to the Compliance Options consistent.
22.11	Los Angeles World Airports	Section V.C. on Page 24 - This item suggests that all dischargers in a TMDL water body will need to comply with TMDL Specific	Changes have been made throughout the Amendment, including the Glossary (Attachment C) and the TMDL Implementation requirements

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		requirements in Attachment#. Please clarify that "Responsible Dischargers" .... shall comply ...	(Attachment E) to clarify the definition of Responsible Discharger and the applicability of TMDL requirements. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
22.12	Los Angeles World Airports	Section VII.A.3. What is Compliance Table X, in Attachment E? I only see a Table E-1.	The referenced language has been updated to refer to Table E-2, which is the label now given to the table in Attachment E containing Permit-specific TMDL requirements.
22.13	Los Angeles World Airports	Section VII. C.1. This item describes that Responsible Discharger is required to perform sampling, analysis, and reporting .... Please clarify that only those Responsible Dischargers that have determined they have the potential to discharge the TMDL pollutants of concern through a "Pollutant Source Assessment" are required to comply with this item.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible

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			Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
22.14	Los Angeles World Airports	Section VII.C.3. This item strongly suggests that SMARTS will need to be upgraded to handle the NAL, TNAL, and NEL assessment process. Since the state has so many reporting tools, it is strongly recommended that the SWRCB invest IGP funding allocations to pay for needed assessment tools in SMARTS.	SMARTS provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining TMDL applicability and monitoring TMDL compliance. No changes have been made to address this comment.
22.15	Los Angeles World Airports	Section X.G.2.a. Please add specific notes about the pollutant sources assessment (PSA) process for Responsible Dischargers. Facilities that do not identify TMDL pollutants of concern in their PSA are not required to perform	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment

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		sampling for those TMDL constituents nor are they required to compare sample results to TMDL Numeric Action Levels (TNALs) or NELs.	states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
22.16	Los Angeles World Airports	Section XI.B.6.e - Please add specific notes about the pollutant sources assessment (PSA) process for Responsible Dischargers. Facilities that do not identify TMDL pollutants of concern in their PSA are not required to perform sampling for those TMDL constituents.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
22.17	Los Angeles World Airports	Overall, the TMDL specifics lack thorough vetting of appropriate action levels or NE Ls for this specific permit. We strongly request staff to revisit each TMDL to determine applicability to an industrial permittee in the respective	All TMDLs listed in Attachment E have been reviewed and the WLAs s assigned to industrial sources have been translated in the Amendment to Permit-specific TMDL requirements.

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		watershed and the appropriate extent for comparability. The simple identification of industrial sources in a TMDL does not necessarily mean it is a significant source requiring a waste load allocation. TMDL-specific recommendations are provided below for examples and are only focused on the LA Region TMDLs, but does not limit the concern for all TMDLs.	In response to comments, clarifications have been made throughout the Amendment, including in the TMDL Implementation requirements (Attachment E) to ensure all TMDLs were translated appropriately and transparently.
22.18	Los Angeles World Airports	Each TMDL should have a specific map showing the applicable boundary limits. If there are overlapping boundaries, they should be clearly shown on the maps.	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified.
22.19	Los Angeles World Airports	TMDL compliance points are determined in the receiving waters. The point of compliance should be determined at the receiving water not at end of pipe. Specific numerical objectives should be considered and incorporated.	The TMDL assigns the numeric target, which is the water quality goal intended to be attained. The TMDL then assigns WLA to industrial sources to help meet the numeric target. Many of these WLAs are assigned at the discharge point.

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			No changes have been made to address this comment.
22.20	Los Angeles World Airports	The California Toxics Rule water quality objectives for most metals (e.g., copper, lead, and zinc) in freshwater uses dissolved metals and hardness within the calculation to determine compliance. Since the hardness is supposed to be used from the receiving water, the discharger should be able to compare their dissolved metals concentration using the average or more conservative hardness values from the receiving waters. Most if not all freshwater metals TMDLs have hardness data. Hence, dischargers should be allowed to collect dissolved metals samples to determine compliance. The TMDLs should have dissolved metals criteria available to compare to, not just total metals.	Most TMDLs have assigned the wet weather and dry weather numeric targets based on the selected receiving water hardness. Some TMDLs assigned hardness value based on available hardness data for that water body. For those TMDLs that have not assigned a hardness value for the numeric targets, State Board staff assessed available hardness data of those receiving waterbodies and selected a typical hardness value of that water body.
22.21	Los Angeles World Airports	LB City Beaches and LA River Estuary Indicator Bacteria TMDL - Page 28 of the specific TMDL Report states that while the TMDL identifies Industrial land uses as a potential source, it later specifically mentions that "industrial facilities are generally not expected to be significant sources of bacteria." Therefore, this TMDL should be removed from the IGP required list as it is sufficiently addressed through the Phase I permit process.	All TMDLs listed in Attachment E must be incorporated into this General Permit and their WLAs must be translated into implementable requirements. It is clearer to address why a TMDL listed in Attachment E is not applicable than to completely remove the TMDL from the list in Attachment E without explanation. No changes have been made to address this comment.
22.22	Los Angeles World Airports	LB City Beaches and LA River Estuary Indicator Bacteria TMDL also has a description of the adjacent watersheds (Figure 5-1) (San Gabriel, Alamitos Bay, Near Shore Watersheds, Dominguez Channel, and LA River. Would all of these watersheds also need to assess bacteria compliance for this TMDL? Lastly, the TMDL	Clarifications have been made in the Amendment to address this comment. The WLA was assigned to industrial sources to be met in the receiving water. The translation is described in the Fact Sheet. Attachment E and the Fact Sheet have been updated and clarified to describe the waterbodies subject to the WLA.

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		point of compliance is the Beach itself. It does not have specific WLAs or compliance in the estuary.	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified.
22.23	Los Angeles World Airports	For the LA/LB Harbor Waters TMDL, the Required actions say to " .... take QSE samples in accordance with Section XI.B and shall compare to the corresponding TMDL Numeric Action Levels .... " the compliance due date is the effective date of the amended permit. The next section of the TMDL has the same language but with the TMDL Numeric Effluent Limitation and a compliance due date of July 1, 2032. We recommend clarifying these descriptions with a timeline of when the discharger needs to compare the results. As it reads now, the discharger would need to	Changes have been made throughout the Fact Sheet and Attachment E to clarify the applicability of TMDL compliance dates.

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		compare results to both the TNAL and the TNEL numbers as a required action.	
22.24	Los Angeles World Airports	Since the ultimate target is the NEL for the TMDL, it makes more sense not to have an interim number for implementation. If a discharger is above an NEL, they should simply implement TMDL actions as required the same as a TNAL, but with the goal of achieving the NEL not the TNAL. If they have until 2032, they would not be out of compliance so long as they were implementing the required actions.	For NELs that have a compliance deadline that is beyond the cycle of this General Permit, an interim target, if assigned, is incorporated into Attachment E Table E-2 and shall apply to Responsible Dischargers until the NELs compliance deadline is reached.
22.25	Los Angeles World Airports	The TMDL NEL for the Dominguez Channel Estuary for Cadmium has units in mg/kg. It appears this is a sediment concentration that should be applied to the estuary only. And, estuaries should be using the Sediment Quality Objectives (SQOs) to determine compliance with SQOs. Since this is an estuary specific criteria, the values should be removed or converted to units of mg/L for comparison with a discharger's effluent. Otherwise, if a discharger is supposed to compare their numbers to this, it appears they would need to sample sediment specifically which would be very difficult. If this is the case, please provide a SPECIFIC sampling method the dischargers should use to compare this number (and don't just cite the EPA stormwater sampling document because it doesn't have it).	See comment response 10.3.
22.26	Los Angeles World Airports	The Dominguez Channel and Torrance Lateral have a copper TMDL NEL of 0.0097mg/L, the Dominguez Channel Estuary has a TMDL NAL of 0.00373 mg/L (but no TNEL). If you discharge to the Dominguez Channel, do you need to,	Changes have been made in the Fact Sheet and Attachment E to ensure clarity on the applicability of these requirements.

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		compare your results and implement actions for the Dominguez Channel and Torrance Lateral or do you need to compare to both since they are tributary to all three waterbodies? Please clarify the extent to which a discharger needs to compare results to downstream waterbodies.	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Regarding the portion of the comment pertaining to the tributary rule: the TMDLs define the scope of their applicability. The tributary rule does not apply in this situation. The Fact Sheet and Attachment E includes more detailed language on how the water bodies subject to a TMDL are identified.
22.27	Los Angeles World Airports	The Dominguez Channel TMDL NAL has PAHs specified as 0.00049 mg/L for PAH Instantaneous Maximum TNAL. Please specify this as Total PAHs. Otherwise, please provide the specific PAHs that apply to this TNAL.	Clarification have been made in the Amendment to identify PAHs as Total.
22.28	Los Angeles World Airports	The Santa Monica Bay DDT and PCBs TMDL has a TMDL Action Level of 2.3 ug/g organic carbon for Total DDT and 0.7 ug/g organic carbon for Total PCBs. These values are sediment concentration numeric targets in the TMDL normalized for organic carbon. Please provide numeric targets for stormwater effluent in mass per volume units. Table 6-4 of the TMDL has waste load allocations for industrial shown as 0.01 g/yr for DDT and 0.04 g/yr for	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for

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		PCBs. This would imply that to compare effluent to the WLAs, flow would need to be measured to compare annual loadings. Further, because this TMDL is being handled through Phase I Permit EWMPs/CIMPs it would be recommended to simply add BMP requirements to manage light ballasts, paints and waxes, the capture of residues during building demolition as important sources rather than to have a compliance point. For the ultra-low levels required to assess Dieldrin, DDTs, and PCBs, the cost per sample is -$1,000.00 for PCBs and -$1,000.00 for Dieldrin and DDTs. Additionally, samples would require ultra clean hands techniques and quality assurance samples (blanks and duplicates) for valid assessment. This is an undue cost burden on industrial facilities and should not be required. Hence, the recommendation to simply add BMP requirements to address these potential sources	compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. The proposed NELs and TNALs are consistent with the WLAs assigned to Responsible Dischargers. They have been assigned to protect and restore the quality of the waterbodies identified in the Harbor Toxics TMDL. Specifically, Dominguez Channel and Torrance lateral have an assigned NEL and Dominguez Channel Estuary and Greater Harbor Waters that have an assigned TNAL. Changes to the TMDL are made at the Regional Water Board-level with an amendment to the Basin Plan rather than at the State Water Board-level during this permit Amendment process.
22.29	Los Angeles World Airports	The Los Angeles River TMDL was ammonia NEL concentrations that are higher than the NAL in the Permit. If a discharger is below the NEL but above the NAL for ammonia, is the discharger deemed in compliance? Please add clarifying footnotes to both the TMDL table and Table 2 of the Permit to explain how Permittees are to proceed in these instances.	Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS.

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			Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). A Responsible Discharger below applicable NEL(s) but above applicable NAL(s) is in compliance with the NEL, but will be required to conduct the ERAsprocess for any NAL exceedances. No changes have been made to address this comment.
22.30	Los Angeles World Airports	The Las Angeles River TMDL has a site-specific objective based on the hardness of the receiving water. Are dischargers able to collect dissolved metals samples and use the receiving water	This Amendment at this time will not allow Responsible Dischargers to sample and use the receiving water hardness for their discharge to avoid a floating target for every storm event. To

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		hardness for the segment they discharge to? Dissolved metals are a better measure for comparing compliance with the TMDL. Please allow for this option and list the receiving water hardness to be used in the calculation for each segment of the LA River.	be consistent with the current monitoring requirements of this General Permit one hardness value is selected as representative of the receiving water body.
22.31	Los Angeles World Airports	The Title "Compliance Options" should be consistent with Finding 56 of the Permit "Alternative Compliance Options". This may confuse the reader with being the only compliance option.	Changes have been made throughout the Amendment to make references to the Compliance Options consistent.
22.32	Los Angeles World Airports	During the workshops, it was explained that Attachment I Compliance Options are only related to infiltration or re-use so as to incentivize stormwater as a resource. This is inconsistent with the overall goal of improving water quality. All options for improving water quality should be on the table including options for regional watershed treatment options. By prohibiting off-site treatment BMPs the SWRCB is thereby not helping to improve coastal water impairments where infiltration or reuse is not possible or feasible. This also prohibits the ability for municipalities to seek outside funding for regional treatment BMPs.	Comment noted. The Compliance Options are proposed to incentivize and promote multi-benefit regional project to capture, infiltrate, and reuse storm water and support a sustainable local water supply.
22.33	Los Angeles World Airports	Section I. D - Recommend providing specific section references, rather than referring to the "above sections of this General Permit."	The suggested revision has been made.
22.34	Los Angeles World Airports	Section 11. B - The last sentence does not make sense since the diverted or used volume may ultimately be discharged to a sanitary sewer, which is technically discharging from the site. The end of the last sentence should be clarified to indicate, "unless through a permitted	Clarifications have been made in Attachment I Section II.B to address this comment.

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		sanitary sewer connection." We recommend removing the last sentence or revising accordingly.	
22.35	Los Angeles World Airports	Section 11.E.5-Does this item conflict with Section 11.B? If discharge of the volume is prohibited, why should there be a valve to divert water from entering the BMP? Please clarify the intent of the valve addition.	The Fact Sheet clarifies the purpose of the shut off mechanism as a method to divert away toxic materials that will not bind to soils to another treatment device. Attachment I Section II.B is for diversions directly into a sanitary sewer, whereas Section II.E.5 is for unauthorized toxic dischargers into the BMP which should instead be diverted and not discharged.
22.36	Los Angeles World Airports	Section 11.E.6.a - While testing influent and pre-treatment makes sense from a conceptual standpoint, once water is being infiltrated, it will likely mobilize any salts accumulated in the vadose zone hence be out of compliance. It may make more sense to simply list Basin Plan comparisons to ensure infiltration is not likely to cause degradation of regional water supplies.	The influent sampling is to assess whether applicable MCLs and other constituents of concern are being met. Attachment I includes the requirements for protection of waters of the state, which includes groundwater. A Discharger will need to determine whether the Compliance Options are an appropriate method of compliance with this General Permit. No changes have been made to address this comment.
22.37	Los Angeles World Airports	Section 11.E.6.a.ii - Monthly sampling of lysimeters is too burdensome as the wet season is really focused between October and April. We recommend once each six months to capture the early and late storm events.	Monthly samples are required to receive real time information of the conditions of the BMP performance for the Reporting Year. No changes have been made to address this comment.
22.38	Los Angeles World Airports	Section 11.E.6.b- The section currently makes reference to section 5.a.i, which does not exist. Revise to reflect the appropriate section reference.	The section has been revised.

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22.39	Los Angeles World Airports	Section 11.E.6.c-We recommend including an exemption for areas where the Basin Plan does not designate groundwater for MUN uses.	Even if not a drinking water source currently, groundwater may be designated in the future for a drinking water supply/municipal and domestic supply (MUN) beneficial use. No changes have been made to address this comment.
22.40	Los Angeles World Airports	Section 11.F.1 - It is unclear why a Baseline Status facility would need to implement the On-Site Compliance Option. Facilities in Baseline Status should also have the ability to utilize the ERA Level 1 or 2 Process. Please clarify the intent of this section.	The intent is to allow a Discharger with Baseline status to implement a Compliance Option. There are a number of circumstances why a Discharger with Baseline status may opt to use this method for compliance, such as the grant of deemed compliance with receiving water limitations.
22.41	Los Angeles World Airports	Section 11.H.1.a - The reference to conduct "sampling all bypass/overflow" should be clarified. To avoid confusion, we recommend this be clarified to require collection of a grab sample that is representative of the bypass/overflow event. As currently written, it is unclear what the sample collection expectation is for the duration of a bypass event. We also recommend adding language that sampling is only required when a bypass occurs during operational hours.	Changes have been made to clarify Discharger responsibility when an On-Site BMP discharges.
22.42	Los Angeles World Airports	Section 11.H.1.d - Please remove this section. The requirement to conduct influent sampling to the BMP is onerous. Influent sampling should only be required to assess BMP design/planning processes. It should also not be required if the water is used on site or evapotranspired.	The influent sampling is required to demonstrate the effectiveness of the BMP and to monitor for pollutant concentrations that enter the BMP for comparison to the discharge (overflow discharge/bypass) concentrations. No changes have been made to address this comment.

