



The October 10, 2002 meeting will be held at:

Hilton Ontario Airport
700 North Haven Avenue
Ontario, CA 91764
Telephone (909) 980-0400

General Meeting and Water Committee — Salon 1&6
Land Committee — Parlor A

TRI-TAC MEETING

THURSDAY, OCTOBER 10, 2002

9:00 A.M. – 12:00 P.M.

Hilton Ontario Airport
700 North Haven Avenue
Ontario, CA 91764
Telephone (909) 980-0400

9:00 A.M. – GENERAL MEETING

ATTACHMENTS

1. INTRODUCTIONS
2. APPROVAL OF THE SEPTEMBER 12, 2002 –
TRI-TAC MEETING SUMMARY/ACTION ITEMS PAGES 7-15
3. FUTURE MEETING SCHEDULE PAGES 16-17
4. TRI-TAC ROSTER PAGES 18-23
5. COMMITTEE ASSIGNMENTS PAGE 25
6. COMMITTEE ISSUE SUMMARIES PAGES 26-55
7. OTHER BUSINESS/NEW ISSUES

9:00 A.M. – 11:30 A.M. – COMMITTEE MEETINGS

COMMITTEES WILL MEET SEPARATELY

11:30 A.M. – GENERAL MEETING

COMMITTEE REPORTS

- A. LAND
- B. WATER

1:00-3:00 P.M. – AFTERNOON SESSIONS

Water Committee Meeting

LAND COMMITTEE AGENDA
October 10, 2002

	<u>Who</u>	<u>Time</u>
<u>A. Agenda Review and Approval</u>		
<u>B. Committee Action Items</u>		
1. Biosolids Recyclers of CA, status, flyer	Ed McCormick/Bobbi Larson	10 min.
2. SWRCB Biosolids Final EIR & Lawsuit	Layne Baroldi/Bobbi Larson	5 min.
3. POPS Meeting Report	Layne Baroldi	5 min.
4. Model Biosolids Contract/RFP	Ann Briggs	5 min.
5. 40CFR 503 Dioxin Regulations/Data	Diane Gilbert	10 min.
6. Radioactivity Testing, Dose Modeling & Guidance	Diane Gilbert	2 min.
7. CIWMB Compostable Organic Mtls. Regs.	Diane Gilbert	5 min.
8. SCAQMD Proposed Rule 1133-Composting Opns.	Layne Baroldi	5 min.
9. DTSC Mercury Regulations	Layne Baroldi	5 min.
10. AB 2356	Layne Baroldi	2 min.
<u>C. Information and Discussion Items</u>		
Tri-TAC Retreat Results	Layne Baroldi/Bob Gillette	5 min.
New Biosolids Contracts/Technologies	Ed McCormick	10 min.
Local Ordinances		
• Kern County	Layne Baroldi	5 min.
• Kings County	Layne Baroldi	5 min.
• San Luis Obispo County	Bob Gillette/Diane Gilbert	2 min.
• Riverside County	Anne Briggs/Layne Baroldi	5 min.
• Synagro Facility	Anne Briggs/Layne Baroldi	2 min.
• Alameda County Composting	Ed McCormick	5 min.
• Solano County	Ed McCormick	10 min.
WEFTEC Information	Bob Gillette/Ed McCormick/Mike Moore/others	5 min.
NAS Review of Sewage Sludge Regulations	Layne Baroldi	5 min.
.		
<u>E. Other</u>	All	<u>10 min.</u> 120 min.

**WATER COMMITTEE AGENDA
October 10, 2002**

The Water Committee Agenda looks different this month because, at our Annual Retreat on September 12-13, we decided to organize items on the agenda by priority. This approach will allow us to spend more time on the higher priority items and not just gloss over topics in a race to cover everything that is happening in wastewater at the moment. This new approach also required that judgments be made as to what is a high priority, and so we will revisit the agenda at the beginning of the meeting to make sure the priorities shown here are consistent with the will of the group, and obtain feedback on this new method.

At the Annual Retreat we also discussed the fact that we are usually more effective in shaping policy if we participate early in the process of policy development. So, we developed a list of those issues which we felt were currently in that category and committed to discuss those issues each month. These issues are called "Pre-Regulatory Issues."

One last thing – for those of you who have been (or will be) identified to cover a particular topic for the meeting, please start your remarks with a basic description of the topic so that those attendees who may not be familiar with the issue can have a better chance of understanding the full discussion. Thanks.

<u>Priority</u>		<u>Estimated Duration (minutes)</u>	<u>Further Information</u>
	Items of Highest Priority:		
1	SWRCB/RWQCBs 303(d) Listing Process	40	Attachment 1
2	POPs Meeting	20	
3	Mandatory Minimum Penalty Reform	5	tritac.org
4	Vacaville Permit Remand Order	15	
5	Laguna Beach Administrative Order	10	Attachment 2
6	NPDES Permit Fee Increases	10	
7	Effect of Phase II Stormwater on Sewer Districts	15	
8	SIP Changes	10	
	Pre-Regulatory Issues		
	Xenobiotics	15	
	Mercury – Fish Tissue Criteria, Water Quality Standards	20	
	Effluent Trading	5	
	Storm Drain Diversions	5	
	Nutrient Criteria	10	
	If Time, We Will Also Discuss:		
	Regulation Changes for SWRCB Petition		
	EBMUD Permit Court Proceedings		
	LACSD Permits		
	PAG Listing Guidance		
	FOG Work Group		
	Federal SSO Regulations		
	East Coast Lawsuit on Blending/Affirmative Defense		tritac.org
	USEPA Gap Analysis		tritac.org
	Pesticide Meeting		Attachment 3

MEETING SUMMARY
THURSDAY, SEPTEMBER 12, 2002
SACRAMENTO AIRPORT
SACRAMENTO, CA

SUBCOMMITTEE ISSUES AND GENERAL MEETING

THE FOLLOWING MEMBERS AND INTERESTED PARTIES WERE PRESENT:

Larry Wasserman, City of San Diego	Bob Reid, West Valley SD
Jack Nelson, Yucaipa Valley WD	David Tucker, San Jose
Valerie Housel, San Bernardino MWD	Phil Bobel, Palo Alto
Rod Cruze, City of Riverside	Ray von Dohren, Carmel Area WW District
Roger W. Turner, Eastern Municipal WD	David Tompkins, City of Vacaville
Clayton Yoshida, City of Los Angeles	Jackie McCall, City of Vacaville
Paul Pau, City of Los Angeles	Jim Gratteau, LACSD
Gail Chesler, CCCSD	Tom Hall, EOA
Warren Tellefson, Placer Co. CVWMA	Ben Horenstein, EBMUD
Jerry Troyan, SRCSD	Keith Smith, Davis
Bob Gillette, Carollo Engineers	Melissa Thorne, DBSR
Terri Mitchell, SRCSD	Margie Nellor, LACSD
Stan Dean, SRCSD	James Colston, OCSD
Steven Medberry, SFPUC	Diane Gilbert, City of Los Angeles
John Schroeter, EBMUD	Marilyn Quilter, EBMUD
Jim Marchese, City of LA	
Bobbi Larson, CASA	
Sharon Green, LACSD	
Traci Minamide, City of Los Angeles	
Shahrouzeh Saneie, City of Los Angeles	
Monica Oakley, LWA	

Announcements and Discussion Items

Approval of Last Meeting's Action Items

Future Meeting Schedule

Announcements

AIR COMMITTEE MINUTES FROM SEPTEMBER MEETING --- JAY WITHERSPOON AND DANIEL MCGIVNEY

1. AIR Committee Meeting Schedule for 2003 - Committee members decided that the Air Committee would officially meet twice a year and on an as needed basis to address state-wide regulations and laws. It is proposed that one meeting be in Southern California in January and the other in Northern California in July for communications and planning purposes. Also, meetings to prepare for targeted issues workshops with the Air Resources Board may warrant several additional Tri-TAC meetings and/or committee conference calls. Committee Co-Chairs will keep Tri-TAC informed of our needs regarding meeting attendance. The proposed reduction in meetings is due to committee members being active in two regional air committees - SCAP and the AIR Group that focus on the same issues as Tri-TAC, with the same committee members doing the work, and a strong communication loop established between the two groups. Our committee members promised to increase the communications between the two regional air groups and to use the two planned meetings per year for planning, information exchange, and joint efforts related to state-wide issues. If this format and/or schedule hinders state-wide coordination on critical air quality issues for State POTWs, then it will be revised.

