

Response to Public Comment
TMDLs for Dissolved Nickel in the Houston Ship Channel System
November 22, 2000

Tracking Number	Date Recd.	Name and Affiliation of Correspondent	Summary of Request or Comment	Summary of Action or Explanation
001	01/13/00 (verbal)	Equistar Chemicals	An Equistar Chemicals spokesperson cited the TMDL recommendation that the permitted loading from that facility be reduced by 3.5 percent, and then stated that the permitted loading was very recently and voluntarily reduced by 11.7 percent. Then asked whether the permit will be reopened to public comment because of the TMDL, since it has already been voluntarily amended to comply with the TMDL recommendations.	The TMDL development process involves the preparation of two documents (1) a TMDL which determines the maximum allowable loading and allocates the load to pollutant sources, and (2) an implementation plan which is a detailed description and schedule of regulatory and voluntary management measures necessary to achieve the pollutant reductions identified in the TMDL. This comment deals with aspects of implementation and will be addressed in the implementation plan for nickel the Houston Ship Channel System. Preparation of implementation plans is critical to ensure water quality standards are restored and maintained. Preparation of the implementation plan for nickel in the Houston Ship Channel System will be initiated immediately upon Commission approval of the TMDL. No changes have been made to the TMDL based on this comment.
002	01/13/00 (letter)	Safety-Kleen (Deer Park) Inc.	Stated that Safety-Kleen has typically discharged well below its permitted levels, and is committed to protecting environmental quality. Also described aspects of the TMDL analyses that cause the analyses to be very conservative, and makes a general statement that relocating the discharge point may have more adverse impacts than the current situation. Finally, the letter asks that TNRCC wastewater permitting staff consider the basis of the TMDL, the present impacts of the discharges, and continue to cooperate in approving reasonable discharge permit requirements. There was no request or specific recommendation for changes to the draft TMDL report.	The TMDL development process involves the preparation of two documents (1) a TMDL which determines the maximum allowable loading and allocates the load to pollutant sources, and (2) an implementation plan which is a detailed description and schedule of regulatory and voluntary management measures necessary to achieve the pollutant reductions identified in the TMDL. This comment deals with aspects of implementation and will be addressed in the implementation plan for nickel the Houston Ship Channel System. Preparation of implementation plans is critical to ensure water quality standards are restored and maintained. Preparation of the implementation plan for nickel in the Houston Ship Channel System will be initiated immediately upon Commission approval of the TMDL. No changes have been made to the TMDL based on this comment.

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003	01/20/00 (letter)	East Harris County Manufacturers Association	<p>The East Harris County Manufacturers Association (EHCMA) participated significantly in gathering data and developing analyses for the TMDL. Three specific comments were included in the EHCMA letter.</p> <p>First, there is a statement that EHCMA members were pleased with the cooperative effort to develop the TMDL, and that this cooperative effort should be a model for further TMDLs. But that is followed by a statement that this TMDL was actually an unnecessary exercise, since it revealed that nickel criteria have been met throughout the Houston Ship Channel System, with only model-predicted potential problems in very limited and specific areas.</p> <hr/> <p>The second comment is described as being a “major problem” to EHCMA, and concerns details of the allowance for growth and margin of safety included in the TMDL allocation. The comments point out that a large amount of “loading capacity” remains unallocated by the TMDL, and indicates a belief that virtually all of that unallocated capacity should be allocated as allowance for future growth. The comments contend that the allowance for growth as described in the TMDL report “bears no reasonable relationship to the available capacity” and “is not scientifically justified.” There are also comments to the effect that the margin of safety included in the draft TMDL allocation should be less, or calculated differently. Furthermore, the letter comments “that this shortcoming of the nickel TMDL must be remedied before the Commission adopts it” to avoid establishing “a very bad precedent for future TMDLs performed by and for the Commission.”</p>	<p>The TMDL allocation was completed to document the findings of the study adequately for the purposes of all concerned, including Federal government and general public interests as well as the affected industries. The resulting permit procedures assure that nickel criteria will continue to be met in the future. Completing the TMDL also provided an opportunity to develop and practice procedures that will be used statewide. No changes have been made to the TMDL based on this comment.</p> <hr/> <p>The allowance for growth (AFG) was included in the TMDL so that some amount of growth or new industry can be accommodated, without compromising water quality and without needing formal updates of the Water Quality Management Plan.</p> <p>A much larger amount of allowable increase could be assumed, as suggested by the EHCMA comments, but that could not account for the geographic distribution of potential new sources. The allocated AFG amounts to approximately 79% of the total currently permitted load of nickel, and approximately 58% of the total point source loading permitted or assumed for the more than 530 discharges included in the analyses (the WLA). That should be adequate to allow for significant increases, from new or existing sources.</p>

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003 (continued)			<p>The third comment from EHCMA indicates that organization “would appreciate it” if the TMDL report cites EHCMA participation in the August 1995 survey described in the draft report. EHCMA arranged, coordinated, and paid for the Texas A&M University analyses of surface water samples collected during that survey.</p>	<p>If more capacity for nickel discharges is needed someday, to allow more growth than the AFG calculated for the report would accommodate, the data and procedures used for this TMDL indicate that it should be relatively easy to justify an update of the WQMP to increase the wasteload allocation. That update would account for the geographic locations and magnitude of new and existing dischargers. For now, there is no need to pre-allocate all the potential capacity for nickel discharges, nor any projected demand for additional metals discharges to the Houston Ship Channel System. The recommendations of any other TMDL will be case-specific.</p> <p>As a result of policy decisions that considered this comment, part of the TMDL allocated to explicit MOS was placed in the WLA component, and implicit MOS was emphasized. The total load allocation did not change.</p> <p>A sentence that describes the August 1995 survey in the draft report was modified to specifically acknowledge EHCMA participation and support. However, that verbiage did not appear in the final report. No changes have been made to the TMDL based on this comment.</p>