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			Attachment I section II.H.1.d only applies to influent entering infiltration BMPs.
22.43	Los Angeles World Airports	Section 11.H.3.a.iii - The reference to Section 11.E.3 (drawdown requirements) appears to be for 11.E.4 (safety factors). Please verify and correct accordingly.	The reference to Section II.E.3 includes the footnote in that section describing the potential for inclusion by a California licensed civil engineer of a safety factor in the design of an On-Site BMP. No changes have been made to address this comment.
22.44	Los Angeles World Airports	Section 111.A.2 - Does the dischargers facility need to be upstream of the Off-Site BMP, or just in the same watershed. Can a facility still get credit for contributing to an upstream BMP if they have no option for infiltration on site or off-site downstream?	The requirement that a discharger's facility and the Off-Site BMP must be located in the same watershed has been removed. Per Attachment I, the authorized NSWDs and industrial storm water must not discharge to a water of the United States or water of the state prior to reaching the Off-Site BMP(s). Offsetting or trading volume is not proposed in this Amendment. No changes have been made to address this comment.
23.1	OC Waste & Recycling	**"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 (No) 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*	The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the

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		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 (No) 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. The inclusion of "*or to an upstream reach or tributary to impaired waterbodies*" in the definition in Attachment C implies that dischargers are subject to the TMDLs in all downstream receiving waterbodies. It is recommended that the definition in Attachment C be revised to be consistent with the Fact Sheet by removing "or to an upstream reach or tributary to impaired waterbodies ".	entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.

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23.2	OC Waste & Recycling	**Maintain Consistency with IGP Pollutant Source Assessment Process** Section X.G.2.d 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. "*(section X.G.2.a.ix) 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.	The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole.
23.3	OC Waste & Recycling	**Prepare Guidance to Assist Dischargers 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	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information

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		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 (San Gabriel 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 Dischargers with determining if they are *"Responsible Dischargers"* and what TMDLs are applicable to their facility.	will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Clarifications have been made to ensure the definition of Responsible Discharger is consistent throughout the Amendment. A Responsible Discharger is "a Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water associated with industrial activities (and Authorized NSWDs) either directly or through a MS4 to impaired waterbodies identified in a U.S. EPA approved TMDL with an assigned WLA to industrial storm water sources." Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
23.4	OC Waste & Recycling	**<u>Use of EPA Benchmark Values as Numeric Action Levels</u>** 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 either the time or the 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	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		waterways or reaches within California, and storm water data collected from undisturbed areas in several watersheds in California indicate that background concentrations would result in exceedances of NALs currently in the 2014 IGP. As indicated previously, the State Board did not have either the time or the 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. 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.	
23.5	OC Waste & Recycling	**TMDL Derived Values (TNALs or NELs) Should Replace the NAL** 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.* "	Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to

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		As stated above, the State Board said that they did not have time or resources to develop California specific NALs so they chose to use EPA benchmarks. Now that the water body-specific TMDLs are being incorporated into the IGP, it is unclear why the EPA benchmarks would continue to be applicable for receiving waters that have TNALs/NELs for the same constituent. It is recommended that the 2017 IGP Amendment clarify that NALs are not applicable in receiving waterbodies that have TMDL-derived TNALs/NEL for the same constituent.	Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
23.6	OC Waste & Recycling	Although the proposed modifications to Section 11.5.F state that *"the TNAL value of a pollutant cannot be compared to the NAL value for the same pollutant,"* in Section 11.F .5a (1), it appears that the State Board is implying that	The translated WLAs into TNALs are not comparable to this General Permit Table 2 NALs. Changes have been made in the Fact Sheet to clarify this. The term "less stringent" is

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		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 11.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.	no longer used in reference to the translations of the WLAs. Additionally, changes have been made to clarify that while this General Permit is addressing 36 TMDLs, several of these TMDLs do not apply to Responsible Dischargers and no WLAs were assigned. Therefore, the translations of those TMDLs shall be to comply with this General Permit, and no further actions are required to address the TMDL's requirements.
23.7	OC Waste & Recycling	OC Waste & Recycling recognizes the importance of protecting water quality in the State of California and has been committed to	Comment noted.

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		reducing our facilities' potential contribution to storm water pollution by investing significant resources at our facilities. However, it is important that the proposed amendments be clear and protective of receiving water quality while not placing unnecessary burdens on dischargers who conduct business in California. OC Waste & Recycling believes it is prudent to incorporate water body-specific data and available storm water monitoring information when establishing and enforcing NALs and 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.	
24.1	Pacific Merchant Shipping Association	Of the three major proposed changes, the incorporation of the TMDL requirements into the IGP will have significant impacts on marine terminal facilities from economic, legal and logistical perspectives. It is a very complex topic and new to the regulated community, so it is critical that all aspects and impacts of the proposal receive sufficient attention and are well integrated into the IGP. This would include extensive outreach, discussion and education to the regulated community, and tools and compliance pathways incorporated and well documented in the IGP. Based on existing discharge data, the proposed levels for several pollutants, most notably zinc and copper, will be unachievable for marine terminal facilities operating in Los Angeles and Long Beach harbors. For all of these reasons trying to meet	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. The compliance dates in Attachment E are drawn from the TMDLs and cannot be altered by a permitting action. Where a Discharger anticipates being unable to meet a TMDL compliance date, the Discharger may work with the appropriate regional water board to obtain a TSO.

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		the TMDL amendments will require significant time beyond what is proposed.	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
24.2	Pacific Merchant Shipping Association	We appreciate the proposed adoption of alternative compliance options, on-site and off-site, which provide new pathways to compliance. The off-site option opens the door to further discussion for establishing offsets within the larger universe of dischargers that could provide for greater overall watershed benefits.	Comment noted.
24.3	Pacific Merchant Shipping Association	That being said, preliminary investigation indicate that off-site treatment options will not be available in the foreseeable future for marine terminal facilities in California and further underscores the need for additional time to determine whether such an option is feasible for our industry.	The intent of the Compliance Options is to incentivize storm water capture and use to benefit groundwater recharge, restore lost watershed processes, and reduce pollutant loads discharged to surface waters. Marine terminal facilities may work on an On-Site requirement paired with an Off-Site agreement with the MS4 and/or other Dischargers and approved by the Regional Water Board. Per Attachment I, the authorized NSWDs and industrial storm water must not discharge to a water of the United States or surface water of the state prior to reaching the Off-Site BMP(s).

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			Offsetting or trading volume is not proposed in this Amendment. No changes have been made to address this comment. The Amendment does not prohibit Dischargers from entering into a local agreement with the POTW as an Off-Site Compliance Option.
24.4	Pacific Merchant Shipping Association	On a more general topic, we have reviewed draft comments from the California Stormwater Quality Association (CASQA). While they broadly address aspects of the proposed amendments that apply to all industrial facilities, the core of their comments are applicable to our industry's concerns and we concur and support their submission.	Comment noted.
24.5	Pacific Merchant Shipping Association	Although not addressed in the proposed amendments, we would like to take the opportunity to encourage the Water Board to work with state and federal agencies, the Governor and the Legislature to pursue targeted pollutant source reductions, rather than focusing only on minimizing pollutant entry into state water bodies in stormwater events. Two of the main sources of metal pollutants found at marine terminal facilities arise from nonindustrial activities, generated by the brake pads and tires of third party vehicles visiting the terminals that are not under the control of the discharger (marine terminal operator). The number of third party vehicles entering a marine terminal facility numbers in the thousands on a daily basis! The elimination or reduction of	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		copper from brake pads and zinc from tires will solve a universal problem for the state's water bodies well beyond the scope of marine terminals. Legislation passed in California calls for reduced copper levels in brake pads by 2021 and elimination (if feasible) by 2025. Legislation to reduce or eliminate zinc from tires has also been proposed in California but has not yet been successful. Hopefully these efforts will eventually provide necessary benefits needed to meet the proposed requirements, but for the time being marine terminal facilities are in the position of facing unachievable limits in the near term for pollutants generated by third party vehicles.	
24.6	Pacific Merchant Shipping Association	Using end-of-pipe monitoring during infrequent, transient storm water events is a blunt surrogate for determination of chronic water quality standards that are reflected in TMDL assignment. Many TMDLs have objectives specific to impaired locations in the waterbody (such as sediment contamination) that are not comparable to end-of-pipe discharge effluent and thus the translation of the TMDL into the IGP may not accurately reflect the Regional TMDL. In the case of the TMDLs for Dominguez Channel and Los Angeles and Long Beach Harbor Waters, these TMDLs are for toxic sediments with a goal of controlling the sediment load to the system. Translating those goals to end-of-pipe dissolved pollutant discharge levels is not appropriate. Compliance is predicated on achieving sediment targets or	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h. The proposed NELs and TNALs are consistent with the WLAs assigned to Responsible Dischargers. They have been assigned to protect

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		through bio accumulative assays which is more appropriately achieved through monitoring in receiving water bodies, not end-of-pipe. The Port Authorities of Los Angles and Long Beach participate in a regional monitoring coalition and facilities operating under the IGP should have similar flexibility to satisfy the TMDL for each water body that they discharge into.	and restore the quality of the waterbodies identified in the Harbor Toxics TMDL. Specifically, Dominguez Channel and Torrance lateral have an assigned NEL and Dominguez Channel Estuary and Greater Harbor Waters that have an assigned TNAL. Changes to the TMDL are made at the Regional Water Board-level with an amendment to the Basin Plan rather than at the State Water Board-level during this permit Amendment process. Page 13 of the TMDL assigns the water column concentration based WLAs assigned to Responsible Dischargers to address the receiving water sediment toxicity issue. These are the values used for incorporation of the TMDLs into this General Permit.
24.7	Pacific Merchant Shipping Association	Marine terminals operate on some of the most costly industrial real estate in California. Consequently, available space for treatment options at marine terminal facilities is severely limited and makes compliance options, such as infiltration or retention and treatment problematic and in many cases economically infeasible. We therefore suggest that IGP TMDL TNAL and NEL compliance be available through Regional Board approved BMPs based on BACT as is the practice under the existing IGP for NALs; allowing each facility to pursue an economically achievable BMP and maintain compliance with the IGP. Current technology either does not exist or is infeasible for use on marine terminal facilities to meet many of the proposed TNAL/NEL limits.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are “consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental

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		Forcing marine terminal facilities to repeatedly install the best available treatment systems that will still fail to reach TNAL and NEL levels leaves them in an untenable situation and needless exposure to lawsuits with no remedy available. TNAL and NEL levels must be achievable with current BAT suitable for use on marine terminal facilities.	costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit's ERAsif the TNAL is exceeded. In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL.

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			No changes have been made to address this comment.
24.8	Pacific Merchant Shipping Association	The proposed adoption of TMDLs, including TNAL and NEL limits is a new paradigm for the IGP and the regulated community. Furthermore, the marine terminal facilities in California only fell under the IGP provisions in 2015 and are struggling to comply with those provisions.	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
24.9	Pacific Merchant Shipping Association	The translation and incorporation of the regional TMDLs into the statewide IGP is complex, especially considering the different methodologies used in the various regional TMDLs, and we believe not appropriately translated in the proposed amendments. We would encourage the Water Board to hold additional workshops and meetings with stakeholders to ensure that the methodologies for TMDL translations are more accurate, better explained, consistent and understood.	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
24.10	Pacific Merchant Shipping Association	Also, the new alternative compliances, which are welcome by our industry, are not well understood in terms of requirements and ramifications. Additional time and outreach should be provided to better flesh out these potential options.	Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
24.11	Pacific Merchant Shipping Association	Furthermore, under the proposal the TMDL provisions would enter into force upon adoption of the amendment, as would the specific TNAL and NEL pollutant limits for the majority of the TMDLs in Attachment E. Due to the space limitation mentioned above for on-site treatment, and the lack of off-site treatment in the	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.

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		foreseeable future, there are few if any viable options for compliance available, and regardless it will take time for dischargers to update SWPPPs, MIPs and develop supporting evidence if a Time Schedule Order (TSO) is to be pursued, and the immediate enforcement of those parameters will be difficult to comply with.	Where a Discharger anticipates being unable to meet a TMDL compliance date, the Discharger may work with the appropriate regional water board to obtain a TSO.
24.12	Pacific Merchant Shipping Association	For these reasons, we would ask that the Water Board delay adoption of the amendments until further outreach and discussion can occur, and schedule the effective date of any new provisions to align with the adoption and effective date of the renewed IGP on July 1, 2020.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
24.13	Pacific Merchant Shipping Association	Because of the incorporation of TNAL and NEL in addition to NAL, each of which may require different responses, the IGP should include flow chart tools to illustrate steps that should be taken in response to exceedances under each potential scenario. For example, would the corrective action for exceedance of a pollutant NEL also require Exceedance Response Actions (ERA) for the same pollutant? A flow chart incorporating the multitude of scenarios, such as the flow chart for NAL exceedance in the current IGP Fact Sheet (page 128) would assist in compliance and should be a tool incorporated into the amendments for TMDL requirements.	As described in Section XII.A-C of the Order, and Section F.5.d. of the Fact Sheet, upon the effective date of this Amendment, Responsible Dischargers that have Baseline, Level 1, or Level 2 status for an NAL shall have the same status for any applicable TNAL addressing the same pollutant as the NAL. Following this initial pairing of TNAL and NAL statuses, the TNALs and NALs will operate separately within the ERA process the following Reporting Period. This does not apply to NELs because the ERA process does not apply to NEL exceedances. As described in Section F.5.e of the Fact Sheet, Water Quality Based Corrective Actions only apply to NEL exceedances. A Responsible Discharger would be responsible to monitor the exceedances of any applicable NELs alongside any applicable NALs.

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			An instantaneous maximum NEL exceedance is quantified differently than an Annual NAL exceedance (both defined in Attachment C). The Responsible Dischargers will need to track whether an NEL exceedance occurs by referring to the correct NEL value in Table E-2, and additionally input sampling data into SMARTS to concurrently track whether an NAL exceedance occurs.
24.14	Pacific Merchant Shipping Association	Consistent with the IGP provisions, the TMDL amendments should state that they only apply to dischargers who have identified that the TMDL identified pollutant is an industrial pollutant present at the facility, and who discharge stormwater derived from industrial activities directly to the impaired waterbody.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
24.15	Pacific Merchant Shipping Association	The amendment should also explicitly state that the discharger is in compliance under whichever provision is applicable and pursued. For example, under the General Permit Required Actions, the language should state that the Responsible Discharger is in compliance if there is appropriate implementation of the IGP requirements, and in	Attachment I section I provides the requirements of this General Permit with which a Discharger implementing a Compliance Option will be in compliance or deemed in compliance. Sections II and III provide information on the provisions of this General Permit from which implementing Dischargers are exempt. The General Permit's Findings provides that Dischargers in compliance

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		the case of the new compliance options, that the Responsible Discharger is in compliance if there is an approved implementation of an on-site or off-site compliance option, including the design, development and construction of such compliance strategies. For the TMDL requirements, the language should state that the Responsible Discharger is in compliance if one or more compliance (or attainment) options available, as outlined in the amendments, and approved by the Regional Water Board, are met. Or by adhering to the requirements for TNAL exceedance as outlined in Section XII, or by adhering to requirements for NEL exceedance outlined in Section XX.B.	with an NEL or whose discharges do not exceed a TNAL are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the NEL or TNAL.
24.16	Pacific Merchant Shipping Association	The listing of the TMDLs and Impaired Waterways in Attachment E has raised questions as to which Impaired Waterway NAL and NEL limits apply to a facility, since there is potential overlap between neighboring and downstream waterbodies. Whether a discharger is only responsible to meet the limits for the specific waterbody that they are discharging into, or also be responsible for adjoining or downstream waterbodies is unclear. And since there may be different TNAL/NEL limits between those waterbodies for the same pollutants it is unclear as to which limits apply. For example, in the Los Angeles Harbor it is unclear where the demarcations are between the Consolidated Slip, Fish Harbor, Dominguez Channel and receiving waters for the harbor in general. Because of this, the proposed amendments should make it clear that the Responsible	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".