2. OEHHA Risk Assessment Guidelines and HARP Software - These guidelines only apply to POTWs that are in the AB 2588 - Air Toxics Hot Spots Program. Guidelines were approved by State Scientific Review Plan in July 2002 and OEHHA was expected to finalize and release guideline in Mid-September. These new guidelines and their associated Hot Spots Analysis and Reporting Program (HARP) can impact state-wide POTWs in several ways: 1. If a significant modification occurs that increases air toxic emissions under the AB 2588 program then the POTWs will have to resubmit their AB 2588 inventory and re-do their risk assessment using HARP; 2. If a unit risk value for an air emission emitted from a POTW is significantly changed, then the local air district may require that the facility's risk assessment be redone. Most local air districts will rerun their AB 2588 facilities using the HARP and Guidelines to provide a consistent format to ARB in their annual reporting requirements. One significant note on the HARP is that it will result in 30% higher risk estimates because this new method incorporates risks to children and other highly sensitive receptors. According to one air district this will be reviewed and they will decide what, if any actions, will be needed to facilities that were below regulatory trigger levels under the old methodology that now are above those trigger levels using the new guidelines and HARP. It is unclear how this will be decided and the Air Committee will track the new guidelines and HARP roll-out.

3. SCAQMD Proposed Rule 1133 Regulating Composting Operations & SCAP Aerated Static Pile Composting Emissions Study - Update - Draft results from an extensive source testing program using flux chambers are currently being reviewed and QA/QC by the SCAP Steering Committee and consultant. Rule development is continuing and SCAQMD is very interested in getting this data, once its released. SCAP is pushing for emissions reductions equivalence to be incorporated into the Rule that allows the facility flexibility to meet emissions reductions needs through innovative approaches, pile materials construction, and/or abatement equipment. Study results will be issued late October.

4. Proposed ATCMs for New & Existing Stationary Diesel-Fueled Compression Ignition Engines - The latest version of the ATCM lessens impacts for emergency standby engines using a tier compliance approach based on hours per year of operation for routine O&M. Applies to any engine that is greater than 50 hp and uses diesel fuel and rule is risk based in its control requirements. Controls are focused on particulate (PM) removal, as well as NOx, hydrocarbon, and CO limits. A tiered approach allows most emergency standby engines to operate less than 15 hours per year for O&M to be in compliance with the regulations without controls. These engines that operate higher than that level would be required to meet a tiered schedule for

particulate removal based on PM emission rate and maximum allowable annual hours of O&M. For example, if the engine's PM emission rate is 0.15 g/bhp-hr it can operate for O&M purposes less than 100 hours per year. ARB will continue informal regulatory process with several workshops planned in the latter part of 2002, with the regulation going to the Board in the first-half of 2003.

5. WERF Biosolids Odor and Health Impact Study - Update - Completed 11 site testing during the summer and presented initial findings at WEFTEC 2002 in Chicago. Several promising correlations were observed in the initial data review that are being further investigated with site-specific information and data provided by each test site. The final report will be sent to WERF at the beginning of 2003 with public use by mid-2003. The first phase of this project, a literature search, should be available at the end of 2002.

LAND COMMITTEE MINUTES FROM September 12, 2002 MEETING **LAYNE BAROLDI AND ROBERT GILLETTE**

Committee Action Items

1. **CASA Biosolids Program** – The CASA Executive Board gave final approval to hire a Biosolids Manager, though the position will do some other CASA Work as well. The Committee, under the direction of Ed McCormick is finalizing the job Description which should be advertised by the end of September.
Contact: Ed McCormick – EBMUD, Bobbi Larson - CASA
2. **Dioxin Letter** – Primarily through the efforts of Diane Gilbert, Tri-TAC/CASA/SCAP have prepared a comment letter on the USEPA Federal Register requesting comments on the findings of national dioxin testing. Our primary focus is to push for regulations based on sound science, but to suggest that regulation is needed to assure the public that dioxins in biosolids is not a concern. There is also a need to “fix” the limits required for testing and the testing methods.
Contact: Diane Gilbert – City of Los Angeles
3. **CIWMB Compostable Regulations** – The proposed regulations are generally favorable in that they treat biosolids similarly to other waste streams. However, the CIWMB has proposed using 36 mg/kg as the limit for selenium. The 40CFR503 regulations originally had that limit, but were challenged, and the limit was changed to 100. Tri-TAC had commented on this regulation, but the final proposed regulation came out without a change, and staff has not discussed our comment or the reason it was not changed. Diane Gilbert is putting together a letter stating Tri-TAC’s position that the proposed regulation is not based on sound science and staff did not respond to Tri-TAC’s comments.
Contact: Diane Gilbert – City of Los Angeles
4. **DTSC Mercury Regulations** – All agree that the proposed regulations are a rational approach to a significant problem. It was agreed that Tri-TAC should write a letter supporting the regulations. The Water Committee will take the lead and the Land Committee will review the proposed letter.
Contact: Phil Bobel – City of Palo Alto

Information and Discussion Items

5. **Solano County** – At the August 27, 2002 Board of Supervisors meeting the Board voted to impose an interim moratorium on Land Application of Class B biosolids in Solano County effective October 15, 2002. This was in spite of presentations by EPA, the State, farmers, Dr. Ian Pepper, and others. It was basically an emotional decision, based primarily on concerns with distribution of pathogens spread through the air, or bioaerosols. It is supposed to be an interim moratorium until data from ongoing studies can be reviewed.
Contact: Ed McCormick – EBMUD, Bob Gillette - Carollo

WATER COMMITTEE MINUTES FROM SEPTEMBER 12, 2002 MEETING
JIM COLSTON AND MONICA OAKLEY

A. Committee Action Items

1. **Root Control Discussion/Survey of Membership** – We have noted more activity and vendors dealing with root control. More people are using root control compounds probably due to the impending CMOM regulations. There's a group that was formed some time ago including Sacramento County, City of Sacramento, Central Contra Costa Sanitary District, Union Sanitary District, City of LA, Orange County and San Diego to discuss root control, and they will meet again next week. One of the issues that they are looking at will be the application rate for various products.
2. **Regulation Changes for SWRCB Petition** – The State Water Board has issued some changes to the petition process if you want to appeal your NPDES permit. Members of Tri-TAC and CASA met with attorneys from the SWRCB who are working on this issue, and they went through the proposed changes line-by-line with them and gave them suggestions to improve the petition process. There was also a desire to get an understanding from both sides as to the purposes and intents of the changes. We thought we got some good responses from them so we turned in a redline, strikeout version of the proposal. They wanted permittees to raise every contention in front of the Regional Board in order to maintain that issue on appeal, but we weren't really sure how that would be interpreted. Does that mean that you had to raise every single possible legal argument that you can make? The other big issue was the stay. We said we're in a whole new world now with mandatory minimum penalties, so we talked to them about having a stay provision because they won't review your stay petition for probably 60 to 90 days after you file it.
3. **Bacteria Criteria Implementation Plan** – The letter that we sent is in the packet as Attachment 1. A number of issues were addressed including implementation of standards and the nature of studies to determine standards.

B. Updates

4. **NPDES Permitting** – Tri-TAC met with the SWRCB and discussed the need to update the SIP and work through issues related to its implementation. We also stressed the need to conduct Basin Planning.
5. **Refineries** – The original TOSCO refinery appeal was finally decided on appeal. It was a horrible decision. Basically it says is that you must have final limits in your permit. Then you may be allowed to have an interim limit while you're going there. The only good thing about it is that it was pre-SIP. I think what the State is going to try to do is just make it fairly compartmentalized and just say this doesn't apply now to any new permits.
 - **NPDES Permit Fees** – The governor's budget included an increase in the statutory cap for waste discharge fees. The current statutory cap is \$10,000 per year and that would be increased in the budget to \$20,000. In that legislation the board was directed to develop

emergency regulations to implement this provision. They've added a brand new fee for stormwater co-permittees. Now it's going to be one fee for each of the cities that participate in the program. That doesn't have an effect on POTWs, but it's obviously causing a lot of consternation among the cities for a couple of reasons. 1) The legislature expressly considered and rejected adding a co-permittee fee, and the Water Board is moving forward with it on the premise that it has always had the authority to do so. 2) The cities don't really have a fee mechanism to make this up so in order to make the State general fund whole, the cities have to go to their general fund. The existing surcharge for POTWs that have pretreatment programs is doubling from the existing \$3,800 to \$7,600. There is some question as to whether or not you would pay that surcharge even if you were already at the cap; it would take you above the cap or up to the cap. The workshop is next Wednesday; they're going to adopt it on Thursday.