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		Discharger is only responsible for meeting TMDL limits for the impaired waterbody that they discharge directly into. To help facilitate this, a robust mapping tool should be available for dischargers to easily determine the applicable waterbody for TMDL purposes.	Clarifications have been made to ensure the definition of Responsible Discharger is consistent throughout the Amendment. A Responsible Discharger is "a Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water associated with industrial activities (and Authorized NSWDs) either directly or through a MS4 to impaired waterbodies identified in a U.S. EPA approved TMDL with an assigned WLA to industrial storm water sources."
24.17	Pacific Merchant Shipping Association	SMARTS should be modified to assist dischargers in determining when an exceedance of a TNAL or NEL has occurred to more easily take follow up actions in a timely manner. SMARTS should also assist dischargers in determining the appropriate control requirements, such as whether a TMDL limit applies versus a limit from Table 2 of the IGP, and ideally which TMDL is applicable to which water body. We would hope that the adoption of such changes could be incorporated into SMARTS and be available for use prior to the effective date of this proposal.	SMARTS provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining TMDL applicability and monitoring TMDL compliance. No changes have been made to address this comment.
24.18	Pacific Merchant	Under the current proposal, dischargers must comply with existing IGP NAL provisions for particular pollutants even if they must comply	Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any

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	Shipping Association	with water body specific TNAL and NEL provisions. Since TNALs and NELs are applicable to the specific water body TMDL Waste Load Allocations (WLA), as opposed to the more generalized IGP requirements for NALs, and are typically more stringent than the NALs, dischargers should not be burdened with compliance under both regimes for the same pollutants. Any TMDL based requirements should supplant the IGP NAL requirements for the same pollutant.	more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.

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25.1	Pasadena Water and Power	Attachment I Allow dischargers to demonstrate that the design of their proposed system is equivalent to a system that dewaters within 24 hours, based on an annual average reduction in storm water discharge. (Section 11.E.3 and footnotes 2 &10)	The Fact Sheet has been updated with the addition of continuous simulation modeling/analysis (i.e. SWMM model) information further justifying the 24-hour drawdown time (or equivalent) requirement. Attachment I has been updated to provide the option to include additional storage volume to meet the compliance storm standard (85th percentile 24-hour storm) to offset a longer drawdown time.
25.2	Pasadena Water and Power	Attachment I Remove the requirement that the system has to be designed to dewater completely between 12:00 a.m. and 11 :59 p.m. because it is too restrictive. For example, should rainfall begin during the 11 p.m. hour, it would be impractical to design a system to dewater the entire design flow or volume in the same hour prior to the 11 :59 deadline. (Section 11.E.3 and footnotes 2 &10)	Clarifications have been made in the Amendment (Attachment I) to address this comment regarding the drawdown time requirement.
25.3	Pasadena Water and Power	Attachment I Allow a mix of uses for the water captured and diverted for use under this option, including the permitted diversion of water to the sewer system. (Section 11.b)	Changes have been made in the Amendment (Attachment I) to allow diversion of storm water captured to a combination of end uses.
25.4	Pasadena Water and Power	Attachment I Remove the requirement for sampling and analysis of the influent entering the pretreatment because this monitoring may only apply to infiltration projects, which are already required to sample and analyze groundwater quality. (Section II H.2 a & b) Other uses of captured water would be sampled and analyzed based on	Changes have been made in the Amendment (Attachment I) to address this comment. Sampling and analysis of influent is only applicable to infiltration BMP(s).

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		their use. For example permitted flows to the sewer would be sampled and analyzed in accordance with the permit, water reclaimed for reuse may be subject to reclaimed water requirements.	
25.5	Pasadena Water and Power	Attachment I Restrict the requirement to update the SWPPP with information on soil or groundwater contamination to only those dischargers who implement water infiltration projects. (Section II H.3.v.)	The provision in Attachment I Section II.H.3.v. is only required when applicable to the facility implementing an infiltration BMP(s) for the purposes of the Compliance Options. No changes have been made to address this comment.
25.6	Pasadena Water and Power	Attachment I Limit the number of required sampling/reporting events to no more than two per year. This would be consistent with the existing sampling requirements except that it is half what is required from sites that do not reduce their discharge through the use of an alternative compliance option. In addition, it is appropriate to require less sampling and reporting from properly designed and constructed water projects that are certified by a licensed professional engineer. (Section II H.2.a-3)	Changes have been made to Attachment I Section H.1 to include a minimum sampling frequency of influent entering the infiltration BMP(s).
25.7	Pasadena Water and Power	Attachment I Include an automatic cessation of the groundwater monitoring requirement after the discharger obtains five years of groundwater monitoring results that comply with the amended permit. (Section II K.4)	The site-specific requirements for discontinuing groundwater monitoring shall be determined by the State Water Board Executive Director or the applicable Regional Water Board Executive Director. The request is to be made by the Discharger. No changes have been made to address this comment.

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25.8	Pasadena Water and Power	**TMDL Numeric Action Level ("TNAL") should be annual averages (IGP page 9 Paragraph 54)** Many of the TNALs are extremely low. This requires the accurate measurement of trace amounts of pollutants near their quantification limit. Requiring dischargers to meet these levels on an instantaneous basis may unfairly penalize them for a result that does not accurately characterize their discharge. Basing the TNALs on annual averages would help ensure that the measurements are reliable and would increase the likelihood that they are representative. It allows for the analysis to be verified because it's repeated over time. This is critical to the accurate measurement of trace amounts.	The instantaneous maximum exceedance type is an appropriate measurement for compliance with the more stringent TMDL requirements needed to protect waterbodies that are identified as impaired. These translations are based on the language of the TMDL WLAs. This is further described in the Fact Sheet. This General Permit allows Dischargers to implement flow weighted composite sampling for obtaining an accurate and representative concentration of constituents in the industrial storm water discharge for a specific storm event. No changes have been made to address this comment.
25.9	Pasadena Water and Power	**Sampling and analysis of Authorized Non-Storm Water Discharges should not be required (Attachment E Compliance with Dry-Weather WLAs)** These discharges are limited to potable water, atmospheric condensate, naturally occurring water, and windblown mist. They are typically small, incidental discharges and it may not be possible to obtain an adequate sample volume. For planned releases like fire hydrant flushing and testing of potable water systems, the discharger could obtain a sample. However, this water is already regulated and unlikely to contain pollutants from industrial activities especially if the discharger follows the best management practices already required in the existing permit.	This Amendment is not requiring sampling and analysis of Authorized NSWDs. No changes have been made to address this comment.

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25.10	Pasadena Water and Power	**Include guidelines on how to determine whether Best Management Practices ("BMP") are economically practical and achievable (Fact Sheet 6.b.)** The Fact Sheet Section 6 Exceedance Response Actions ("ERA") has conditions for the discharger to discontinue performing additional ERA requirements. One of these conditions is for the discharger to demonstrate that "Additional BMPs required to eliminate [Numeric Action Levels] NAL/TNAL exceedances are not technologically available or economically practical and achievable." This document should include or reference guidelines for demonstrating whether a BMP is economically practical and achievable.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit. The CWA effluent guidelines section 304(b) provides information on the factors for conducting a BAT/BCT analysis.
25.11	Pasadena Water and Power	**SMARTS should identify TNAL/NEL exceedances** (IGP page 25 C.3) To avoid potential confusion, errors and omissions, the SMARTS online reporting tool should track and notify dischargers if their level status changes because of a TNAL/NEL exceedance.	SMARTS provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining TMDL applicability and monitoring TMDL compliance.

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			No changes have been made to address this comment.
25.12	Pasadena Water and Power	**Additional time should be allowed before dischargers are subject to level 1 status for exceeding a TNAL** (IGP page 53 C. Level 1 Status) Because structural BMPs are likely to be required to achieve compliance, dischargers should be allowed at least two years from the date the amended regulation is adopted before being moved to level 1 status for exceeding the TNALs. Under PWP's procurement process, outlined below, it would take approximately two years to complete construction and/or installation of a structural BMP to capture and divert industrial storm water discharges. a. Contract procurement to hire consultant for conceptual design and preparation of specifications 36 weeks b. Consultant engineering work 5 weeks c. Preparation of work specification and contract procurement for construction contractor 42 weeks d. Contractor detailed design and construction work 20 weeks Allowing additional time before the discharger is moved to level 1 status would allow limited resources to be dedicated to implementing these improvements that may be necessary for compliance. This will also eliminate the need for Board staff to review Technical Reports and ERA action plans while the procurement and construction process is underway.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.

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26.1	Port of Long Beach	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.	All TMDLs listed in Attachment E were translated to fit the existing monitoring scheme of this General Permit. This TMDL was translated to ensure all sampling locations are reflective of the existing discharge locations identified in each Responsible Discharger's SWPPP. No changes have been made to address this comment.
26.2	Port of Long Beach	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 TM DL time lines, 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.	The intent of the Compliance Options is to incentivize storm water capture and use to benefit groundwater recharge, restore lost watershed processes, and reduce pollutant loads discharged to surface waters. Marine terminal facilities may work on an On-Site requirement paired with an Off-Site agreement with the MS4 and/or other Dischargers and approved by the Regional Water Board. Per Attachment I, the authorized NSWDs and industrial storm water must not discharge to a water of the United States or surface water of the state prior to reaching the Off-Site BMP(s). Offsetting or trading volume is not proposed in this Amendment. The Amendment does not prohibit Dischargers from entering into a local agreement with the POTW as an Off-Site Compliance Option.
26.3	Port of Long Beach	Once adopted, most dischargers will be immediately out of compliance with the TMDL requirements. With the potential for third-party	The compliance dates in Attachment E are drawn from the TMDLs and cannot be altered by a permitting action. If the TMDL compliance

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		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.	deadlines are revised by the Water Boards, they shall be incorporated in this General Permit in a future permit reissuance cycle or future amendment. The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
26.4	Port of Long Beach	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.	SMARTS provides a platform where permittees (Dischargers and Responsible Dischargers), regulators, and the public can enter, manage, and/or view storm water data including permit registration documents, enforcement, and monitoring data associated with California's storm water general permits. Consistent with current General Permit requirements in Section XII.A, the Discharger/Responsible Discharger is required to conduct sampling and compare results for exceedances and will continue to do so with the incorporation of this Amendment. The State Water Board is working towards providing additional tools and visualizations outside of SMARTS to assist Dischargers/Responsible Dischargers and the regulators in determining

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			TMDL applicability and monitoring TMDL compliance. No changes have been made to address this comment.
26.5	Port of Long Beach	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.	Attachment E of the Amendment indicates the limit associated with each identified watershed, water body, or tributary to that impaired water body. Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.
26.6	Port of Long Beach	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 pollutants of concern from industrial related operations and/or materials and will need to comply with TMDL specific requirements in Attachment E.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the

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			Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
26.7	Port of Long Beach	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.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers.

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			No changes have been made to address this comment.
27.1	Sanitation Districts of Los Angeles County	Item 1: The Sanitation Districts appreciate the inclusion of the On-Site Compliance Option and believe it is a necessary compliance tool for many Dischargers that will provide a long-term benefit to regional water quality while reducing reliance on imported water sources. Section II.E.3, Footnote 2 from Section II.E.1, and Footnote 10 from Section II.H.2.c of Attachment I describe a 24-hour time period during which the On-Site Compliance Option BMP must recover its capacity. The State Water Board has stated that the 24-hour time period required to recover the BMP's capacity to capture and use the runoff volume generated up to and including the 85th percentile 24-hour storm event is from 12:00 a.m. to 11:59 p.m each day. The Sanitation Districts feel this is a restrictive time-frame that would be infeasible to plan for and comply with.	Clarifications have been made in the Amendment (Attachment I) to address this comment regarding the drawdown time requirement.
27.2	Sanitation Districts of Los Angeles County	Stormwater systems have many components that work together to achieve the design goals (e.g., pumps, storage, treatment systems, infiltration systems, etc.). An engineer designing such a system needs to be given the flexibility to adjust for storm size, intensity, timing, and processes to achieve the greatest capture possible while maintaining efficiency in the design. The Sanitation Districts recommend that an option be included in the amendment to allow for a site-specific investigation or model that could demonstrate equivalency with the 24-hour time period for sites that cannot guarantee that	The Fact Sheet has been updated with the addition of continuous simulation modeling/analysis (i.e. SWMM model) information further justifying the 24-hour drawdown time (or equivalent) requirement. Attachment I has been updated to provide the option to include additional storage volume to meet the compliance storm standard (85th percentile 24-hour storm) to offset a longer drawdown time.

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		they recover their stormwater capacity within 24 hours. For instance, a Discharger may be able to achieve an equivalent annual discharge volume reduction by increasing the storage volume available on-site to make up for capture and use, infiltration, or evapotranspiration restrictions that may exist at the site.	
27.3	Sanitation Districts of Los Angeles County	In order to allow for flexibility, the Sanitation Districts propose the following language as replacement language for the following items in Attachment I: **Section II.E.3** *"Recover capacity within a 24-hour period (the 24-hour time-period ~~is12:00a.m. to 11:59p.m~~ begins at the time rainfall starts after at least a 48-hour antecedent dry period) to capture and use, infiltrate, and/or evapotranspire runoff volumes generated up to and including the 85th percentile 24-hour storm event. In the event that the full capacity cannot be met, compliance with the stormwater retention standards may be demonstrated using a continuous simulation model and historic rainfall records. The results of such an analysis must show that on an average annual basis, a system with reduced use, infiltration and/or evapotranspiration rates has the same capacity to prevent offsite discharges as a system than can completely dewater in a 24-hour period."* **Footnote 2 from Section II.E.1** *"The BMP has not met the standards if the BMP is not able to recover its capacity through use, infiltration and/or evapotranspiration within a 24-hour period. The BMP will completely dewater*	Clarifications have been made in the Amendment (Attachment I) to address this comment regarding the drawdown time requirement.

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		and its capacity be fully available within 24 hours should back-to-back rainfall events occur or will meet the alternative design described in Section II.E.3. The 24 hours time-period begins at the time rainfall starts after at least a 48-hour antecedent dry period. ~~is defined as 12:00a.m.-11:59p.m.~~ **Footnote 10 from Section II.H.2.c** *"The BMP will completely dewater and its capacity be fully available within 24 hours should back-to-back rainfall events occur or will meet the alternative design described in Section II.E.3. The 24 hours ~~is defined as 12:00a.m.-11:59p.m~~. time-period begins at the time rainfall starts.*	
27.4	Sanitation Districts of Los Angeles County	**Item 2:** Requiring BMP(s) implemented by the Discharger to include all flows from all areas associated with industrial activity implies capturing flows beyond the daily 85th percentile, 24-hour storm. Section II.E.2 of Attachment I requires BMP(s) implemented by the Discharger to *"include all flows from all areas associated with industrial activity at the facility…"* This condition requires that all pumped systems be designed to capture of flows up to and including the maximum storm on record. The Sanitation Districts recommend that Attachment I, Section II.E.2 include the following revision: *"Include all of the flows that would result from the daily 85th percentile, 24-hour design storm from all areas associated with industrial activity at the facility for the following discharges…";*	Clarifications have been made in the Amendment (Attachment I) to address this comment. This includes all drainage areas associated with industrial activity that would produce flows to be captured, up to the design storm size.

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27.5	Sanitation Districts of Los Angeles County	**Item 3:** The current language in Section II.B of Attachment I implies that if capture and diversion is selected to meet compliance, all 85th percentile, 24-hour storm volume needs to be diverted to a single use. The Sanitation Districts request revisions to this section to allow Dischargers to achieve the diversion volume through a combination of allowable stormwater management strategies. In addition, the Sanitation Districts request that the amendment requires that connections to the sewer be permitted for the stormwater discharge and that the allowable management strategies be expanded to include a permitted connection to a reclaimed water system. The Sanitation Districts recommend that Attachment I, Section II.B include the following revision: "*Discharger may include the BMPs that capture and divert the required storm water runoff volumes to a publicly-owned sanitary sewer treatment facility, or to an on-site facility for on-site use, to a regional reclaimed water distribution system, or a combination thereof. Proposed discharges to a publicly-owned sanitary sewer or reclaimed water distribution system shall be supported by a permit or will-serve letter that specifically allows the proposed stormwater flow rates. The minimum required storm water volume to be diverted shall be in accordance with the Section E.1 and E.2 below...*"	Clarifications have been made in the Amendment (Attachment I) to address this comment.
27.6	Sanitation Districts of Los	**Item 4:** Collecting analytical samples of all bypass/overflow from BMP(s) may not be feasible.	The suggested revision regarding a reference to section XI.B.5 has been made.

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	Angeles County	Attachment I, Section II.H.1.a requires Dischargers with implemented and operational On-Site Compliance Option BMP(s) to conduct analytical sampling of all bypass/overflow from the BMP(s). However, this requirement is in conflict with Section XI.C.6.a.ii of the Order, which states that "*sample collection and visual observations are not required… outside scheduled facility operating hours*." It is also important to note that staff will not be present during outside operating hours to analyze for pH and dissolved oxygen to comply with the 15 minute holding time. For these reasons, the Sanitation Districts believe this language should be modified to indicate that analytical sampling of bypass/overflow is only required during scheduled facility operating hours. In addition, bypasses that occur because the flow rate is greater than the peak flow from the 85th percentile 24-hour design storm may be very short in duration and could occur multiple times during a day as bands of intense rain pass a facility. This provision should be limited to sampling bypass flows once per day during facility operating hours. The Sanitation Districts recommend the following revisions: *"Conduct analytical sampling of ~~all~~ bypass/overflow from the BMP(s) in compliance with the Sampling and Analysis Section XI.B.~~6~~5-11 of this General Permit and Attachment H8, with the comparing monitoring results to NALs in Section XI.B.7;"*	Attachment I Section II.H.1.a has been updated to add safety provisions.

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27.7	Sanitation Districts of Los Angeles County	**Item 5:** The Sanitation Districts believe that the following requirements in Attachment I should be specific to Dischargers that intend to implement infiltration BMP(s): Section II.H.1.d and II.H.2.b requires Dischargers with implemented and operational On-Site Compliance Option BMP(s) to conduct representative analytical sampling of the influent entering the BMP(s). The Sanitation Districts believe that analytical sampling should be specific to infiltration BMPs because Dischargers diverting to a sanitary sewer or reclaimed water system will most likely have separate required sampling to satisfy the requirements of the associated permit.	Changes have been made in the Amendment (Attachment I) to address this comment. Sampling and analysis of influent is only applicable to infiltration BMP(s).
27.8	Sanitation Districts of Los Angeles County	**Item 5:** The Sanitation Districts believe that the following requirements in Attachment I should be specific to Dischargers that intend to implement infiltration BMP(s): Section II.H.3.a.v requires Dischargers complying with the On-Site Compliance Option to update their SWPPP with "applicable information on any preexisting contamination in the soil or groundwater for any industrial pollutants at the facility that may be discharged or mobilized at the facility through infiltration." The Sanitation Districts believe that this requirement should only apply to Dischargers who intend to implement infiltration BMP(s).	The provision in Attachment I Section II.H.3.v. is only required when applicable to the facility implementing an infiltration BMP(s) for the purposes of the Compliance Options. No changes have been made to address this comment.
27.9	Sanitation Districts of Los Angeles County	**Item 6:** The influent sampling requirement should specify a sampling frequency. Section II.H.1.d requires Dischargers with implemented and operational On-Site Compliance Option BMP(s) to conduct	Changes have been made to Attachment I Section H.1 to include a minimum sampling frequency of influent entering the infiltration BMP(s).

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		representative and analytical sampling of the influent entering BMP(s) in compliance with the Sampling and Analysis Section XI.B.6-11 and Attachment H of the General Permit. However, neither of the mentioned sections specifies the number of samples that need to be collected within each reporting year. Notwithstanding our comment in Item 5 that this requirement not apply to discharges to sewer systems, the Sanitation Districts recommend that Attachment I include sampling requirements similar to those already adopted in the Order for discharges to systems other than sewers and reclaimed water systems. Specifically, the Sanitation Districts propose that similar language, as provided below, be considered for Section II.H.1.d: *"Conduct representative analytical sampling of the influent entering the infiltration BMP(s) in compliance with the Sampling and Analysis Section XI.B.~~6-11~~ and Attachment H of this General Permit, with the exception of comparing monitoring results to NALs in Section XI.B.7;"*	
27.10	Sanitation Districts of Los Angeles County	**Item 7:** Define or state the number of analytical results required within a reporting year for an instantaneous NEL exceedance to occur. Section I.F.55 of the tentative Order references Section XII.A.2 for the requirement of a Numeric Effluent Limit (NEL) exceedance. However, Section XII.A.2 does not define instantaneous NEL exceedance; only *"instantaneous maximum NALs/TNALs exceedance"* is described. The Sanitation Districts recommend that the Order be revised to clearly define an instantaneous	The Glossary (Attachment C) has been updated with definitions for "Numeric Effluent Limitation" and "Numeric Effluent Limitation Exceedance".

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		NEL exceedance and proposes that the definition for instantaneous maximum NEL exceedance be the same as instantaneous maximum NALs/TNALs exceedance, as follows: *"Instantaneous maximum NEL exceedance: The Discharger shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NEL values in the TMDL Compliance Table in Attachment E. An instantaneous maximum NEL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NEL value in the TMDL Compliance Table in Attachment E."* The State Water Board should include this definition for NEL and NEL exceedance in the Glossary in Attachment C.	
27.11	Sanitation Districts of Los Angeles County	**Item 8**: The proposed Amendment should clearly define guidance for Dischargers to determine if their facilities are subject to TMDL-specific permit requirements. Section I.F.49 of the tentative order indicates: *"Dischargers that are subject to TMDL-specific permit requirements are referred to as "Responsible Dischargers."* The tentative order does not clarify the procedure for Dischargers to determine if they are subject to TMDL-specific permit requirements in Attachment E of the tentative order. The tentative order should clearly state that a Discharger is subject to a TMDL permit requirement only if their facility is an industrial	Clarifications have been made to ensure the definition of Responsible Discharger is consistent throughout the Amendment. A Responsible Discharger is "a Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water associated with industrial activities (and Authorized NSWDs) either directly or through a MS4 to impaired waterbodies identified in a U.S. EPA approved TMDL with an assigned WLA to industrial storm water sources." The definition of Responsible Discharger in the Glossary (Attachment C) has been revised to remove language referring to upstream reaches or tributaries to impaired waterbodies. Language

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		source of the TMDL pollutant as determined through the facility source assessment. In addition, a Discharger must determine that their facility discharges stormwater either directly or indirectly through a municipal separate storm sewer system (MS4) into the impaired water body or tributary that was assigned a Waste Load Allocation in that TMDL. This clarification would reduce the current level of confusion about which TMDLs apply to a facility. As a result, the Sanitation Districts propose that similar language, as provided below, be considered for Section I.F.49: *Dischargers shall be determined to be subject to TMDL-specific permit requirements if a) the Discharger has conducted a source assessment and determined their facility is an industrial source for the TMDL pollutant, and b) their facility discharges stormwater either directly or indirectly through a municipal separate storm sewer system (MS4) to the impaired water body or upstream reach or tributary that was assigned a Waste Load Allocation in the TMDL. Dischargers that are subject to TMDL-specific permit requirements are referred to as "Responsible Dischargers."*	has been added to the Fact Sheet and Attachment E clarifying, when necessary, the specific water body segments to which the TMDL WLAs apply. Where specific segments are not identified, the WLAs apply to the entire water body. If the TMDL identifies the watershed as its regulated area, then the allocation applies to the entire watershed. Similar language has been added identifying those TMDLs that additionally impose WLAs on tributaries or the watershed as a whole. The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that "The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…" As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for "Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)". Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with

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			overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.
27.12	Sanitation Districts of Los Angeles County	**Item 9:** Section II.E.6 should clarify whether a Discharger is responsible for all MCLs specified in Table A or just MCLs for which the Discharger is a potential pollutant source. Section II.E.6 states that all influent entering the infiltration BMP(s) must meet applicable MCL criteria for industrial pollutants at the facility, as specified in Table A. The MCL criterion in Table A refines secondary MCLs to focus on pollutants associated with industrial activities, but list all primary MCLs. Since many of the primary MCLs are not industrial stormwater pollutants, the primary MCLs should also be refined to focus on pollutants associated with industrial activities or additional language should be provided to require Dischargers to conduct a pollutant assessment and monitor only for primary MCLs that have been identified as applicable industrial parameters. The Sanitation Districts recommend the following modifications to Section II.E.6.a: *"The Discharger shall ensure that all influent entering the infiltration BMP(s) meets applicable Maximum Contaminant Level (MCL) criteria identified by the Discharger on facility-specific basis that serve as indicators of the presence of for industrial pollutants at the facility, as*	Pollutants identified in the industrial pollutant source assessment entering the infiltration BMP(s) are required to meet the MCLs.

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		specified in Table A below. If the influent does not meet applicable MCLs on an instantaneous basis, the Discharger shall have a California licensed professional engineer…"	
27.13	Sanitation Districts of Los Angeles County	**Item 10:** The proposed Amendment should more clearly identify what the "TMDL Compliance Table" refers to. Reference is made to the "TMDL Compliance Table" or "TMDL Compliance Table X" in Attachment E throughout the Order and the Fact Sheet. As written, it is unclear which table in Attachment E this refers to. For clarity, the Sanitation Districts suggest adding the title "TMDL Compliance Table" to the appropriate table in Attachment E.	The TMDL Compliance Table has been labeled as Table E-2.
27.14	Sanitation Districts of Los Angeles County	**Item 11:** The proposed Amendment does not adequately define sufficiently sensitive methods. As written, the language in the proposed Amendment regarding sufficiently sensitive methods only references part A of the above. For consistency with the Final Rule, the Sanitation Districts suggest parts B and C also be incorporated into the General Permit to clarify what "sufficiently sensitive" means by adding the following language to Attachment C (Glossary): ***Sufficiently Sensitive Test Methods*** *An EPA-approved test method is sufficiently sensitive where:* *a. The method minimum level is at or below the level of the applicable water quality criterion or permit limitation for the measured pollutant or pollutant parameter; or* *b. In the case of permit applications, the method minimum level is above the applicable water*	Responsible Dischargers are required to use U.S EPA approved analytical methods that are sufficiently sensitive and are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. The SSM shall be used for compliance with NALs, TNALs, and NELs. See language added in the Fact Sheet Section J.3.b.

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		quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or *c. The method has the lowest minimum level of the EPA-approved analytical methods.* Additionally, the Sanitation Districts suggest that language be included to provide guidance for Dischargers regarding what to do if no EPA-approved method exists, consistent with the Final Rule. This can be done by including a footnote for Section XI.B.10 of the Order, as follows: *"The Discharger shall ensure that all laboratory analyses are performed according to sufficiently sensitive test procedures and conducted according to test procedures under 40 Code of Federal Regulations part 136, including the observation of holding times, unless other test procedures have been specified in this General Permit or by the Regional Water Board1."* *1 The requirement to use a "sufficiently sensitive" EPA-approved method does not apply where no EPA-approved method exists. When no analytical method is approved under 40 CFR part 136 or required under subchapter N or O, and a specific method is not otherwise required in this General Permit or by the Regional Water Board, the Discharger may use any suitable method; however, the Discharger shall provide a description of the method to their Regional Water Board.*	

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27.15	Sanitation Districts of Los Angeles County	**Item 12:** The proposed TMDL-related language and requirements may not be consistent with the adopted Basin Plan Amendments. The Sanitation Districts are concerned that some of the TMDL Wasteload Allocations (WLAs) have been translated into TNALs or NELs in Attachment E that are inconsistent with the adopted TMDL Basin Plan Amendments. Although the Sanitation Districts have not had time to review each TMDL translation proposed, examples of inconsistencies are provided in Items 13 and 14, below. The Sanitation Districts would like to request more time to fully review the proposed translations of the TMDL WLAs into the General Permit to ensure that the TMDL-related requirements are consistent with the requirements and assumptions of the respective TMDLs.	The TMDL assigned WLAs have been assessed to ensure that they are appropriately incorporated into this General Permit. Please see Attachment E Table E-2 and the accommodating Fact Sheet on the assessment made for each translation. A public comment period has been offered to provide stakeholders an opportunity to review the Amendment and provide feedback. Additional public comment periods may be held, if necessary, prior to adoption of the Amendment. Further, State Water Board staff is planning to conduct workshops and public outreach efforts prior to an adoption meeting to allow further discussion of the Amendment.
27.16	Sanitation Districts of Los Angeles County	**Item 13:** WLAs from the Machado Lake Toxics TMDL have been incorrectly translated. Section II.F.6.f.vi of the Fact Sheet translates the WLAs from the Machado Lake Toxics TMDL to instantaneous maximum NELs. As written, the translation of the WLAs to NELs is inconsistent with the TMDL, since the TMDL states that WLAs are applied with a 3-year averaging period2 and allows compliance through mass reduction. The Sanitation Districts request that the State Water Board provide additional justification for the direct translation of the WLAs, which were not intended to be applied as instantaneous	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h.

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		maximum values, to instantaneous maximum NELs.	
27.17	Sanitation Districts of Los Angeles County	**Item 13:** WLAs from the Machado Lake Toxics TMDL have been incorrectly translated. In addition, for a site that cannot retain sufficient stormwater to meet the proposed On-Site Compliance Option in Attachment I, the Machado Lake Toxics TMDL includes compliance determination procedures for stormwater dischargers that fully divert the discharge from any single storm. The compliance determination procedures in the TMDL allow a discharger to document the full diversion of any single storm a pollutant concentration of zero, which may be combined with other measured sample concentrations from discharges that are not fully diverted when demonstrating compliance with the WLA over the 3-year averaging period. The Sanitation Districts' request that the following TMDL language be included in the IGP TMDL amendment: *"Stormwater dischargers that fully divert a stormwater event to the sanitary sewer may document the diversion as a wet-weather monitoring event and report both the flow and pollutant concentration as zero. Unless all stormwater discharges are fully diverted to the sanitary sewer, at least one wet-weather event must be sampled according to the monitoring requirements above. Stormwater discharges that are not fully diverted are subject to the WLA compliance monitoring described. The reporting pollutant concentration of zero may be*	Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h.