- **EBMUD** –EBMUD's order was remanded on a couple items. Because CEQA is one of the causes of action there's a mandatory settlement hearing next month. The lawsuit should proceed sometime in February.
- **City of Vacaville** – Key issues addressed include beneficial uses and blending. EPA Region IX says there's no blending allowed as per the adopted bypass rule. The bypass rule states that the only reason you can do blending is if there is no feasible alternative to bypass, i.e., constructing auxiliary facilities or additional retention capacity. This issue will continue to develop as EPA Headquarters finalizes its interpretation.
- **Napa Sanitation District** –The next step is this court hearing on October 24.
- **City of San Diego** – We went to the State Board on appeal and it was interesting to hear that conversation. The State Board said the RWQCB didn't have any technical data to lower the emission rate, and they restored what was originally agreed to in the permit. We got a 4-0 vote on the appeal. Then we went to the Coastal Commission on Monday and they gave us an 8-1 vote for the consistency determination. So we now actually have a permit which is going to be signed by Wayne Nastri tomorrow at the Point Loma Treatment Plant. Unfortunately, the bad news, of course, is the environmental community in San Diego is very upset and wants to sue the environmental appeal board, the EPA, or the State Board for issuing the permit.
- **LACSD Permits** –We've had three NPDES permits adopted within the last several months, and two that were adopted in July for the tertiary plants that discharges into concrete-lined receiving waters. They had permit conditions that we didn't agree with. We have filed a petition with the State Board appealing the permit and the petition for the stay.

5. **303(d) List and Total Maximum Daily Load Issues**

- **State Litigation** – No report.

- **SWRCB/RWQCBs 303(d) Listing Process** – A Tri-TAC member spoke with Craig J. Wilson a couple of weeks ago, and she asked him whether we should expect further changes to the list. His answer was yes. An updated adoption schedule will be announced shortly.
- **PAG Listing Guidance** –As the SWRCB is working on its policy for listing and delisting, they've invited the PAG to comment on some listing concepts that they've put together in a discussion paper. The PAG had a heated discussion about this at the July meeting, and it was agreed that each caucus would submit comments. The regulated caucus developed an 18-page letter that comments, page-by-page, on the listing process – everything from how big should the list be, how should the list be compiled, what kind of data standards should we have, how should we handle narratives objectives, how should we handle the beach closure issues, and just about every issue you can think about related to listing. This letter was submitted September 11th to the State Board. When they meet again in October, the staff will come back and summarize the comments they've received. They will then give us some indication of where they may be headed on some of these issues.
- **Bay-Delta Hg TMDL Workshop** – There is a two-day workshop that CalFed is convening to deal with their ongoing major investigations of mercury. There's also, on the 25th, a meeting in San Francisco Bay Area hosted by the Regional Board on their mercury TMDL. CalFed is a little worried. A major thrust of CalFed is to create wetlands in the system and some of the early reports back from their research is that wetlands is where mercury is methylated. So there is a big concern of CalFed that they're going to actually be increasing mercury in fish in the Bay-Delta system by all their ecosystem restoration projects. To date, they've poured \$4 million into work which will be reported out in the September 16-17 workshop, which is scheduled to be held in Moss Landing, near Monterey. That will be basically a description of what they found, and then CalFed is looking to fund maybe another \$10-\$15 million worth of mercury research to address this question. They've called in some national experts to help them lead a strategic planning workshop; strategic in terms of matching up monitoring and research with the management questions from mercury in the system. That is going to be convened in a second workshop on October 8-9. They've opened both of these meetings to the public. It is a significant level of work that's been done and contemplated to be done and, from one perspective, the main reason that CalFed is interested is because of this wetlands issue. This dovetails with mercury TMDL activity that's going on in the Sacramento water watershed, San Joaquin and in the Bay. It has a tremendous amount of scientific import. One of the interesting things that emerges from this is that the issue may break the TMDL paragon in some way. The Regional Board meeting is very important. It is the next step in moving forward with the TMDL report that was submitted to EPA in June of 2000. BACWA, as one major player with interest in the Bay Area TMDLs, has emphasized to the Regional Board that this mercury TMDL is the highest priority to them.

6. **Water Quality Standards**

➤ **Nutrient Criteria Development** – The State Water Board came out with a proposed work plan to the regional technical assistance group. We had some concerns about the direction they were heading and we provided comments on the workplan. The workplan is supposed to be the road map for how the state is going to adopt the nutrient criteria to comply with EPA’s mission of developing nutrient criteria in the next several years. Initially, EPA was requiring that states adopt it by 2004, but they softened that up and now they’re saying that states need to demonstrate reasonable progress by 2004. Sharon Landau and Michelle Buzby took the lead on working on the comment letter in August.

7. Sanitary Sewer Overflows – The FOG workgroup continues to meet, and the website has been updated with excellent useful information.

8. Enforcement – The MMP legislation has moved to the Governor’s desk, and Region 2 is working on the continuous recording language to address the chlorine issue.

TRI-TAC MEETING LOCATION & SCHEDULE 2002

TRI-TAC MEETING DATE ¹	LOCATION/HOTEL	AFTER TRI-TAC MEETINGS ²
JANUARY 16, 2002 (WEDNESDAY)	HILTON ONTARIO AIRPORT 700 NORTH HAVEN AVENUE ONTARIO, CA 91764 909-980-0400	Land Committee Meeting 1:00-3:00
*FEBRUARY 14, 2002	HOLIDAY INN AIRPORT 500 Hegenberger Road Oakland, CA 94621 510-562-5311	
MARCH 14, 2002	SACRAMENTO INTERNATIONAL AIRPORT 6900 AIRPORT BOULEVARD SACRAMENTO, CA 95837 TELEPHONE (916) 874-0917	WATER COMMITTEE MEETING 1:00-3:00
*APRIL 11, 2002	SACRAMENTO INTERNATIONAL AIRPORT 6900 AIRPORT BOULEVARD SACRAMENTO, CA 95837 TELEPHONE (916) 874-0917	Water Committee Meeting 12:30-3:00 1. 303(d) List 2. Nutrients 3. SRF
MAY 9, 2002	HILTON ONTARIO AIRPORT 700 NORTH HAVEN AVENUE ONTARIO, CA 91764 909-980-0400	WATER COMMITTEE MEETING 1:00-3:00 1. STATE WATER RESOURCES CONTROL BOARD DRAFT 303(D) LIST
*JUNE 13, 2002	HOLIDAY INN AIRPORT 500 Hegenberger Road Oakland, CA 94621 510-562-5311	
JULY 11, 2002	HOLIDAY INN AIRPORT 500 Hegenberger Road Oakland, CA 94621 510-562-5311	
AUGUST 8, 2002	No MEETING	
*SEPTEMBER 12, 2002	SACRAMENTO INTERNATIONAL AIRPORT 6900 AIRPORT BOULEVARD SACRAMENTO, CA 95837 TELEPHONE (916) 874-0917	

TRI-TAC MEETING DATE ¹	LOCATION/HOTEL	AFTER TRI-TAC MEETINGS ²
OCTOBER 10, 2002	Hilton Ontario Airport 700 North Haven Avenue Ontario, CA 91764 (909) 980-0400	WATER COMMITTEE MEETING 1:00-3:00 WEB ADVISORY GROUP MEETING 1:00-3:00
NOVEMBER 14, 2002	SACRAMENTO	
DECEMBER 12, 2002	OAKLAND	
<p>¹ IF YOU WOULD LIKE TO ADD AN AGENDA ITEM OR SCHEDULE A PRESENTATION FOR AN UPCOMING MEETING, PLEASE CONTACT ONE OF THE COMMITTEE CO-CHAIRS AT LEAST 14 DAYS BEFORE THE DESIGNATED MEETING DATE.</p> <p>² If you would like an “after Tri-TAC” meeting noted in the agenda package, please contact Dave Williams at least ten days before the designated meeting date.</p> <p>*The Air Committee will meet on this date.</p>		