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		combined with other measured sampled concentrations (from stormwater events that are not fully diverted) when demonstrating compliance with the WLA over the 3-year averaging period".	
27.18	Sanitation Districts of Los Angeles County	**Item 14:** WLAs from the Machado Lake Nutrient TMDL have been incorrectly translated. Section II.F.6.b.v of the Fact Sheet does not explain how the WLAs for the Machado Lake Nutrient TMDL, which are assigned as monthly averages in the TMDL, were translated to instantaneous maximum NELs. The Sanitation Districts request that additional information be provided on the methodology behind this translation.	Attachment E has been changed to require compliance with an NEL for implementation of the Los Angeles River Nutrients TMDL, which is consistent with the translation of the Machado Lake Nutrients TMDL. Because the WLA is assigned as a concentration-based limit at the point of discharge, an NEL is appropriate for implementation and this General Permit requires Dischargers to obtain 4 Qualifying Storm Events per reporting year per discharge location (2 per discharge location between July 1-December 31 and 2 per discharge location between January 1-June 30). To translate the concentration-based limit into the monitoring and reporting framework of this General Permit when only the '30 day average' is provided this is more aligned with an acute source from storm water discharges represented by sampling results obtained by Dischargers being compared to the applicable instantaneous maximum NEL value and this General Permit's the annual average NALs address chronic loading of nutrients from industrial storm water.
27.19	Sanitation Districts of Los Angeles County	**Item 14:** WLAs from the Machado Lake Nutrient TMDL have been incorrectly translated. Additionally, the Sanitation Districts believe it is inappropriate to assign NELs to Responsible Dischargers for this TMDL. The Implementation Plan for this TMDL states the following:	Attachment E has been changed to require compliance with an NEL for implementation of the Los Angeles River Nutrients TMDL, which is consistent with the translation of the Machado Lake Nutrients TMDL. Because the WLA is assigned as a concentration-based limit at the

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		"Stormwater permittees may be deemed in compliance with waste load allocations by actively participating in a LWQMP [Lake Water Quality Management Plan] and attaining the waste load allocations for Machado Lake. Stormwater permittees and the responsible party for the lake may work together to implement the LWQMP and reduce external nutrient loading to attain the TMDL waste load allocations measured in the lake… Compliance may also be demonstrated as concentration based monthly averages for TP [total phosphorus] and TN [total nitrogen] measured at the stormdrain outfall of the permittee's drainage area."3 The above suggests that Responsible Dischargers may be deemed in compliance with WLAs based on either (1) concentrations measured in the receiving water or (2) based on monthly average concentrations measured at the point of discharge. Section II.F.6.b of the Fact Sheet contains explanations for other nutrient TMDLs, such as the Santa Clara River Nitrogen TMDL, state that the "30-day average WLA is not appropriate to assign to Responsible Dischargers because storm water is an intermittent discharge and a 30-day averaging period is for measuring chronic effects." Per Section II.F.5.a of the Fact Sheet, concentration-based WLAs or numeric targets applicable to industrial stormwater discharges identifying a compliance location in receiving water are translated to TNALs. Thus, the Sanitation Districts believe that it is inappropriate to	point of discharge, an NEL is appropriate for implementation and this General Permit requires Dischargers to obtain 4 Qualifying Storm Events per reporting year per discharge location (2 per discharge location between July 1-December 31 and 2 per discharge location between January 1-June 30). To translate the concentration-based limit into the monitoring and reporting framework of this General Permit when only the '30-day average' is provided this is more aligned with an acute source from storm water discharges represented by sampling results obtained by Dischargers being compared to the applicable instantaneous maximum NEL value and this General Permit's the annual average NALs address chronic loading of nutrients from industrial storm water.

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		translate the WLAs to NELs, and that they should instead be translated to TNALs. This would be consistent with the requirements and assumptions of the Machado Lake Nutrient TMDL.	
27.20	Sanitation Districts of Los Angeles County	**Item 15:** The analysis requirements for some TMDL constituents are unclear. Some of the TMDL constituents listed in Attachment E can be analyzed in several ways. For example, using common laboratory methods for analysis, chlordane can be measured as technical chlordane, constituents of chlordane, or as the sum of individual chlordanes (alpha- and beta-chlordane). Similarly, PCBs can be measured as aroclors or as congeners. As written, it is not clear which of the above analyses is acceptable to meet the TMDL requirements for chlordane and PCBs. To ensure that Responsible Dischargers are monitoring for the same TMDL constituents, the Sanitation Districts suggest the addition of footnotes for the chlordane and PCBs entries in the Attachment E table that identify the specific analyses required for these two TMDL constituents.	Clarifications have been made in the Amendment to ensure chemical parameters are clearly defined. Changes have been made in the Amendment (Fact Sheet and Attachment E) to the translation of the TMDLs with assigned dry-weight concentrations to require compliance with this General Permit rather than implementation of a TNAL or NEL. This General Permit already includes annual and instantaneous maximum NALs for TSS that keep the level of sediment discharged from industrial facility below the level that would be needed to monitor discharges for compliance with the TMDL. The majority of these TMDLs with the revised assessment are organochlorine pesticides, PAH, PCB, and metal TMDLs in Attachment E or in the Fact sheet, section II.F.6.f and II.F.6.h.
27.21	Sanitation Districts of Los Angeles County	**Item 16:** The Sanitation Districts support the 85th percentile design storm. Since State Water Board staff have indicated that they have reasonable assurance of TMDL compliance with the capture of the 85th percentile storm, the Sanitation Districts encourage the State Water Board to take a measured approach to encourage as many Dischargers as possible to take advantage of	Comment noted.

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		this water saving compliance option while still having reasonable assurance of attaining TMDL targets.	
28.1	SESPE Consulting, Inc.	Under the Proposed Amendment, if a discharger wants to use the Compliance Option, they are required to capture and use, infiltrate, and/or evapotranspire runoff from a design storm event within 24 hours. However, the Proposed Amendment does not state how this is to be calculated.	The calculation is site-specific and is determined by the California licensed civil engineer during the planning and design of the BMP(s).
28.2	SESPE Consulting, Inc.	As a hypothetical example, consider a facility where the calculated volume of runoff from an 85th percentile, 24- hour storm (including applicable safety factor) is 20,000 gallons. If you examined the previous year's water usage data and determined that the average daily use was 21,000 gallons, would this facility meet the requirement?	Storm water runoff capture and use may be used as an On-Site Compliance Option, although averaging is not proposed in this Amendment. No changes have been made to address this comment.
28.3	SESPE Consulting, Inc.	At concrete batch plants, there are daily fluctuations in orders which in turn cause fluctuations in the amount of water used on any particular day. If a discharger determined that their concrete batch facility could, on average, reuse the runoff generated by an 85th percentile, 24-hour storm event, are they allowed to use the Compliance Option? Section II.H.3.ii requires that the SWPPP "include safety and reliability calculations" to address this requirement, but there is no methodology presented.	Reliability and safety factor calculations are BMP- and site-specific and are determined by the California licensed civil engineer during the planning and design of the BMP(s). Storm water runoff capture and use may be used as an On-Site Compliance Option, although averaging is not proposed in this Amendment. No changes have been made to address this comment.
28.4	SESPE Consulting, Inc.	Additionally, the Proposed Amendment calls for a "safety factor" but does not indicate what sort of safety factor should be used. This should be clarified.	Reliability and safety factor calculations are BMP- and site-specific and are determined by the California licensed civil engineer during the planning and design of the BMP(s).

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28.5	SESPE Consulting, Inc.	We fully acknowledge that facilities that capture storm water must have some mechanism to reuse and/or infiltrate the water captured so the BMP can be used to capture water from subsequent storms. However, the 24-hour recovery timeframe is too short and has limited benefit. What this requirement implies is that if an 85th percentile, 24-hour storm event (Design Storm) occurs, the BMP will have to draw down and be ready to contain another 85th percentile, 24-hour storm event the following day, and every day after that. This seems onerous and has little to do with actual rainfall patterns.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
28.6	SESPE Consulting, Inc.	Many of the 330 storms that occurred during this period were followed by days or even weeks with little or no precipitation. If the Water Board truly wants to use the Compliance Option to incentivize dischargers to capture and reuse storm water, a reasonable draw down requirement is needed.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement. See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
28.7	SESPE Consulting, Inc.	The Fact Sheet of the Proposed Amendment contains discussion of a continuous simulation model (hereafter “model”) that was used to evaluate the pollutant removal efficiency associated with an 85th percentile, 24-hour storm event as justification of why 24-hour draw down is appropriate. However, this model is limited and is not sufficiently detailed to justify the conclusions reached.	Attachment I provides an option to include additional storage volume beyond the compliance storm standard (i.e. 85th percentile 24-hour storm) to offset longer drawdown time. In addition, clarifications have been included in Attachment I of the Amendment regarding the drawdown time requirement.

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			See the Fact Sheet for the additional continuous simulation modeling/analysis (i.e. SWMM model) justifying the 24-hour drawdown time (or equivalent) requirement.
28.8	SESPE Consulting, Inc.	First, the model focuses solely of metals discharged to the Los Angeles River. The Fact Sheet states that "Zinc does not sorb readily to soils particles and large fractions may be in the dissolved state (non-particulate)."3 The model ignores other common pollutants such as sediment and oil and grease, instead focusing solely on difficult to treat pollutants (i.e., dissolved metals). At many industrial facilities, especially those in the building materials industry, sediment is the main pollutant of concern. There are large unpaved areas which have the potential to contribute sediment to storm water runoff. BMPs such as basins are effectively used to reduce sediment loading prior to storm water discharge. Assuming that basins used to control sediment should be sized based on an analysis of dissolved metals is suspect at best.	The model referred to in this comment focused on the Los Angeles River because it has established stringent wet-weather WLAs for metals and is the receiving water for a significant number of industrial dischargers under this General Permit. Using stringent pollutant limits to model compliance is a conservative approach. Additional rationale can be found in the Fact Sheet.
28.9	SESPE Consulting, Inc.	Second, the receiving water body analyzed in the model is a river with TMDLs for various metals. There is no analysis of other types of water bodies, notably those that are not impaired and/or do not have established TMDLs.	The model referred to in this comment focused on the Los Angeles River because it has established stringent wet-weather WLAs for metals and is the receiving water for a significant number of industrial dischargers under this General Permit. Using stringent pollutant limits to model compliance is a conservative approach. Additional rationale can be found in the Fact Sheet.

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28.10	SESPE Consulting, Inc.	Finally, the analysis presented in the Fact Sheet does not give any consideration to technological availability and economic practicability and achievability, cornerstones of BMP analysis in the IGP and Clean Water Act.	The Compliance Options are optional pathways for compliance with this General Permit. Because Dischargers are not required to implement a Compliance Option, they are not subject to the same analysis as the rest of the General Permit. Additionally, any cost and feasibility analysis would be entirely site-specific. It would not be possible for the State Water Board to include such an analysis in this Amendment.
28.11	SESPE Consulting, Inc.	If the Water Board wants to determine a draw down requirement for BMPs by using a model, additional analysis is needed to examine different assumptions and variables. This includes analyzing different types of pollutants discharged in storm water and different types of receiving water bodies. The technological availability and economic practicability and achievability of those options must also be considered. Assuming the worst-case scenario (i.e., dissolved pollutants that are "difficult to treat"4 discharging to a TMDL listed water body) to determine draw down time (and thereby, BMP size) may result in oversized BMPs; a significant cost to dischargers that may result in limited water quality benefit.	The model referred to in this comment focused on the Los Angeles River because it has established stringent wet-weather WLAs for metals and is the receiving water for a significant number of industrial dischargers under this General Permit. Using stringent pollutant limits to model compliance is a conservative approach. Additional rationale can be found in the Fact Sheet.
28.12	SESPE Consulting, Inc.	The Proposed Amendment includes a requirement that infiltration BMPs "include a shutoff mechanism (e.g., a valve that diverts discharge from entering the BMP(s)."[5] This is not a feasible requirement. At many mine sites there are current and former mining pits that are used to capture storm water and allow it to infiltrate. Some of these pits are very large, up to 100 acres in size. There is no method to install a	Language has been added to Attachment I to give Dischargers the option to implement appropriate spill prevention, response, and training when including a shutoff mechanism is infeasible. Attachment I requirements for existing infiltration BMPs would only apply if the Discharger is pursuing the implementation of one of the Compliance Options.

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		shutoff that will prevent storm water from flowing into an area this large.	
28.13	SESPE Consulting, Inc.	It is not appropriate to apply MCLs to storm water runoff. MCLs are standards that apply to drinking water that is provided to people to drink, they are not intended for storm water which infiltrates into the ground. This requirement has never been applied to other entities that capture storm water and allow it to infiltrate (e.g., dam operators, flood control districts, water agencies, US Army Corps of Engineers, etc.).	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. Retention and reuse of the water on site or redistribution of the product as potable water is allowed for the purposes of the Compliance Options in Attachment I. If the data shows that industry is not threatening groundwater quality, the future requirements of this General Permit can be re-evaluated. Infiltration systems are not required to meet the requirements of Attachment I unless the system is being used for the purposes of compliance with this General Permit via the Compliance Options. No changes have been made to address this comment.
28.14	SESPE Consulting, Inc.	The other option in the Proposed Amendment allows the discharger to “install groundwater monitoring devices (e.g., lysimeters) to collect monthly samples … to demonstrate compliance with the MCLs...”6 How a discharger would	A site-specific analysis of the appropriateness of an On-Site Compliance Option is required to ensure compliance is met. The samples of the influent are taken prior to entering the infiltration BMP(s), and can be taken by groundwater

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		comply with this requirement is not clear. If a facility is located in an area where the groundwater level is relatively high, and groundwater is already contaminated, how could the discharger collect "samples of the infiltrated water" that have not been impacted by groundwater? In addition, this requirement is universally applied in the Proposed Amendment. It does not address infiltration in areas where drinking water has not been identified as a beneficial use of the underlying groundwater or locations where there are no nearby drinking water wells.	monitoring devices. If the monitored information concludes that MCLs are not being met, the appropriate Regional Water Board may direct responsive actions.
28.15	SESPE Consulting, Inc.	If the Water Board's intent is to "incentivize storm water capture and use in a concerted effort to retrofit the existing "impervious" urban landscape with green infrastructure to restore storm water infiltration capacity previously lost in developed areas," requiring that the captured storm water meet drinking water standards (which are not applied to any other source of storm water capture) is a substantial hindrance.	The incorporation of Compliance Options as optional methods of compliance with this General Permit is intended to incentivize multi-benefit projects that capture, infiltrate, and/or reuse storm water and support a sustainable local water supply. This Amendment requires the protection of existing and potential groundwater use as a source of drinking water by ensuring that potential discharge to all groundwater basins via infiltration BMPs meet the MCL criteria or the discharger demonstrates no threat to groundwater via monitoring. No changes have been made to address this comment.
28.16	SESPE Consulting, Inc.	The regulatory burden of using the proposed On-Site Compliance Option is significantly higher than that of compliance with the current IGP. This is a significant deterrent to dischargers using the Compliance Option.	The On-Site Compliance Option is designed to protect water quality if a Discharger complies with the requirements. If the On-Site Compliance Option is not a viable option, the Discharger may comply through other compliance pathways identified in this Amendment.

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			No changes have been made to address this comment.
28.17	SESPE Consulting, Inc.	We realize that the Compliance Option is just that, an option. We acknowledge that no facility will be required to comply with the Compliance Option as it is currently presented in the Proposed Amendment. However, we are very concerned that the Compliance Option will become de facto requirements and/or a "back door" BAT/BCT determination.	Changes have been made throughout the Amendment to clarify that the Compliance Options are optional methods for compliance with this General Permit and that Dischargers may continue to comply with this General Permit as they did prior to this Amendment. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. No changes have been made to address this comment.
28.18	SESPE Consulting, Inc.	The Proposed Amendment Fact Sheet states that "[t]his General Permit requires compliance with receiving water limitations. Dischargers may be deemed in compliance with those limitations through compliance with the On-Site Compliance Option or the Off-Site Compliance Option."[8] There is similar wording in other areas of the Fact Sheet. Our fear is that this language will be misconstrued to mean that dischargers who do not or are not capable of utilizing the On-Site Compliance Option or the Off-Site Compliance Option are not in compliance with receiving water limitations or the IGP.	Changes have been made throughout the Amendment to clarify that the Compliance Options are optional methods for compliance with this General Permit and that Dischargers may continue to comply with this General Permit as they did prior to this Amendment. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. No changes have been made to address this comment.

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28.19	SESPE Consulting, Inc.	The current IGP states that "[d]ischargers shall implement BMPs that comply with the BAT/BCT requirements of this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability." The Water Board has provided little guidance as how this analysis is to be done.[10] Because there is no standard methodology to make these determinations, dischargers are subject to "citizen" lawsuits about what BAT/BCT is and whether or not a facility's BMPs meet it. Due to the vague nature of the requirement, and lack of determination from regulating agencies, these lawsuits are difficult and expensive to defend against.	Changes have been made throughout the Amendment to clarify that the Compliance Options are optional methods for compliance with this General Permit and that Dischargers may continue to comply with this General Permit as they did prior to this Amendment. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. No changes have been made to address this comment.
28.20	SESPE Consulting, Inc.	Over that past few years, there appears to be a general movement towards the concept that capturing and reusing or infiltrating the runoff generated by an 85th percentile, 24-hour storm event, where possible, is BAT/BCT. The State Board has previously made findings in the IGP that support this trend by finding that the design storm standards "are generally expected to be consistent with BAT/BCT, to be protective of water quality, and to be effective for most pollutants" (IGP, Finding 68). Many dischargers have spent hundreds of thousands of dollars per facility to install BMPs that meet the design storm standard. There is great concern that by establishing the On-Site and Off-Site Compliance Options, citizen suit plaintiffs will argue that only those	Changes have been made throughout the Amendment to clarify that the Compliance Options are optional methods for compliance with this General Permit and that Dischargers may continue to comply with this General Permit as they did prior to this Amendment. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment. No changes have been made to address this comment.

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		facilities that can comply with those options meet BAT/BCT. This negative implication is contrary to Finding 68, and would expose entire industries to another round of Clean Water Act citizen suits. In this way, the Compliance Options in the Proposed Amendment appear to "move the goal posts" by requiring that in addition to capturing a design storm, a facility must be able to use and/or infiltrate that water within 24 hours.	
28.21	SESPE Consulting, Inc.	In summary, we support the Water Board's intent of encouraging facilities to capture and reuse and/or infiltrate storm water runoff. However, the multitude of requirements and reporting obligations in the Proposed Amendment impose substantial burdens on dischargers who wish to do so. Additionally, there are many Compliance Option requirements in the Proposed Amendment that are vague and unclear.	The On-Site Compliance Option is designed to protect water quality if a Discharger complies with the requirements. If the On-Site Compliance Option is not a viable option, the Discharger may comply through other compliance pathways identified in this Amendment. Significant effort was put in to ensure that the Amendment is as clear as possible.
28.22	SESPE Consulting, Inc.	Furthermore, we strongly believe that it is important to modify the IGP in a way that the Compliance Option cannot be misconstrued as changing what constitutes BAT/BCT under the IGP. As currently framed, the IGP Amendment is poised to trigger another round of citizen suit litigation against entire industries that have just spent the past two years defending against suits and making substantial investments in storm water infrastructure.	Changes have been made throughout the Amendment to clarify that the Compliance Options are optional methods for compliance with this General Permit and that Dischargers may continue to comply with this General Permit as they did prior to this Amendment. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen enforcement actions would require a legislative amendment.

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			No changes have been made to address this comment.
29.1	State of California Auto Dismantlers Association	While we appreciate the engagement of staff on the development of this amendment, we remain concerned that the cost of compliance is alarmingly high further fueling the competitive advantage that unlicensed and unregulated dismantlers have against those of us attempting to comply with the permit. As a matter of fact, the Department of Motor Vehicles (DMV) has acknowledged that as at least 30% of ELV's are being dismantled by unlicensed, unregulated entities. In this regard, we respectfully offer the following comments for your consideration and would like to also note our support of the comments submitted by the WATER Coalition. As you well know, the IGP amendment incorporates over thirty TMDLs in four regions for similar constituents near the same or possibly downstream waterbodies. Given no comprehensive TMDL list organized by water body and industrial discharger sites exists to date, it will be incredibly difficult for auto dismantlers and other industrial dischargers to identify whether they are subject to one or multiple TMDLs. Further, we note some TMDLs overlap watersheds and the associated waterbodies for the same constituent. In this regard, an auto dismantler could find itself needing to comply with multiple TMDLs for the same constituent with different, potentially conflicting requirements in the same watershed. In this regard, we urge the Board to clarify industrial dischargers are only subject to the	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. No changes have been made to address this comment.

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		TMDLs for which they directly discharge to a correlated impaired waterbody.	
29.2	State of California Auto Dismantlers Association	Additionally, we urge the Board to clarify that industrial facilities are only deemed dischargers and subject to the TMDL requirements if the relevant TMDL pollutant is determined to be an industrial pollutant present at the facility and a result of industrial activity. Additionally, it should be clarified that such a pollutant should also be located within the corresponding area leading to the impaired water body. Under the current IGP, it is generally understood that not all industrial operations have the same industrial pollutant sources and discharges. In this regard, it provides for industrial facilities to conduct a pollutant source assessment to evaluate these issues. The outcome of the assessment drives the BMPs implemented at a facility and the associated monitoring requirements for the facility-relevant pollutants rather than all that have been attributed to industrial activity. The IGP amendments related to TMDLs should be consistent with this approach, requiring only those facilities whose assessment identifies the TMDL pollutant and that are located within the impaired water body drainage area to comply with the new TMDL requirements.	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".
29.3	State of California Auto Dismantlers Association	SCADA would also urge consideration of the pollutant loading differences among permittees. One discharger might be responsible for significant pollutant loading into the waterway annually, while another may load a de minimis amount. We are concerned they may be treated equally and this assessment does nothing to	The TMDL WLAs accounted for the loading from the different sources in the watershed for the impaired water body and the necessary limits to bring the water body back to attaining beneficial uses. The translated TMDL requirements in this General Permit are based on concentration values of the pollutants. A concentration is

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		account for risk and the differences among permittees who are attempting to be in compliance versus those that choose to ignore regulatory requirements in their totality.	applied to all Dischargers for it to be a fair assignment for compliance regardless of the amount of mass-load contributed into the water body.
29.4	State of California Auto Dismantlers Association	As if compliance with the IGP adopted in 2014 wasn't challenging enough, the auto dismantling industry finds itself again in a position to have to grapple with the complexities and costs associated with compliance under these amendments. Among other issues, we must ensure that the new language under the IGP requirements is sufficiently reasonable for auto dismantlers and other industrial dischargers to understand, much less comply with to protect water quality.	Clarifications have been made in the Amendment to address specific areas of confusion or conflict and the State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with municipalities. The TMDL requirements, however, are not based on technological considerations. They are derived from the TMDL WLAs, and must be translated to WQBELs.
29.5	State of California Auto Dismantlers Association	In this regard, we understand staff may be contemplating developing a flow chart describing the requirements under the IGP as currently drafted, proposed to be amended and the compliance pathways associated with the entirety of the IGP. Notably, the IGP amendment includes multiple compliance pathways, but each of them has monitoring, exceedance requirements, follow up actions, reporting and more that are not consistent in each circumstance. A flow chart would be incredibly helpful for auto dismantlers, in particular, as many do not have the resources to hire consultants to understand, much less manage their IGP and compliance requirements. Development of a process and compliance flow	A flowchart of the compliance pathways for this General Permit will be available to Dischargers for use in determining TMDL requirements for a given compliance approach.

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		chart would provide clarity for all industrial dischargers regardless of their size and resource level.	
29.6	State of California Auto Dismantlers Association	Under the proposed amendment to the IGP, industrial dischargers would be required to continue to comply with the current IGP's NALs identified in Table 2 in addition to complying with the TNALs and NELs in the amendment provisions related to the incorporation of TMDLs. SCADA members believe this lacks clear justification and is ultimately unnecessary. TMDLs have been adopted on a site-specific basis with associated TNALs or NELs. Requiring dischargers to comply with different requirements for the same constituents is confusing, overly burdensome and unnecessary. NALs are more general values derived from the U.S. EPA Multi Sector Permit benchmark values; where TNALs and NELs are locally derived based on site specific impacts and discharger characteristics. Further, the TNAL and NEL thresholds are typically more stringent than the current NAL values. In this regard, we urge the Board to explicitly recognize that compliance with TMDL TNAL and NEL requirements shall replace the NAL requirements for the same constituent.	Section 301(b) of the CWA and 40 C.F.R. require NPDES permits to include technology-based limitation requirements at a minimum, and any more stringent effluent limitations necessary for receiving waters to meet applicable WQS. The NAL requirements of this General Permit were derived from the U.S. EPA MSGP benchmark values representative of targets applicable to Discharges under this General Permit. The TNAL and NEL requirements are derived from TMDLs designed to be translated into WQBELs to meet WQS. Additionally, Responsible Dischargers must comply with both NALs and applicable TNALs/NELs because the exceedance calculations differ between existing NALs (most are an Annual Average in Table 2 of this General Permit) versus TMDL pollutants with TNALs/NELs (Instantaneous Maximums). NALs serve as targets to provide information to the Discharger on their facility's overall performance whereas the TNALs/NELs are specifically based on water body criteria from the TMDL. This is further described in the Fact Sheet. Sampling will continue to be required for compliance with NALs, and the same samples taken can be used for TNAL/NEL compliance. The samples will be taken for the same pollutant and used for comparison with the two different

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			applicable values (NAL and TNAL/NEL) and the associated exceedance type (Annual Average vs. Instantaneous Maximum). No changes have been made to address this comment.
29.7	State of California Auto Dismantlers Association	Finally, as currently written the TMDL provisions are set to become effective upon the Board's adoption of the proposed IGP amendment. SCADA is concerned that because the IGP amendment language is still under discussion and it is not yet certain what the requirements will be for compliance, the immediate effective date will likely render all industrial dischargers out of compliance on day one. Instead, SCADA strongly urges the Board to extend the effective date to allow time for auto dismantlers and other industrial dischargers to update their SWPPPs and Monitoring Implementation plans (MIP), assess the workability of the alternative compliance options, and for those subject to NEL requirements to have sufficient time to make the case for a TSO from the Regional Water Board.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
30.1	TECS Environmental	The proposed amended GISP is unnecessarily complicated. Beyond making it difficult for facility operators to understand them, the cost to comply is likely to be significantly higher. Further, there is no explanation for the need for such complexity. What is it about the current GISP that has not succeeded in meeting water quality standards/TMDLs that is contributing to beneficial use impairment. The water boards (Regional Board and State Board) need to	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this

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		conduct a source analysis to determine to what extent industrial discharges are responsible for impairing beneficial uses. In the 2016 303(d) list for Region 4, under “potential sources” or “source category,” industrial dischargers are not listed – only unknown sources, unspecified point sources, non-point sources, urban runoff, POTWs as specified point sources. **Recommendation:** State Board should conduct a study to determine to what extent industrial facilities have exceeded water quality standards or total maximum daily loads. Regional Boards should also conduct a source analysis to be reported in the next 303(d) list update.	General Permit is required to implement TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. No changes have been made to address this comment. While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL’s WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit’s ERAsif the TNAL is exceeded.

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			In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit. No changes have been made to address this comment.
30.2	TECS Environmental	The real problem is not that industrial facilities are not subject to compliance benchmarks. The problem is that water boards have done little to notify non-filers (viz. subject facilities that have not obtained GISP coverage). The number of non-filers varies from region to region. Region 4 estimates about 60% of subject industrial facilities are non-filers. Since MS4s have been conducting industrial inspections in California, thousands of non-filing industrial facilities have been identified to the water boards. In the case of the Los Angeles Board (Region 4), very few non-filers have been notified. The reason is unclear. It would make sense, therefore, for the water boards to enroll as many industrial facilities as possible and then consider notching-up GISP requirements. The newly enrolled facilities should only be required to implement standard best management practices (BMPs), such as source control and employee training before jumping to runoff retention controls. This	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.

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		should result in a reduction of pollutants in runoff from the industrial facility. **Recommendation:** Require water boards to notify non-filers brought to their attention by MS4s or other sources of the need to obtain GISPs.	
30.3	TECS Environmental	Translating TMDLs into Numeric Action Levels (TNALs) for GISP compliance is premature based on Comment #1. There is also the problem of mechanics. How are the subject GISP facilities going to take samples for TNAL compliance? Where will the point of discharge be? Will it be on site, say from a drop inlet catch basin or trench drain? If there is none will the facility be required to install a sampling box similar to ones that are part of oil/water separators? Many of the TMDLs, which the TNALS presumably are to be based, are defective. Several Region 4 TMDLs are based on water quality standards that do not comply with the California Toxics Rule (metals, pesticides, PAHs, VOCs, etc.). CTR requires WQS to be based on sampling of ambient waters (the normal condition of receiving water), as opposed to taking samples of receiving waters during rain events. The ambient water quality standards are the references against which stormwater discharges from outfalls are measured. Measuring them instead against samples taken from a river or flood control channel that is conveying flowing stormwater runoff offers nothing meaningful because the runoff already will contain high levels of pollutants discharged	The sampling and monitoring requirements for the TNALs are the same as those currently applicable to NALs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs. (40 C.F.R. § 122.44(d)(1)(vii)(B).) The State Water Board cannot change or reevaluate the underlying TMDL at the permitting stage.

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		from outfalls and non-point sources. Measuring outfalls discharges against the normal condition instead helps determine compliance and facilitates an evaluation of outfall discharge quality. Further, many Region 4 TMDLs do not comply with the State's 303(d) listing policy. This includes failing to use samples based on a required frequency taken during the ambient condition of the sampled water body. **Recommendation:** Do not place TMDLs translated into TNALs into the GISP.	
30.4	TECS Environmental	The State Board has discussed the possibility of requiring stormwater retention controls to comply with TMDLs/TNALs. The infiltration BMPs would be required to meet the 85th percentile design standard (basically to treat the first 1" or 1.5" of rainfall from a significant storm event). The design standard is the same one used in MS4 Permits to reduce stormwater runoff from subject developments. Requiring infiltration for subject industrial facilities is too premature as mentioned above. TMDLs must be validated first. Once the TMDLs have been properly established the next step would be to determine if they are being exceeded in outfall discharges. The challenge, however, will be to disaggregate the TMDL waste load allocation specific to each industrial type. Then of course there will be the need to determine how to measure disaggregated WLAs at the point of industrial discharge. **Recommendation:** Comply with the above recommendations.	The Compliance Options are optional proposed methods for Dischargers to implement to comply with this General Permit. Dischargers are not required to implement the Compliance Options.

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30.5	TECS Environmental	What will it cost GISP facilities to comply with the proposed amended GISP? **Recommendation:** Do a cost impact analysis for each type of industrial facility.	A cost-impact analysis for each type of industrial feasibility is not required and would not be feasible for the State Water Board at this time. However, the State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work.
30.6	TECS Environmental	It is not clear who will be responsible for enforcing future GISP amendments. Current MS4 Permits for various Regional Boards require MS4 Permittees to conduct enforcement inspections of industrial facilities. This could change. The State Supreme Court has ruled that industrial inspections performed by municipalities are unfunded mandates because federal law neither explicitly nor expressly requires them. They are state-discretionary and, therefore, subject to reimbursement from the state. **Recommendation:** Discuss.	This General Permit is enforceable by the State and the Regional Water Boards. The portion of this comment related to unfunded mandates is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
31.1	The Nature Conservancy	We are pleased that the State Water Resources Control Board has signaled its support for **green infrastructure** in the General Permit Amendment by providing **compliance options** that incentivize storm water capture and reuse in the urban core. The proposed compliance options demonstrate the State Water Board's intent to encourage the use of green infrastructure and low impact development to manage storm water and enhance the health of watersheds.	Comment noted.
31.2	The Nature Conservancy	The Nature Conservancy commends the State Water Resources Control Board for identifying **off-site compliance options** that would allow	Comment noted.