Tri-TAC Roster

Name	Company	E-mail Address	Phone Number	Fax Number
Gregory Adams	Los Angeles County Sanitation Districts Air Quality Engineering 1955 Workman Mill Road Whittier, CA 90601-1400	gadams@lacsds.org	562-699-7411 x2113	562-692-9690
Rodney Andersen	City of Burbank 275 E. Olive Avenue Burbank, CA 91502	Randeren@ci.burbank.ca.us	818 238-3931	818 238-3918
Layne Baroldi	Orange County Sanitation District P.O. Box 8127 Fountain Valley, CA 92728-8127	lbaroldi@ocsd.com	714 593-7456	714 962-2591
Jeffrey Bell	Solano County Environmental Health 601 Texas St. Fairfield, CA 94553	jbelle@solanocounty.com	707-421-6765	707-421-4805
James Bewley	South Bayside System Authority 1400 Radio Road Redwood City, CA 94065	jbewley@sbsa.org	650 594-8411 ext 124	650 591-7122
Phil Bobel	Water Quality Control Plant 2501 Embarcadero Way Palo Alto, CA 94303	phil_bobel@city.palo-alto.ca.us	650 329-2285	650 494-3531
Maura Bonnarens	East Bay Municipal Utility District 375 11 th St., MS 702 Oakland, CA 94623	mbonnare@ebmud.com	510 287- 1141	510 287-1530
Anne Briggs	Eastern Municipal Water District P.O. Box 8300 Perris, CA 92572-8300	briggsa@emwd.org	909 928-3777 ext. 6327	909 928-6177
Dan Bruinsma	City of San Jose 777 North first Street Suite 300 San Jose, CA 95112	Dan.Bruinsma@ci.sj.ca.us	408 277-5423	
Fred Burnett	Calaveras County Water District O&M Superintendent 423 E. St. Charles St. San Andreas, CA 95249	fredb@ccwd.org	209-754-3543	209-754-1069
Michelle Buzbee	Larry Walker Associates 250 Lafayette Circle, Suite 200 Lafayette, CA 94549	michelleb@lwa.com	925 962-9700	925 962-9701
Paul Causey	Delta-Diablo Sanitation District 2500 Pittsburg-Antioch Highway Antioch, CA 94509	paulc@ddsd.org	925 778-4040 x204	925 778-8513
James Chen	Union Sanitary District 5072 Benson Road Union City, CA 94587	Jim_chen@unionsanitary.com	510 477-7561	510 477-7505
Gail Chesler	Central Contra Costa Sanitary District 5019 Imhoff Place Martinez, CA 94553	gchesler@ecis.com	925 229-7294	925 228-4624
James Clark	Black & Veatch 800 Wilshire Blvd., Suite 600 Los Angeles, CA 90017	clarkjh@bv.com	213 312-3300	213 312-3399
Joyce T. Clark	Metropolitan Water District of Southern California Operations Support Services P.O. Box 54153 Los Angeles, CA 90054-0153	jttruhan@mwadh20.com	213 217-5593	213 217-6700

Name	Company	E-mail Address	Phone Number	Fax Number
Alex Coate	East Bay Municipal Utility District P.O. Box 24055, MS 704 Oakland, CA 94623-1055	acoate@ebmud.com	510 287-1663	510 287-1330
James Colston	Orange County Sanitation District P.O. Box 8127 Fountain Valley, CA 92728	jcolston@ocsd.com	714 593-7458	714 962-2591
Rodney W. Cruze	City of Riverside 5950 Acorn Street Riverside, CA 92504	rcruze@ci.riverside.ca.us	909 351-6011	909 687-6978
Stan Dean	Sacramento Regional County Sanitation District 8521 Laguna Station Road Elk Grove, CA 95758	deans@saccounty.net	916 875-9101	916 875-9107
Nancy Evans	Central Marin Sanitation Agency 1301 Andersen Drive San Rafael, CA 94901-5339	nevans@marin.org	415 459-1455 ext 141	415 459-3971
Margaret E. Figeroid	Downey, Brand, Seymour & Rohwer 555 Capitol Mall, 10 th Floor Sacramento, CA 95819	mfigeroid@dbsr.com	916 441-0131	916 441-4021
Lauren Fondahl	Environmental Protection Agency Clean Water Act Compliance Office (WTR-7) 75 Hawthorne Street San Francisco, CA 94105-3901	fondahl.lauren@EPA.gov	415 972-3514	415 947-3549
Mary Jane Forster Foley	MJF Consulting, Inc. 7 Phillips Circle Laguna Niguel, CA 92677	mjfconsulting@home.com	949 493-8466	949 374-0912
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Tri-TAC Liaison Representation

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CASA	Roberta Larson; Sharon Green
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TRI-TAC LAND COMMITTEE

ISSUE SUMMARY

1. SWRCB BIOSOLIDS GENERAL ORDER (GO) & ENVIRONMENTAL IMPACT REPORT (EIR)

The Central & South Delta Water Agency filed a lawsuit regarding the Central Valley General Waste Discharge Requirements (WDR) for biosolids land application. The suit challenged the State Water Resources Control Board's (SWRCB) order that allowed grandfathering of land application projects under the WDR. The judge in the case accepted the proposal from the SWRCB for a statewide EIR, and approved a 3 year, 4 month time line for completion allowing sites permitted under the (WDR) to continue to operate. CASA approved a Memorandum of Understanding with the SWRCB and acts as the conduit of funds between contributing agencies and the SWRCB for the development of the EIR. Craig Lekven and Layne Baroldi were members of the SWRCB Technical Advisory Group (TAG) for this project.

The SWRCB and the TAG selected Jones and Stokes to prepare the EIR on the General Waste Discharge Requirements for the Discharge of Biosolids to Land for Use as a Soil Amendment in Agricultural, Silvicultural, Horticultural, and Land Reclamation Activities (GO), which was prepared by SWRCB staff. The draft EIR and draft GO were released to the public June 28, 1999. Public hearings were held on August 18th in Palmdale, August 17th in Bakersfield, and August 23rd in Sacramento. The 60-day comment period ended September 10, 1999.

Jones and Stokes completed the final EIR and prepared responses to comments on the Draft EIR. The SWRCB made minor revisions to the General Order to resolve comments. Public workshops were held on August 1 in Santa Clarita and August 3 in Sacramento. The SWRCB heard final testimony at their board meeting in Sacramento on August 17, 2000. The Board unanimously adopted the General Order and the Final EIR at this meeting. The Board did incorporate 27 changes from an Errata Sheet and several changes at the meeting before final adoption.

The most significant requirements in the adopted GO are:

- the prohibition that "The application of biosolids containing a moisture content of less than 50 percent,
- a restriction that biosolids less than 75% moisture shall not be land applied when surface wind speed is greater than 25 mph,
- if the ground water is less than 25 feet from the surface monitoring is required including Mo, As, Se,
- plant tissue testing for Mo, Cu, and Se,
- require that residual nitrogen be determined by annual soil testing at 18 inches deep.

The SWRCB incorporated the EIR mitigation measures, the changes contained in the Errata, and items added at the final hearing into the GO. The draft EIR, Final EIR, final GO (Water Quality Order No. 2000-10-DWQ) and Users Manual are available at www.swrcb.ca.gov/programs/biosolids/index.html.

Two lawsuits were filed over the EIR—one by the Central and South Delta Water Agency, and one by Kern County. The State Attorney General provided the defense. The two lawsuits were combined and heard by Judge Ron Robie. CASA intervened in these lawsuits. Regional Boards are using the GO and the Lahontan and Central Valley Regional Boards have each issued one Notice of Applicability (NOA) using the GO.

The SWRCB GO and associated EIR lawsuit hearing was held in front of Judge Ronald B. Robie

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on July 20, 2001 in Sacramento. The draft conclusion by the Court was that the lawsuits were denied. The Court then took testimony on the draft ruling. Following the testimony, Judge Robie took the case under submissions. Judge Robie made his final ruling on August 10, 2001. The final conclusion by the Court was that the lawsuits were denied. One interesting finding is that "The Court finds that there is substantial evidence to support the validity of the findings reached by the EPA in its development of the federal regulations (Title 40, Part 503 of the Code of Federal Regulations)."

On October 5, 2001, Kern County filed an appeal to the Court Ruling. Subsequently the Central and South Delta Water Agencies also appealed. CASA has intervened on behalf of the SWRCB. No dates have been set for the appeal hearing yet. The briefs from Kern County and the Central and South Delta Water Agency were submitted on May 2, 2002. CASA's brief was submitted in June 2002. The briefs by the State Attorney General were submitted in early August. The hearing will be scheduled early in 2003 before the third District Court of Appeals.

Update: There is nothing new to report this month.
The Central Valley Regional Water Quality Board continues to receive Notice of Intents (NOI) and is apparently now processing them.

Contact: Layne Baroldi OCSD, Bobbie Larson CASA
Current as of: October, 2002

2. RADIOACTIVITY

Survey - EPA and the Nuclear Regulatory Commission (NRC) conducted a survey of POTWs to obtain national estimates of the levels of radioactive materials in sludge and ash at POTWs, estimate the extent to which radioactive contamination comes from either NRC/Agreement State licensees or from naturally occurring radioactivity, and support possible rulemaking decisions by NRC and EPA. For the planned survey, NRC/EPA sent the questionnaires to some 600 POTWs associated with NRC licensees having the highest potential to discharge radioactive material to the sewer system. Using the information gathered, NRC and EPA was to identify approximately 300 POTWs for sampling. The NRC proposal states that POTW identities will be kept confidential.