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		dischargers to enter into **agreements with local jurisdictions** to design, implement, and operate best management practices for compliance. Off-site compliance options can help dischargers achieve compliance when on-site alternatives are limited. The Strategic Program to Incentivize Industrial Stormwater Capture, currently under development by the City of Los Angeles Department of Water and Power, is an example of a locally-led program designed to achieve agreements with dischargers in fulfillment of the State Water Resources Control Board's vision. We are interested in how the Strategic Program can foster biodiversity in the City of Los Angeles in addition to achieving storm water retention compliance.	
31.3	The Nature Conservancy	Off-site compliance options also offer the opportunity to concentrate investment in large regional projects downstream of dischargers that offer more water quality, ecosystem service, and access to recreational opportunities than a network of smaller distributed projects on private land. As part of our effort to develop **market-based mechanisms** to speed the widespread adoption of green infrastructure in Los Angeles County, The Nature Conservancy is working with our internal partner, NatureVest, to understand how a **storm water retention credit (SRC) trading program** could jumpstart innovative off-site compliance approaches and the multiple benefits they deliver.	Comment noted.
31.4	The Nature Conservancy	Investments in green infrastructure for storm water retention can bring income to landowners and provide a host of valuable co-benefits,	No offsetting/trading program is being offered at this time, though it may be considered for

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		including expanded green space, reduced localized flooding and jobs to build and maintain green infrastructure sites. Off-site trading creates opportunities for investments in vulnerable and economically-challenged communities where property values are lower. The Nature Conservancy believes that similar benefits could be achieved through an SRC trading program in Los Angeles County and encourages the State Water Board, as it concludes the comment period for the General Permit Amendment, to consider how SRC trading programs could serve as another off-site compliance tool for local jurisdictions and dischargers.	inclusion in future iterations of this General Permit.
32.1	Trilogy Regulatory Services	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.	The intent of this Amendment is to provide a clear TMDL compliance framework for Responsible Dischargers. Significant effort was put in to ensure that the Amendment is as clear as possible.
32.2	Trilogy Regulatory Services	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 rational 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 measureable way.	Comment noted.
32.3	Trilogy Regulatory Services	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	TNALs and NELs follow the existing monitoring framework provided for this General Permit NALs – the same sampling events and exceedance

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		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 w facility a chain of information in which it can measure their improvement along the way and try to meet the standards.	definitions are applied. If a TNAL is exceeded, the ERA process follows, as it does following an NAL exceedance. NEL exceedances do not follow this General Permit's existing ERA framework; instead, WQCBAs must be implemented.
32.4	Trilogy Regulatory Services	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 Compliance Options are optional proposed methods for Dischargers to implement to comply with this General Permit. The conventional method of complying with this General Permit remains available. It is up to Dischargers to determine which method of compliance is appropriate.
32.5	Trilogy Regulatory Services	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.	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. §

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			122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
32.6	Trilogy Regulatory Services	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.	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA"

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			in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section 6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
32.7	Trilogy Regulatory Services	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 verses 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. 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?	At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs. (40 C.F.R. § 122.44(d)(1)(vii)(B).) The TNAL target is based on the TMDL WLA.
32.8	Trilogy Regulatory Services	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.	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7.

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			(40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. No changes have been made to address this comment.
32.9	Trilogy Regulatory Services	I am suggesting that the proposed amendments be reevaluated to insure that they will clearly meet their objectives and do not impost 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.	Comment noted.
33.1	United States Environmental Protection	On-Site Compliance Option Under the proposed amendment (Attachment I), facilities that provide on-site retention of the	Changes were made to the Amendment to address this comment. The Fact Sheet provides that the monitoring results and information required when implementing the On-Site

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	Agency, Region IX	runoff from the 85%, 24-hour storm would be deemed in compliance with the Permit. A similar provision is found in the 2012 Los Angeles County MS4 Permit for MS4s that develop and implement an Enhanced Watershed Management Program (EWMP). We would point out, however, that this provision in the Los Angeles County MS4 Permit was challenged and in 2015 the State Board issued an order (Order WQ 2015-0075) that which requires that in the event that retention of the 85% storm does not result in compliance with applicable TMDLs, additional steps would need to be implemented to achieve compliance through the Permit's adaptive management process; see pages 41-46 of the order for further information. We recommend that a similar provision be added to the General Permit Amendment. It's important to demonstrate how the 85% option will successfully control pollutants of concern.	Compliance Option will be used to evaluate whether the Compliance Option is adequate to protect beneficial uses and to assist the State Water Board in making decisions regarding future reissuances of this General Permit. Finding 55 states that the Water Boards retain the authority to require Dischargers to take further action should implementation of a Compliance Option not result in actual compliance with WQS in the receiving water and/or to reevaluate the Compliance Option approach in future iterations of this General Permit.
33.2	United States Environmental Protection Agency, Region IX	Off-Site Compliance Option The proposed amendment (Attachment I) also provides that industrial permittees may enter into agreements with local MS4s for off-site retention of the runoff from the 85% storm. Currently, however, the proposal does not specify the volume or pollutant load of the runoff that would need to be retained off-site. We note that industrial runoff may contain higher levels of contaminants than runoff from other land uses. The proposed amendment should ensure that the off-site pollutant load reduction would match or exceed the load from the industrial site itself.	Per Attachment I Section III.A.1, the compliance storm standard required for the Off-Site BMP is the volume of runoff produced up to and during the 85th percentile, 24-hour precipitation event. The elements of the agreements are between all parties involved in the Off-Site agreement which requires approval by the Regional Water Board. Dischargers do not receive the benefits of a Compliance Option until it is implemented and in use. No changes have been made to address this comment.

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		If adopted, this option should also specify the recommended elements of these agreements to ensure they are legally, financially and technically rigorous. This is to ensure off-site controls are implemented in a timely manner and maintained in the future.	
33.3	United States Environmental Protection Agency, Region IX	Use of TMDL Numeric Action Levels (TNALs) For many of the applicable TMDLs, the proposed amendment incorporates the wasteload allocations (WLAs) as numeric action levels (NALs) rather than numeric effluent limits (NELs). In our comments on the original proposals from the Regional Boards for General Permit modifications in spring 2016, Region 9 expressed concern that action levels may not be consistent with applicable NPDES regulations at 40 CFR 122.44(d)(l)(vii)(B) for TMDL implementation in NPDES permits. However, we also recognize that for some TMDLs, it may be infeasible to derive NELs due to a lack of adequate information, and that TNALs may be appropriate in such circumstances. Each TMDL needs to be considered individually in making such a determination.	Each TMDL was considered individually while translating WLAs to appropriate General Permit-specific requirements for Responsible Dischargers. The rationale for each TMDL translation is in the TMDL's associated Fact Sheet entry.
33.4	United States Environmental Protection Agency, Region IX	Use of TMDL Numeric Action Levels (TNALs) After review of the justifications in the fact sheet for using TNALs rather than NELs, we recommend that the Board reconsider the use of TNALs in certain instances. For several TMDLs (such as the San Diego Creek Toxics TMDL) with WLAs for metals that are hardness dependent, the WLAs are incorporated as	Changes have been made in the Amendment to address TMDLs that are hardness dependent (e.g., San Diego Creek and Newport Bay and Chollas Creek). The assessment of these TMDL's WLAs has been revised and the TMDL WLAs have been translated to NELs.

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		TNALs due to the perceived difficulty that dischargers would have in obtaining appropriate hardness data for the receiving water. However, we would point that EPA's Multi-Sector General Permit (MSGP) does require that hardness determinations be made for relevant parameters in the implementation of the benchmark monitoring requirements of the MSGP. The MSGP also includes guidance (Appendix J) for obtaining suitable hardness data. We are not aware that this procedure has proven to be a significant obstacle for permittees. Thus, we recommend that the State Board consider whether the procedure in the MSGP would be workable for the Industrial General Pe1mit and whether NELs could be used in place of TNALs in these situations. EPA's MSGP, including appendices, is available at: https:/ /www .epa.gov/npdes/final-2015-msgp-documents.	
33.5	United States Environmental Protection Agency, Region IX	Use of TMDL Numeric Action Levels (TNALs) Another justification in the fact sheet for using TNALs in place of NELs is the fact that WLAs are expressed as mass loads that depend on the flow from a given facility. Calculating a facility-specific load based on the facility size and discharge flow rate is described as burdensome and rejected as a result. However, we would note that EPA has published a stormwater sampling guide (EPA 833-B-92-001) that provides a number of methods for estimating flow. Accordingly, such, we recommend that the State Board consider	A TMDL with an assigned mass-based WLA will not be implemented as a facility-specific load based on facility size and discharge flow rate for reasons described in detail in the Fact Sheet. However, the TMDLs that have assigned mass-based WLAs have a newly assessed translation method which translated these TMDLs into NELs, as described in the Fact Sheet. The monitoring for assessing TMDL compliance has not changed in this General Permit, for example, flow-weighting can be used if conducted using standard practices and following the U.S. EPA's monitoring guide referenced in the Fact Sheet.

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		whether this would be practicable for the Industrial General Permit.	
33.6	United States Environmental Protection Agency, Region IX	Use of TMDL Numeric Action Levels (TNALs) We also note that NPDES regulations at 40 CFR 122.44(d)(l)(vii)(B) only require that effluent limits be consistent with the assumptions and requirements of TMDLs. In exploring alternate ways for incorporating WLAs that may be more easily implemented by permittees, we looked at the Los Cerritos Channel Metals TMDL and found a concentration (e.g., 8.796 ug/L for copper in Table 6.4) for the daily load for all flow rates. That number could be incorporated into the proposed amendment as a NEL, and permittees would not have to calculate a daily flow , rate since the same concentration is used for all flow rates. Such a limit would also seem to be reasonably consistent with the assumptions and requirements of the TMDL. This approach for the Los Cerritos Channel Metals TMDL seems practicable for other TMDLs as well, such as the San Gabriel River Reach 2 TMDL for lead. Nonetheless, we also recognize that for some TMDLs (e.g., Los Angeles River Metals TMDL, Ballona Creek Metals TMDL) the approach would not be practicable since the NELs required to meet the WLAs vary with the flow.	The requirements for implementation of the Los Cerritos Channel Metals and San Gabriel River Metals and Selenium TMDLs have been changed from TNALs to NELs.
33.7	United States Environmental Protection	Use of TMDL Numeric Action Levels (TNALs) We have two other comments regarding the proposed requirements for the Los Cerritos	A TMDL is defined as the sum of the individual WLAs for point sources and load allocation for nonpoint sources and natural background, including a margin of safety. However, the

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	Agency, Region IX	Channel Metals TMDL. First, the TNAL in the proposed amendment for copper is 9.8 ug/L. The intended effluent concentration of the TMDL for industrial stormwater (after including the margin of safety and the contribution of atmospheric deposition) is 8.796 ug/L; therefore, this TNAL is not accurately implementing the intent of the TMDL. Second, we found a significant typo in Table 6-9 of the TMDL that has been carried forward into the fact sheet for the proposed amendment. Each of the figures in Table 6-9 of the TMDL, and Table E-6 of the fact sheet, needs to be divided by a factor of one million.	requirements assign the Numeric Target directly to Responsible Dischargers as the most appropriate method when the WLA cannot be translated. Per the Los Cerritos Implementation Plan adopted by the Los Angeles Regional Water Board, the WLAs are required to be incorporated into this General Permit as “Permit Limitations”. The Implementation Plan defines Permit Limitations as receiving water limitations. Therefore, the receiving water numeric targets are applied. The recommended revision regarding the figures from Table 6-9 of the TMDL has been made.
33.8	United States Environmental Protection Agency, Region IX	Compliance Deadlines Extending Beyond the Term of the Permit For certain TMDLs (e.g., Los Angeles and Long Beach Harbor Waters TMDL), the fact sheet indicates that the final NELs will not be implemented at this time since the compliance deadlines are beyond the term of the current permit. However, the deadlines are included in Attachment E. The discussion in the fact sheet raises questions about whether the NELs are intended to be enforceable limits in this permit; this issue should be clarified. The final NELs and compliance deadlines should be included in this Permit even if they are beyond the Permit term to ensure enforceability in the event the Permit is not reissued in a timely manner (see attached May 10, 2007 Hanlon memorandum).	Clarifications have been made in the Amendment to address this comment. NEL compliance deadlines beyond the term of the current General Permit are incorporated into Attachment E and shall be met by the assigned compliance date in Attachment E and are not enforceable until that date.
33.9	United States Environmental	Sufficiently Sensitive Test Methods	Responsible Dischargers are required to use U.S EPA approved analytical methods that are

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	Protection Agency, Region IX	Section X.B .10 of the proposed amendment includes new requirements to perform laboratory analyses using sufficiently sensitive test methods approved under 40 CFR 136. This change is in response to EPA's new regulations on this subject dated August 19, 2014 (79 FR 49001). We recommend that the amendment include more detailed requirements to further clarify what is required for compliance with the regulations.	sufficiently sensitive and are capable of detecting and measuring the pollutants at, or below, the applicable water quality criteria or permit limits. The SSM shall be used for compliance with NALs, TNALs, and NELs. See language added in the Fact Sheet Section J.3.b.
33.10	United States Environmental Protection Agency, Region IX	TMDLs with Immediate Compliance Deadlines Appendix E of the Industrial General Permit lists the applicable TMDLs, discharge limits and compliance deadlines. For many of the TMDLs, compliance is required on the effective date of the Permit Amendment. As we discussed with Board staff in December 2017 in regards to the modification of the Small MS4 General Permit to incorporate TMDL requirements, we are concerned about the fairness of requiring immediate compliance with new TMDL-related permit requirements. For the Small MS4 General Permit, the Board delayed the effective date of the modification by one year to provide additional time for dischargers to come into compliance or for a Time Schedule Order to be issued. We recommend that the Board address the deadline issue for the Industrial General Permit by similarly delaying the effective date of the proposed amendment or by some other appropriate means.	The State Water Board may consider an effective date separate from the adoption date during the adoption meeting. No changes have been made to address this comment.
33.11	United States Environmental	Omission of Certain Standard Conditions	This comment is outside the scope of this Amendment, which concerns incorporation of

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	Protection Agency, Region IX	NPDES regulations at 40 CFR Part 122.41 require that certain standard conditions be included in all NPDES permits. A review of Section XXI (Standard Conditions) of the 2015 Industrial General Permit shows that the requirements of Part 122.41(m) (Bypass) and Part 122.4l(n) (Upset) are missing. We recommend that these standard conditions be added to the Industrial General Permit as part of this permitting action to address this omission.	TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit.
34.1	University of California, San Diego	The University of California, San Diego (UC San Diego), appreciates the opportunity to comment on the proposed amendments to the Statewide Industrial General Storm Water Permit. Like several other UC campuses and some other entities, UC San Diego has both an Industrial General Permit (IGP) and a Phase II Small MS4 General Permit for the same campus. Changes are being proposed for both permits to incorporate requirements to implement TMDLs. UC San Diego requests that the State Water Resources Control Board evaluate permittees that have requirements proposed for the same TMDL(s) in both permits and give these permittees the option to implement the requirements under one of the permit programs rather than both. The proposed requirements between the two permit programs do not have the same reporting requirements, submittal dates, etc., which creates duplicative effort to address the same TMDL.	The Amendment's implementation requirements are consistent with the assumptions and requirements of the WLAs assigned to Responsible Dischargers, which may be different than the MS4 TMDL compliance requirements. The additional burden of the new regulations has been minimized through efficiencies in using the current General Permit monitoring and reporting frame work.
34.2	University of California, San Diego	For TMDLs for which industrial storm water has been identified as a source of the receiving water impairment, it is suggested that the	For TMDLs for which industrial storm water has been identified as a source of the receiving water impairment, it is suggested that the proposed

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		proposed amendments to the Phase II Small MS4 General Permit include a provision such as: "If a Permittee has an IGP with requirements to implement the same TMDL, the Permittee may meet the TDML requirements under the IGP permit compliance program.	amendments to the Phase II Small MS4 General Permit include a provision such as: "If a Permittee has an IGP with requirements to implement the same TMDL, the Permittee may meet the TDML requirements under the IGP permit compliance program. No changes have been made to address this comment.
34.3	University of California, San Diego	For other TMDLs, example language that could be incorporated into either the IGP or Phase II Small MS4 General Permit is: "If a Permittee has an existing NPDES storm water permit with equivalent requirements for the same TMDL, the Permittee may meet the TDML requirements under that permit compliance program.	For other TMDLs, example language that could be incorporated into either the IGP or Phase II Small MS4 General Permit is: "If a Permittee has an existing NPDES storm water permit with equivalent requirements for the same TMDL, the Permittee may meet the TDML requirements under that permit compliance program. No changes have been made to address this comment.
35.1	Wine Institute	Because these TMDLs did not assign Responsible Dischargers a percent reduction of sediment loads, it would be inappropriate to impose additional requirements upon these dischargers. The proposed amendments translate these TMDLs properly, in a way that makes sense within the permit's scope and intent.	Comment noted.
36.1	Workable Approach to Environmental Regulation	We, the signatories to this letter, appreciate the opportunity to comment on the State Water Resources Control Board's (SWRCB) amendment to the General Permit for Storm Water Discharges associated with industrial activities (IGP). We note that the amendment seeks to incorporate and implement the total	Comment noted.