In July 1998, the Office of Management and Budget cleared the joint NRC-EPA survey and has required the two agencies to establish a survey review committee. Two municipal representatives are on the committee: Kevin Aiello of Middlesex County Utility Authority and Tom Lenhart of Northeast Ohio Regional Sewer District. The committee will oversee and monitor the results of the survey.

Of the 366 that responded to the survey, at least 300 and possibly all of the responding POTWs have been selected for the sampling survey; this list will not be made public. Sampling kits were received by some California agencies, though the names are confidential. All of the sampling is complete. The data has been analyzed and the results will be available this coming summer. The preliminary results are that there are no surprises.

Dose Modeling Document– Dose modeling is to be conducted to develop dose-to-source factors that can be used to help interpret the results of analyses of sewage sludge samples for radioactive materials. The consultant hired by AMSA has completed the dose modeling report. POTWs should be able to use the report to determine the level of radioactivity found in their biosolids from the samples forward to the NRC

Guidance Document - AMSA has developed a draft guidance document to assist POTWs in addressing radioactivity potential in sewage sludge and ash.

Draft documents have been developed and issued for public comment dealing with aspects of all three activities. Final reports will be issued in all three areas, hopefully by early 2002. These documents, along with Subcommittee meeting minutes will continue to be posted on the ISCORS website under the postings for subcommittees at "<http://www.iscors.org/sewage.htm>".

Update: As of this date there is nothing new to report.

Contact: Diane Gilbert City of LA
Current as of: October, 2002

3. DIOXINS

Draft 40CFR503 Round 2 Regulations, for Dioxins were issued December 15, 1999. The dioxin requirement is 300 ppt TEQ. Similar to the metals contained in the 503 regulation, the proposed dioxin concentration is based on the results of a risk assessment. However, unlike metals, only a ceiling concentration is proposed. The current proposal is 300 nanograms toxic equivalent per dry kilogram. If the dioxin content is over this concentration (0.0003 mg TEQ/kg) the biosolids cannot be used beneficially. The comment period was extended to March 23, 2000. WEF and AMSA are handling comments. The proposed regulations require a minimum of annual testing for dioxins in biosolids for the first five years. This testing costs between \$1,500 and \$2,500 per sample. The draft regulations allow for the test frequency to be extended to every five years if the sample results are below 30 ppt TEQ. The draft regulations include a new dioxin test method that

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requires that non-detect results be reported at a value of half the detection limit. Based on the current testing procedures this means that non-detects on all congeners would return a TEQ result of 15 to 20 ppt. This will affect the ability to obtain results less than 30 ppt.

The EPA released a study indicating that dioxins are very carcinogenic. This has resulted in a reevaluation of the draft requirements. Data on the EPA dioxin health risk assessment were posted on their web site on June 12, 2000.

The new regulations must be promulgated by December 15, 2001 to meet a court mandate. The reevaluation will not be completed until some time next year. This has EPA in a dilemma.

There is a lack of data concerning the concentrations of dioxin that will be reported with the new EPA test procedure. AMSA has conducted a dioxin testing program and survey. The data will be needed by each agency for land application when the new regulations are promulgated.

It is now thought that the dioxin reassessment being completed by EPA could lower the acceptable limit from 300 to as low as 8 TEQ. Such a change would affect the ability to land apply biosolids. A recently released report is critical of the reassessment.

AMSA dioxin results were forwarded to participating POTWs in July. AMSA collected 199 samples from 171 POTWs located in 31 states and found dioxin concentrations ranging between 7.1-256 ppt-TEQ. A single outlier concentration of 3,590 ppt-TEQ was also found. AMSA is working with this particular POTW to re-test their biosolids to confirm this number. The following table presents the results of the analysis with non-detects set to one half of the detection limits:

	Total	(ppt-TEQ) Dioxin & Furans	PCBs
Average	48.5	38.4	10.0
Median	21.67	15.15	5.70

AMSA has finalized the report concerning the study and it is posted on AMSA's website (www.amsa-cleanwater.org).

On November 30, AMSA and other the consent degree parties agreed to allow the U. S. EPA to extend the deadline for finalizing the proposed dioxin Part 503 rule from December 15 to March 1, 2002. The extension would allow the U. S. EPA time to account for new information obtained from the ASMA survey results and on-going risk assessment.

On December 21, the U. S. EPA listed in the federal register a notice of its final determination that they will not impose numerical standards or management practices for dioxin and dioxin-like

compounds in sewage sludge that is disposed of at a surface disposal site or incinerated in a sewage sludge incinerator. In the notice the U. S. EPA stated that the final action to amend the Part 503 regulations for sewage sludge that is applied to land would be published separately at a later date

On April 1, 2002, all parties to the lawsuit agreed to a significant deadline extension for EPA to finalize regulations for dioxins in land-applied biosolids. After extensive negotiations and two interim extensions of the December deadline, the Joint Stipulation filed with the court this week allows EPA to take public comment on the new data, and gives the Agency until October 17, 2003 to finalize the regulations.

EPA published in the June 12, 2002 Federal Register a notice of data availability for the Round 2 Part 503 sewage sludge regulations. This document summarizes the new sewage sludge data and risk assessment for dioxin. Based on a revised risk assessment (probabilistic) for land application of sewage sludge, the Agency estimates that its highly exposed population to land-applied sewage sludge using the current cancer slope factor is very low, ranging from 2×10^{-5} to 1×10^{-6} . EPA had proposed a 300 ppt dioxin limit for land application of biosolids in 1999 and is inviting comment on whether setting such a limit would make no detectable difference in risk or if no further action or rulemaking should be taken. In addition, the Agency is inviting comment on whether a voluntary methodology should be used to identify, reduce, and eliminate sources of dioxin from entering wastewater facilities that contribute to occasional elevated levels of dioxin in sewage sludge.

Update: Tri-TAC prepared a comment letter which was submitted on September 10, 2002. The primary focus of the tri-TAC letter was to push for regulations based on sound science. The Letter also suggested that regulation is needed to assure the public that dioxins in biosolids are not a concern. There is also a need to "fix" the limits required for testing and the testing methods. This comment may be viewed along with all other comments on the NBP website www.biosolids.org.

Contact: Diane Gilbert City of Los Angeles
Current as of: October, 2002

4. CIWMB COMPOSTABLE ORGANIC MATERIAL REGULATIONS

New, draft regulations will make changes that require all composting facilities to have a full facility permit anytime there is any biosolids in the mixture. The question is what action to take next on this. The requirements do treat biosolids, manure, and every other product except green waste composting facilities the same. This was initially heard by the CIWMB on April 23, 2001.

The CIWMB chose not to do anything on these regulations at the April 23 2001 board Meeting. They plan to hold a number of meetings to get more stakeholders involved. This will be brought up again at the Boards June 19, 2001 meeting.

The CIWMB discussed the proposed composting regulations in their August 14-15 2001 meeting. The board decided to move forward with the proposed draft regulations and start the 45-day comment public period. The new draft regulations include biosolids, manure, and other municipal solid waste other than green waste in the same tier. This tier requires that any biosolids composted outside of the treatment facility would require a full solid waste facility permit. Biosolids composted at the treatment facility would require enforcement agency notification. Also research projects using biosolids would require only enforcement agency notification if 5000 or less yards are being composted.

The CIWMB proposed final regulations in early 2002 that essentially treat biosolids like other organics. The only concern is that the proposed regulations include a new low concentration limit for selenium of 36 mg/kg. This should be increased to the current 503-regulation concentration limit of 100 mg/kg. Comments have been made on these regulations and the CIWMB is determining if the selenium limit will be changed. The CIWMB held a hearing on May 14, 2002 to review the comments on the final regulation and after reviewing the comments decided to make some minor changes, but did not address our selenium concern. The Board decided to institute a 15 day comment period. The 15-day comment period extends from August 29 through September 13, 2002. The Board must receive written comments on the proposed changes no later than 5:00 p.m. on September 13, 2002

Update: Tri-TAC developed further comments which were submitted to the CIWMB on September 13, 2002. These comments addressed the selenium issue.

Contact: Diane Gilbert City of Los Angeles
Current as of: October, 2002

5. SOUTH COAST AQMD PR 1133

The first draft of Proposed Rule 1133 requires best available control technology of the PM10, VOCs, and ammonia for composting sludge drying beds and possibly storage areas. This would mean that all of these facilities would have to be enclosed and with off gas scrubbing.

The second version of the rule dropped sludge drying beds, but requires enclosure of everything at a composting facility. This proposed rule is of major concern to composters and the CIWMB,

since it will significantly drive up the cost to compost, especially for green waste composters. The CIWMB met on October 24, 2001 at the SCAQMD to address PR 1133. Composters and POTWs provided comments at this meeting.

A PR1133 Working Group meeting was held on February 19, 2002. This meeting assessed various scenarios for co-composting technologies. SCAP is performing its own studies on biosolids composting in order to provide the SCAQMD with accurate emissions data for the rule development. SCAP's Air Committee is actively involved in the rule development. SCAQMD staff will consider emission reduction effectiveness, costs, affordability, industry impact, public nuisance, health impacts, siting issues, and current industry plans to formulate a proposed rule recommendation.

Update: The AQMD recently held a workshop on PR1133. The AQMD broke this proposed rule into three basic phases. The first phase will regulate biosolids composting and it appears that they will require enclosure of the active composting and possibly full enclosure of curing and storage. The three phases are: 1. Chipping and grinding, 2. Green waste composting, and 3. Co-composting and biosolids composting. In addition, the AQMD is starting to look into regulating odor, noise, and vibration. The measurement of these associated parameters has been added to the SCAP study of composting emissions. In addition, the AQMD is also saying that they're looking at requiring negative pressure aerated static pile inside an enclosed facility. This would be regulating the techniques to meet their requirements. It would make a lot of sense for the AQMD to hold off on the action until at least the SCAP studies are complete. Tri-TAC agencies are actively commenting and working through SCAP on this issue.

Contact: Dan McGivney EMWD, Layne Baroldi OCSD
Current as of: June, 2002

6. NATIONAL ACADEMY OF SCIENCE REVIEW OF 503 REGULATION

The U.S. EPA is sponsoring an NAS Study to review the 40 CFR Part 503 Regulation relating to the management of Class B Biosolids.

The NAS Study Scope includes:

- Review the risk-assessment methods and data used to establish concentration limits for chemical pollutants in sludge to determine whether they are the most appropriate approaches. The committee will also consider the NRC's previous (1996) review and determine whether

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that report's recommendations have been appropriately addressed. Issues to consider include: (a) how the relevant chemical pollutants were identified; (b) whether all relevant exposure pathways were identified; (c) whether exposure analyses, particularly from indirect exposures, are realistic; (d) whether the default assumptions used in the risk assessments are appropriate; and (e) whether the calculations used to set pollutant limits are appropriate.

- Review the current standards for pathogen elimination in sludge and their adequacy for protecting public health. The committee will consider: (a) whether all appropriate pathogens were considered in establishing the standards; (b) whether enough information on infectious dose and environmental persistence exists to support current control approaches for pathogens; (c) risks from exposure to pathogens found in Class B sludge; and (d) new approaches for assessing risks to human health from pathogens in sludge.
- Explore whether approaches for conducting pathogens risk-assessment can be integrated with those for chemical risk-assessment. If appropriate, the committee will recommend approaches for integrating pathogen and chemical pollutant risk-assessments.

Susan Martel, is the National Academy of Sciences' liaison to the project. The Committee met on October 3 and 4, 2001 in Woods Hole, MA and began drafting the report. The committee met on December 10-11 in Irvine, California to work on the draft. The meeting was closed to the public. The goal is to have the report ready for peer review shortly after the meeting. If the committee feels that an additional meeting is needed to complete the report, another meeting will be scheduled in January to complete the draft. It is anticipated that the report will undergo peer review in February. NAS expected to deliver the final report to EPA by the end of May 2002.

The National Academy of Sciences' Report was released on July 2, 2002 entitled "Biosolids Applied to Land: Advancing Standards and Practices." The report's overarching finding are that "there is no documented scientific evidence that the Part 503 rule has failed to protect public health" further reinforcing what many years of operating history at numerous biosolids facilities have shown. The report also finds that there is a need to update the scientific basis of the Part 503 rule and the report's key recommendations to: use improved risk assessment methods to better establish standards for chemicals and pathogens; conduct a new national survey of chemicals and pathogens in sewage sludge; establish a framework for an approach to implement human health investigations; and increase the resources devoted to EPA's biosolids program. The press release issued on this report was negative and is being used by anti-biosolids groups.

Update: The Chair of the NAS Committee issued a second news release which somewhat softened the results, but does not undo the impact caused but the first press release.

*Contact: Bob Gillette Carollo Engineers
Current as of: October, 2002*

7. CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES MERCURY REGULATIONS

The Department of Toxic Substances has prepared a Draft Mercury Report which shows that there is a significant problem with mercury in the environment especially in fish tissue. Though the majority of the mercury is from legacy pollution i.e. gold and mercury mining they believe that there is a need for new mercury regulations. They have proposed five options:

1. Regulate all mercury containing waste as hazardous.
2. Regulate all waste with intentionally added mercury as hazardous waste.
3. Regulate all mercury containing consumer products—at the time they are discarded—as hazardous.
4. Develop a non-hazardous waste regulatory threshold number.
5. Status quo.

The staff prefers option 1. A hearing was held on November 19, 2001 in Sacramento, additional meetings to follow in Los Angeles – December 12, 2001, Oakland – December 3, 2001 and Fresno January 9, 2002. The Land Committee has submitted a letter and comments in support of sound science and option 4.

Tri-TAC members have provided verbal and written comments at the Sacramento, Oakland, and Los Angeles DTSC Mercury regulation workshops. It appears that DTSC understands the concerns

Update: In mid August of 2002, DTSC opened for public comment their proposed rule for mercury (see URL below). In recent months, DTSC has eliminated some earlier options that could have caused biosolids and waste to energy ashes to be classified as hazardous. Their proposed rule focuses on source control, which we recommended as being far more effective, and on mercury recycling. A quick rule summary follows. I'll have staff review in detail.

Four new categories of mercury-containing hazardous wastes are created:

- 1 Automotive switches. Auto dismantlers would be required to remove all undamaged mercury switches.
- 2 Non-automotive products with mercury switches. The entire product would be listed as a hazardous waste unless and until the switches are removed.

- 3 Mercury containing lamps. Certain high intensity and conventional fluorescent lamps are already regulated as hazardous or universal wastes. Low mercury content "non-hazardous" lamps would now also become subject to universal waste regulations. It is not expected that landfill operators could effectively exclude such lamps. Consequently, it is anticipated that generators will need to develop infrastructure to intercept and properly dispose of the lamps.
- 4 Mercury-added novelties. Novelty items containing mercury switches, button batteries or paint would be regulated. Such novelties will be banned by state law. This portion of the regulation repeats verbatim provisions from SB 633 and would take effect one year after the ban begins.

Universal waste rules would apply unless a waste is regulated as hazardous under federal requirements. Universal waste rules allow common carrier transportation with bills of lading rather than hazardous waste manifests. They also allow waste accumulation for up to one year without a permit. Universal waste rules had already been adopted for batteries and lamps, so the proposed rules are consistent with these.

Comments are due by September 30th; a public hearing will be held that day in Sacramento. From a quick reading, it does not appear that we would have significant concerns with this regulation.

http://www.dtsc.ca.gov/LawsRegulationsPolicies/Mercury/Mercury_prop_regs.html

Tri-TAC commented positively on the proposed new rule.

*Contact: Layne Baroldi OCSD, Margie Nellor LACSD
Current as of: October, 2002*

8. AB2356

This is proposed legislation dealing with pesticides in compost and specifically chlopirolid now. This law will help to regulate chlopirolid, study it, and determine what the problems are and what ought to be done to keep it and other pesticides from causing problems with compost. We encourage everyone to get copies of the bill, review it, and support the bill. It hasn't been moved to committee yet, but it is close to going to the appropriations committee for hearing and we need to support this bill.

Update: CASA provided comments in support of this bill and it appears to be moving through the Senate committees without opposition.

*Contacts: Layne Baroldi OCSD, Bobbi Larson CASA
Current as of: June, 2002*

9. LOCAL ORDINANCES

Kern County has developed a County Ordinance that will ban land application of all but exceptional quality biosolids by January 1, 2003. The Southern California Alliance of POTWs (SCAP) and several major POTWs in Southern California tried to work with Kern County to assist with development of the ordinance that addresses the need for local control and oversight of biosolids land application in a logical manner. This effort has been largely unsuccessful. The permanent ordinance is available on the Internet at <http://www.co.kern.ca.us/rma/rma.htm>. Controversial provisions include: \$8,000/year fee, \$3.37/ton road impact fee, soil sampling every 40 acres, dioxin concentrations must be below 10 ppb, no class B application after January 2003, 10 mph wind limit for spreading, etc. Exceptional quality biosolids products are exempt from the provisions of the ordinance.