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		maximum daily load (TMDL) requirements in the four specified regions – San Francisco Bay, Los Angeles, Santa Ana and San Diego; integrate the U.S. EPA's sufficiently sensitive test method (SSM) testing protocols; and provide two additional compliance options for industrial dischargers under the IGP.	
36.2	Workable Approach to Environmental Regulation	WATER is a coalition of businesses, schools, cities and local governments that supports cost-effective water quality policies. Collectively we represent 50 trade associations with over 20,000 businesses that employ 1.5 million workers, dozens of cities, and nearly 500 school districts that encompass 92% of California's school children. At the outset, we must convey our appreciation for the proactive engagement of staff in this process and the time they've taken with the discharger community to discuss and receive feedback on the TMDL incorporation and alternative compliance options. Unfortunately, however, we have a number of concerns with the amendment as currently drafted. As many of us have discussed with the Board over the years, we as industrial dischargers endeavor to be in full compliance with water quality laws at all times. However, the Amendment as currently drafted has a multitude of provisions that lack clarity regarding applicability; include duplicative and conflicting requirements; and are unnecessary.	Comment noted.
36.3	Workable Approach to	Applicability The TMDL incorporation into the IGP is indisputably complex seeking to implement	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have

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	Environmental Regulation	more than 30 TMDLs across four regions for similar constituents and adjacent to or downstream from the same waterbodies. We are not aware of any current, comprehensive TMDL list organized by water body and industrial discharger site that exists. In this regard, it may be a significant challenge for industrial dischargers to identify whether they are subject to one or multiple TMDLs. Furthermore, we note some TMDLs overlap watersheds and the associated waterbodies for the same constituent. In this regard, an industrial discharger could find itself needing to comply with multiple TMDLs for the same constituent with different, potentially conflicting requirements in the same watershed.	been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
36.4	Workable Approach to Environmental Regulation	Applicability To assist dischargers in identifying applicability of any specific TMDL requirements for their facility, the SWRCB must develop a map, interactive GIS system or other mechanism prior to the permit amendment effective date.	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information.
36.5	Workable Approach to Environmental Regulation	Applicability Additionally, the WATER Coalition strongly urges the Board to clarify dischargers should not be subject to multiple downstream TMDLs with different requirements (TNAL/NEL) for the same parameter. In this regard, we urge the Board to clarify industrial dischargers are only subject to	Clarifications to the TMDL information in Attachment E and the Fact Sheet on the water body boundaries specified in the TMDLs have been made to address the concerns with overlapping TMDL-areas for the same constituent. This map-based TMDL information will additionally be made available as a public

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		the TMDLs for which they directly discharge to a correlated impaired waterbody segment.	map tool to assist the regulated community with determining applicability of TMDL requirements. This tool will provide watershed and TMDL-specific applicability information. Workshops and public outreach efforts shall be conducted prior to and after adoption of the Amendment when necessary to ensure the Amendment requirements are clear and industrial facilities are notified of their requirements to comply with this General Permit.
36.6	Workable Approach to Environmental Regulation	Applicability Further, the Amendment should also clarify that industrial facilities are only subject to the TMDL TNAL/NEL requirements if the relevant TMDL pollutant is determined to be an industrial pollutant present at the facility and a result of industrial activity happening at that site. Clarification should also be provided relative to a pollutant being located within the corresponding impaired waterbody segment. Under the current IGP, there is appreciation for the fact that not all industrial operations have the same industrial pollutant sources and discharges. In this regard, the current Permit accommodates a pollutant source assessment to evaluate such issues and their applicability to the facility in question. The assessment findings then, in turn, dictate the BMPs implemented at a facility as well as the monitoring requirements for the relevant pollutants rather than all that have been attributed to industrial activity. Unfortunately, the amendment to the IGP does not clearly consider or link TMDL applicability to the assessment in	The same rules regarding pollutant source assessments that currently apply to Dischargers also apply regarding pollutants addressed by applicable TMDLs. Section VII.C (TMDL Monitoring and Reporting) of the Amendment states that “The Responsible Discharger is required to perform sampling, analysis, and reporting in accordance with the requirements of this General Permit,…” As such, Responsible Dischargers are required to comply with the monitoring and sampling requirements in Section XI.B.6.c. which requires monitoring and sampling for “Additional parameters identified by the Discharger on a facility-specific basis that serve as indicators of the presence of all industrial pollutants identified in the pollutant source assessment (Section X.G.2)".

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		the IGP or to industrial pollutant sources. The IGP Amendment should be consistent with this approach, requiring only those facilities with assessments identifying the TMDL pollutant and that are sited within the impaired waterbody segment to comply with the new TMDL TNAL/NEL requirements. At a minimum, facilities that would otherwise be subject to TMDL NELs should be afforded the opportunity to conduct a pollutant source assessment to demonstrate that a NEL is not properly applied to the facility's discharge.	
36.7	Workable Approach to Environmental Regulation	Applicability Ultimately, to the extent that the industrial discharger is properly implementing the required Exceedance Response Actions (ERA), Water Quality Based Corrective Actions and/or alternative compliance options provided under the IGP Amendment, the discharger should be deemed in compliance with all provisions of the IGP, including the applicable Water Quality Based Effluent Limits (WQBEL) and receiving water limitations, regardless of exceedance of any TNALs or NELs.	The Amendment specifies the provisions of the CWA with which the Dischargers are complying if they are in compliance with this General Permit. A broader statement would not be appropriate. Using the provided example, this General Permit already states that an exceedance of an NAL is not per se a General Permit violation. In other words, an NAL is not an NEL. Nevertheless, Dischargers are still required to comply with receiving water limitations. Accordingly, an enforcement action may be brought against a Discharger based on their reported storm water data where there is evidence that the discharge is causing or contributing to an exceedance of receiving water limitations. The litigation would therefore hinge on compliance with receiving water limitations rather than whether there is an exceedance of an NAL.

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			This differs from the TNALs and NELs. A Discharger whose discharge does not exceed TNAL or NEL levels is in compliance with the receiving water limitations of this General Permit. As with NALs, an exceedance of a TNAL is not per se a General Permit violation, although an exceedance of an NEL is. Exceedances are defined in General Permit Section V.C.1 for NELs and V.C.2 and XII.A for TNALs.
36.8	Workable Approach to Environmental Regulation	Applicability These clarifications are critically important to dischargers who strive to be in full compliance. Absent clarity being provided, we are concerned further litigation will ensue from third parties who may allege non-compliance with a TMDL target or Waste Load Allocation (WLA) for a receiving water that, in fact, the facility is not discharging or subject to.	The suggested changes have been reviewed and responded to individually.
36.9	Workable Approach to Environmental Regulation	TMDL Numeric Action Levels (TNAL) TNALs under the Amendment should be established using the same numeric limit derivation regulations procedures required to establish WQBELs (discussed below). Specific to copper, lead and zinc, WATER Coalition members are concerned that the TNALs for these pollutants are infeasible. The 3 ppb copper limit is certainly such a case. Other limits proposed are pushing technology confidence intervals as well. This has been highlighted in recent weeks by the California Stormwater Quality Association (CASQA) who noted that only 14% of dischargers meet the copper TNAL, Exhibit 1, currently and less than half (44%)	A TMDL addresses an impaired water body that is listed in the CWA section 303(d) impaired list. Discharges regulated by this General Permit are considered point source discharges, and therefore must comply with effluent limitations that are "consistent with the assumptions and requirements of any available WLA for the discharge prepared by the state and approved by U.S. EPA pursuant to 40 C.F.R. section 130.7. (40 C.F.R. § 122.44 (d)(1)(vii).) Therefore, this General Permit is required to implement TMDL requirements. WQBELs are not based on technological achievability and/or feasibility. Despite this, the

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		meet the zinc TNAL for Los Angeles – Long Beach Harbor, Exhibit 2. Further, we question whether WLAs were appropriately applied and set for receiving waters directly as TNALs applicable to storm water discharges. In doing so, it has led to inappropriately low and infeasible TNALs.	Fact Sheet examines the increased incremental costs associated with the new TMDL requirements. The State Water Board has minimized the cost of the new regulations through efficiencies in using the current General Permit monitoring and reporting frame work. If the Off-Site Compliance Option is selected as a method for compliance with this General Permit, there is the potential for economic incentives and cost sharing for Dischargers through the formation of agreements with the local jurisdiction(s) and/or other Dischargers. While the CWA requires generally that industrial dischargers comply with technology-based effluent limitations, which balance practicability and achievability, permit requirements based on TMDLs are WQBELs. WQBELs must be consistent with the requirements and assumptions of the TMDL's WLA. An adopted TMDL addressing an impaired water body signals that the receiving water is not meeting WQS and that additional requirements, such as NELs, must be implemented by the identified sources of the impairment. Where a TNAL has been assigned, Responsible Dischargers are required to implement this General Permit's ERAsif the TNAL is exceeded. In that case, the Industrial Activity BMP demonstration is available in the same way that it is available for an exceedance of an NAL.

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			No changes have been made to address this comment.
36.10	Workable Approach to Environmental Regulation	TMDL Numeric Action Levels (TNAL) The WATER Coalition believes this will result in dischargers opting not to invest in capital upgrades, especially if available technologies cannot achieve TNALs and the ERA process is rendered useless. It is critical to provide clear permit compliance language so that dischargers dutifully and faithfully implement the IGP requirements and are not subject to citizen suit litigation based solely on exceedances of TNALs. This is especially important where dischargers may have significant challenges meeting the TNAL values. Further, the Permit, as amended, must clearly state that exceedances of TNALs are not permit violations. Instead, the SWRCB should consider incorporating water board issuance of compliance certificates for dischargers implementing ERAs and Compliance Options.	The ERA process provides for situations in which available technologies cannot achieve TNALs. This General Permit is clear that a discharge above the level set by a TNAL is not a General Permit violation. This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit. In addition, the Water Boards are not adequately funded to handle the workload that would be created by determining and certifying each individual discharger's compliance with the General Permit. No changes have been made to address comment.
36.11	Workable Approach to Environmental Regulation	Numeric Effluent Limits (NEL) In amending the IGP, it is critical that dischargers have clear and available compliance pathways to comply with realistic and properly established numeric effluent limits (NELs) in the permit due to the substantial threat of costly and time-consuming third party citizen suits. We believe there are potential openings under currently proposed permit amendment language for third parties to threaten and pursue	The Amendment sets out the requirements of the NELs, and the additional optional compliance pathways are provided in Attachment I. The intent of this Amendment is to provide a clear TMDL compliance framework for Responsible Dischargers. Significant effort was put in to ensure that the Amendment is as clear as possible. The authority to initiate a citizen enforcement action is set forth in the federal CWA. Any definitive restrictions on citizen

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		frivolous litigation against dischargers that are diligently and faithfully complying with the permit's requirements. In this regard, it is important that the SWRCB understand and eliminate these openings based on the appreciation that dischargers want to comply with reasonably established permit requirements, including NELs, and in return should receive regulatory certainty that they will not be burdened with frivolous and overzealous third party enforcement actions. This is critically important for small and medium sized businesses who respond to such threats of litigation and, at times, capricious complaints that can become overwhelming and threaten the businesses' continued viability.	enforcement actions would require a legislative amendment. No changes have been made to address this comment.
36.12	Workable Approach to Environmental Regulation	Numeric Effluent Limits (NEL) The proposed permit amendments would impose for the first time NELs, exceedance of which would constitute a permit violation. NELs are a type of WQBEL. USEPA regulations set forth the required analysis and procedures when establishing WQBELs, none of which the SWRCB followed in adding the new NELs in the permit. Specifically, when setting WQBELs the SWRCB is required to conduct a Reasonable Potential Analysis and to use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant in the effluent, and the dilution of the effluent in the receiving water. 40 CFR §§ 122.44(d)(1)(i), (ii). Rather than conduct the required Reasonable Potential Analysis, implement procedures and consider essential	The federal regulations implementing NPDES permitting require the permitting authority to establish WQBELs for point source discharges when those discharges cause, have the "reasonable potential" to cause, or contribute to an excursion above WQS. (40 C.F.R. § 122.44(d)(1)(iii).) The Regional Water Boards and U.S. EPA determined through the process of developing TMDLs and WLAs that the industrial discharges addressed are sources of the pollutants addressed by the TMDLs. At the permitting stage, the State Water Board's legal obligation is to develop WQBELs "consistent with the assumptions and requirements of any WLA" in the TMDLs, (40 C.F.R. § 122.44(d)(1)(vii)(B)) and not to reconsider reasonable potential (See U.S. EPA, NPDES Permit Writers' Manual (updated September 2010), Chapter 6, section

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		conditions, the SWRCB simply regurgitated the regional water boards' TMDL/WLA findings and adopted WLAs -- properly applied to receiving waters -- as end-of-pipe NELs. Nothing in the Clean Water Act, USEPA regulations, or Porter-Cologne permit such a substitution – and for good reason: TMDLs/WLAs are focused primarily on conditions in receiving waters and pollutant loads allowable while maintaining / restoring beneficial uses while WQBELs are focused on the characteristics of the effluent. The SWRCB's failure to conduct the Reasonable Potential Analysis and procedures required by the applicable regulations to deriving the NELs proposed results in inappropriately set and applied NELs. For these reasons, the SWRCB must first conduct the required Reasonable Potential Analysis and procedures before adopting NELs in the permit.	6.3.3.). Additionally, the Water Quality Control Plans established WLAs and, under state law, waste discharge requirements must implement relevant Water Quality Control Plans. (Wat. Code, § 13263.) The U.S. EPA has approved all of the TMDLs in Attachment E, including those that formed the bases for the NELs; therefore, the NELs are implementing federal law.
36.13	Workable Approach to Environmental Regulation	Compliance, Citizen Suits Building on the concerns relative to growth in citizen suit potential from the IGP Amendment, we again must be clear of the critical need to provide dischargers compliance pathways so they are able to comply with the permit and avoid citizen suit enforcement actions. In this regard, the Permit must be clear that implementation of Water Quality Based Corrective Actions when there is an NEL exceedance constitutes compliance with the Permit in full, rather than just parts of the permit. Additionally, we remain concerned that there is a lack of clarity relative to the use of the onsite or offsite Compliance Options when there is an	An exceedance of an NEL is a violation of this General Permit. While implementation of the Water Quality-Based Corrective Actions is required following an NEL exceedance, such implementation does not excuse this General Permit Violation. Regarding the Compliance Options, however, Attachment I provides that Dischargers implementing a Compliance Option are deemed in compliance with Section V.C of this General Permit, which imposes the requirement to comply with TMDL-specific requirements in Attachment E.

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		NEL or TNAL exceedance constituting compliance with the Permit.	No changes have been made to address this comment.
36.14	Workable Approach to Environmental Regulation	Compliance, Citizen Suits Additionally, we recommend the IGP Amendment should include modifications to the Permit to provide for water board-issued compliance certificates to document compliance with required responsive actions (i.e., ERAs, Water Quality Based Corrective Actions, alternative Compliance Options) to provide dischargers with regulatory assurances and to respond to third party citizen suits based solely on reporting of exceedances of NALs, TNALs, and NELs in SMARTS. This is necessary to protect dischargers complying with the permit to implement iterative responsive actions adaptively to improve water quality and achieve TMDLs.	This comment is outside the scope of this Amendment, which concerns incorporation of TMDL requirements, SSM, and Compliance Options. This issue may be raised for consideration during the public comment period for the reissuance of this General Permit. In addition, the Water Boards are not adequately funded to handle the workload that would be created by determining and certifying each individual discharger's compliance with the General Permit.