A draft negative declaration (County of Kern (R0027)) for the adoption of the Biosolids Ordinance began circulation on August 13, 1999. The Board of Supervisors met on October 5, 1999 and adopted the Negative Declaration. The Board adopted the ordinance on October 13, 1999 and it became effective on January 1, 2000. The ordinance has onerous requirements for soils background monitoring (which may include every 40 acres for dioxins, PCBs, phosphorus, potassium, etc). Some tests are annual, and some are once every three years.

The City of Los Angeles, LACSD, OCSD, CASA, SCAP, and Responsible Biosolids Management filed a lawsuit against the new Ordinance on November 8, 1999. On December 7, 1999, a motion was filed to transfer the case out of Kern County. The judge agreed to move the trial to Tulare County. The hearing date was originally scheduled for May 15, 2000.

Kern County has filed a lawsuit against the agencies applying biosolids in the county for failing to perform an adequate EIR before application began. Judge Paul Vortmann ruled that Kern County complied with CEQA requirements during the development of the ordinance. The judge also ruled that the agencies had complied with CEQA. The judge did not rule on the other aspects of the case related to the validity of the ordinance.

A trial date is set for June 3, 2002 to hear the non-CEQA causes of action. There is concern that

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regulation of Class A biosolids may not be far behind. Generator representatives have recently met with the County staff who indicate that there are concerns with issues related to land application of Class A biosolids.

The draft summary judgment and motions was issued on May 22. Judge Vortmann provided a tentative ruling against all three of our causes of action. The case began to be heard on May 23 in Visalia. The following is a brief description of the causes of action and the court's tentative ruling. The entire tentative ruling is also attached:

1. The ordinance is invalid and unconstitutional because it violates the Commerce Clause: The tentative ruling said that the application of the ordinance to only unincorporated land reflects the constitutional limits on Kern County's police powers, and as such does not a discriminatory effect on interstate commerce. The tentative ruling also stated that Kern County's decision to allow only EQ biosolids to be land applied cannot run afoul of the commerce clause because this legislative policy choice is explicitly authorized by the federal Clean Water Act, Part 503, and state law. The Commerce Clause protects the interstate market, not particular firms, from burdensome regulations.
2. Ordinance is invalid and unenforceable because it conflicts with state and federal regulations "permitting" application of biosolids and because it is barred by the Equal Protection and Due Process clauses of the U.S. and California Constitutions: The tentative ruling denied the claim that the ordinance is invalid and unenforceable because it conflicts with state and Federal regulations permitting application of biosolids. The court found that Federal and State law has not preempted this field. Federal and State law expressly authorize the local regulation of biosolids. The Federal Part 503 regulations set minimum standards for the use or disposal of biosolids. The Federal Clean Water Act states the determination of the manner of disposal or use of sludge is a local determination. Although there may be language in the cases cited about an outright ban is prohibited when regulated use is already permitted, the regulation being considered in those cases completely banned either firearms, fireworks, or electroshock. None of the cases cited on this issue pertained to the application of biosolids. Additionally, the ordinance herein does not completely ban the applications of biosolids, just Class B biosolids. Thus, the court does not find that the ordinance is in conflict with Federal and State law. The court finds that there was a rational basis to a legitimate state purpose. Kern referenced its health and safety concerns and the fact that a local road was having to be closed because of the damage caused by trucks hauling biosolids. A "study" determined the relationship of the damage to the road by the haulers of biosolids and the proposed fee to pay for the maintenance needed. Having found a rational basis for the ordinance, the court found that the ordinance did not violate the equal protection and due process clause.
3. The impact fees are invalid and unenforceable because it constitutes an illegal general and special tax, which required voter approval prior to adoption. The third cause of action alleges the Biosolids Impact Fee provision of the Ordinance is invalid because it is a special tax,

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a general tax, an invalid assessment, improperly uses revenues for unrelated purposes, and violates the Equal Protection and Due Process Clauses of the state and federal constitution. The tentative ruling found that the impact fees are bona fide regulatory fees, i.e., the record needed only demonstrate a reasonable relationship between the fees to be charged and the estimated cost of the service or program to be provided.

Update: The trial was held on June 3, 2002. No oral testimony was taken and the administrative record was originally to be the basis of the decision. The judge then decided to allow a written brief, which is due July 15, 2002. Kern County will have until August 9, 2002 to respond to the brief.

Contact: Layne Baroldi OCSD
Current as of: June, 2002

Kings County has decided to implement local regulation of biosolids. *Kings County* has 23,000 acres permitted for biosolids land application. The *Kings County* Agricultural Commissioner initially proposed a form of agreement between his office and land appliers to allow local inspection and record keeping. *Kings County* only has two permitted biosolids land application sites. *Kings County* circulated a draft ordinance among staff which allows land application of Class B biosolids. The Draft Ordinance did restrict biosolids application to sites in only a portion of the County and at least 2 miles away from schools and sensitive receptors. *Kings Co.* Agricultural Commissioner held a meeting with the *Kings Co.* Farm Bureau, County Counsel, Biosolids appliers, and water interests on September 26, 2000 to discuss the ordinance.

The ordinance was drastically changed so that it now bans Class B biosolids in February 2003. The current ordinance allows for the use of Class A EQ biosolids until February 2006 and then only Class A EQ Biosolids in the compost form will be allowed. This was essentially adopted pending completion of CEQA documentation.

A lawsuit was been filed against the ordinance, which was heard on November 16, 2001. An appeal by the Orange Co. Sanitation District for extended time on their permit was heard on Nov. 6, 2001, and in December.

There is discussion that the ordinance's definition of Class A EQ biosolids could be expanded from having compost being the only type of acceptable Class A EQ biosolids to include any of the initially adopted 503 Appendix B PFRP processes.

The lawsuit against the ordinance was heard, on November 16, 2001. The court found in favor of the County and the ordinance. The Orange Co. Sanitation District request for extended time on their permit was denied. The court decision on the adequacy of the CEQA compliance document

was appealed.

Orange County filed an appeal on the Board of Supervisors decision to not extend their use of Class B biosolids land application. This appeal was denied.

Update: McCarthy Farms has submitted a request for a Class B permit extension which was to be heard on July 15, 2002. This request has been withdrawn by McCarthy Farms pending a tour of the ranch by the Kings County Supervisors. Orange County filed a lawsuit on the ruling on their appeal on the Board decision to not extend their use of Class B biosolids land application. There is also a composting facility that is presently going through the CEQA process. On a related matter, there are hearings on the dairy elements of programmatic EIR where pathogen issues could be related biosolids.

*Contact: Layne Baroldi OCSD
Current as of: August, 2002*

–Riverside County - In response to complaints and local demonstrations during biosolids land application at some sites, Riverside County is considering a revision of their ordinance that could possibly ban Class B biosolids. Regulators, generators, and applicers are meeting to address and resolve issues.

On March 20, 2001, after almost three hours of testimony, the Riverside County Board of Supervisors (Board) postponed their vote on two biosolids related agenda items; the approval of the Riverside County Health Services Agency's report on the "Health Effects Related to the use of Pesticides and Sewage Sludge" (Report), and the proposed prohibition of land application of biosolids on County owned land. The Report affirmed that the existing regulations provided adequate health and safety measures to protect the citizens of Riverside County finding that "[t]he minimal risk of disease transmission or causation makes the adoption of any additional mitigation, up to and including a full ban, a policy decision based on the quality of life issues as opposed to a Public Health necessity." The Report also determined that the quality of life issues "apply equally to the similar uses of manure." Subsequent to the Report, Riverside County staff concluded that virtually all complaints attributed to biosolids were the result of manure use.

The Board instructed staff to form a "Blue Ribbon Committee" to address the issues surrounding the land application of biosolids. The Committee will be limited to eight individuals, formed by the Board, from a pool of representatives of the Riverside County Farm Bureau, scientist from the University of California at Riverside, Riverside County regulators, concerned citizens and the biosolids industry. It is anticipated that the committee will provide a report to the Board within sixty days of its formation.

The “Blue Ribbon Committee” was to look at two issues: 1) a ban on land application of biosolids on publicly owned land and 2) a review of the Health Department Report. A preliminary report was due out of the group by June 5 2001 with the final due June 15, 2001.

A draft ordinance banning land application of Class B biosolids was made available October 24, 2001. Staff implemented a policy requiring half-mile setback of application of Class B material from all buildings. This effectively implemented a ban on all but 600 acres in the County. The final ordinance banning land application of Class B biosolids has been enacted. Land application in the County has ceased except for some in-County Class A solar dried biosolids. The Ordinance banning Class B biosolids land application was adopted in November 2001.

Riverside County is in the process of developing a Class A biosolids ordinance which will probably include buffer zones. The County would like to do is distinguish between Class A biosolids that is objectionable to neighbors and Class A biosolids that is not objectionable.

Update: An ordinance regulating Class A has been drafted and is being reviewed. The Board of Supervisors is not actively pushing the implementation of a Class A ordinance at this time. In response to local anti-biosolids activist comments on the National Academy of Science (NAS) biosolids Report, the Riverside County Board of Supervisors directed its Community Health Agency to review the NAS Report and to report back on August 13th on the Report’s implications with regard to land application of biosolids in Riverside County. Specifically, staff recommended:

1. That the Prohibition of the land application of Class B Sludge, instituted under Riverside County Ordinance No. 812, and codified as County Code Chapter 8.129 remain in effect, and;
2. Riverside County Ordinance No. 812, codified as County Code Chapter 8.129, be amended, or an additional Ordinance be developed, to prohibit the land application of bulk (un-bagged) quantities of all Class A material.

Riverside County staff chose to emphasize the many “uncertainty” (i.e., need for additional research only, etc.) quotes found in the NAS report as a basis for their recommendation. These “uncertainties” included:

1. That the “unanswered questions about the safety, environmental effects and propriety of land application of sewage sludge” referenced in the 2001 Prohibition of Land Application of Class B Sludge remain unanswered, thus confirming support for the continued prohibition of the practice, and

2. Similar unanswered questions are raised regarding the safety of Class A sludge processing and application, which suggest consideration of restrictions, if not a similar outright prohibition.

In its staff report, Riverside County stressed that “additional scientific work is needed to reduce persistent uncertainty about the potential for adverse human effects from exposure to biosolids. There have been anecdotal allegations of disease, and many scientific advances have occurred since the Part 503 Rule was promulgated. To assure the public and to protect public health, there is a critical need to update the scientific basis for the rule to (1) ensure that the chemical and pathogen standards are supported by current scientific data and risk assessment methods, (2) demonstrate effective enforcement of the 503 rule, and (3) validate the effectiveness of biosolids management practices”.

“In Summary [Riverside County stated]:

- 1 We are unable to determine that the practice is safe,
- 2 We are unable to determine that the practice is unsafe, unhealthy or is otherwise responsible for public health impacts,
- 3 Standards must be developed using currently accepted, up-to-date scientifically valid analytical methods.”

The staff report went on to say “while there are a wide variety of processes that can be used to achieve Class A standards, none reduce heavy metals or chemicals; and with regard to the adequacy of the chemical risk analysis, the Report makes no distinction between Class A and Class B sludge. Absent other restrictions, there is a real potential that past or future applications of Class A sludge may include harmful chemicals for which the standards have not been established using current risk analysis standards, or for which standards were never adopted.”

During the public comment period, the Board heard from several speakers in opposition to a ban on Class A biosolids. No anti-biosolids comments were made. The speakers represented Synagro, Coachella Water District, the City of Corona, the Riverside County Farm Bureau, the University of Arizona (Dr. Chuck Gerba), Industrial Recycling Services, and Precision Soil Products. The speakers stressed waste diversion, lack of biosolids management options, increase in truck traffic, adverse impact on business, increased costs, etc... The Board, especially Supervisor Buster, was concerned over the importation of Class A biosolids and stressed that each county should manage its own biosolids....

The Board concurred with Staff’s first recommendation to continue the ban on the land application of Class B biosolids but continued for 180 days a decision on the second recommendation, pending additional review of the NAS report by

a yet to be assembled committee to be chaired by Dr. Gary Feldman, Director of the Riverside County Community Health Agency. It is expected that Dr. Ian Pepper, microbiologist from the University of Arizona and a member of the 16-member NAS Report team will be on Dr. Feldman's committee. As with the Class B biosolids committee, the committee is to consist of members from farming, local POTWs, anti-biosolids activist, Synagro, Riverside County staff, and academia.

*Contact: Anne Briggs EMWD, Layne Baroldi OCSD
Current as of: August, 2002*

The *San Luis Obispo County* Board of Supervisors has instituted a six months process to develop an ordinance for land application of biosolids. The Board has established a committee made up of 27 individuals including County Staff, Cal Poly Academicians, farmers, business leaders, and several from a group in opposition to biosolids land application. They have hired several consultants to work with them in the preparation of this ordinance.

The County Department of Environmental Health is charged with putting out regulations of land application of biosolids. They have put together a panel that is very divided and covers the range from anti biosolids activists to land appliers. All of these will have a vote. They have recently brought in a new facilitator, John Wallace. It appears that, as a minimum the final ordinance will be more restrictive than the 503 regulations and the Statewide General Order.

The Task Force has completed their work, and the facilitator has prepared draft recommendations for submission. The draft recommendations were voted approval at a September 19, 2001 meeting. The recommendations have been given to the Environmental Health Department for presentation to the Board of Supervisors and development of an Ordinance. The recommendation should be going before the Board of Supervisors in December.

The recommendations will allow biosolids land application with some restrictions beyond the current requirements. The recommendations should allow reuse of all of the biosolids generated within the County on existing sites until a formal ordinance is prepared and adopted. The recommendations were presented to the Board of Supervisors on March 12, 2002.

Update: Staff has prepared a draft interim ordinance that has been circulated once for review. This interim ordinance sunsets in one year, limits land application to Class A EQ biosolids only, and limits the amount that can be applied to 2500 cubic yards a year.

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*Contact: Bob Gillette Carollo, Diane Gilbert City of LA
Current as of: July, 2002*

Solano County, A local anti-biosolids activist has requested that the current County Ordinance be revised to prohibit land application of Class B biosolids. The Board of Supervisors requested that this be brought back to them in August with staff recommendations.

Update: The Solano County Board of Supervisors meeting August 27, 2002 ended with a 5-0 vote to impose a County moratorium on the land application of Class B biosolids, beginning October 15, 2002. This was despite Solano County staff's recommendation to continue the existing ordinance, which they consider as protective of public health. The Supervisors are placing the "onus" of scientifically demonstrating that biosolids do not cause public health issues on Synagro and the generators, before the moratorium would be lifted.

Dr. Ian Pepper's bioaerosol research, conducted earlier this month in Solano County (as well as 16 other sites in California and Arizona) has yet to find any human pathogens transported from biosolids sites. The study will be completed next spring.

Lauren Fondahl (EPA), Johnny Gonzalez (SWRCB), Dr Ian Pepper (Univ of Arizona), Vallejo Sanitation & Flood Control's GM, A Fairfield-Susun manager and several folks from Synagro spoke, as well as 4-5 farmers supporting Class B biosolids recycling. Tri-TAC submitted a letter supporting the current ordinance and staff's recommendation.

There were about 15 speakers, mostly residents of Rio Vista, who spoke out against land application. Their concerns ranged from odors to horses, cats, goats and dogs who had died, as well as people who think it's causing asthma, flesh-eating bacteria, etc. There was no scientific evidence at all that biosolids caused any of these incidences. Ultimately, the Board of Supervisors appeared to be responding to a roomful of people (~75), most of whom were against biosolids, cheering loudly after each person spoke in opposition to land application.

*Contact: Ed McCormick EBMUD, Bob Gillette Carollo
Current as of: August, 2002*

**Tri-TAC WATER COMMITTEE
JULY 11, 2002 MEETING**

ISSUE SUMMARY

1. 303(d) LIST/TOTAL DAILY MAXIMUM LOAD (TMDL) ISSUES

Background: Under Section 303(d) of the Clean Water Act and associated USEPA regulations, States are required to list water bodies for which water quality standards will not be met after application of technology-based controls, establish priorities for action among the listed water bodies, establish total maximum daily loads (TMDLs) that each listed water body can receive to meet water quality standards, and determine reductions in pollutant loads from point and non point sources to achieve the TMDL. The next 303(d) list is required to be submitted by April, 2002. Under the new regulations (which are expected to go into effect by that time) the 303(d) lists will be prepared every 4 years.

EPA's TMDL Regulations: EPA issued draft regulations pertaining to 303(d) listing and TMDL development in August 1999. Numerous changes to the existing TMDL program have been proposed in the draft regulations. Comments on the draft EPA regulations were made in January 2000. EPA received an enormous volume of comments on the proposed regulations. A number of congressional hearings have been held to hear testimony on this topic. EPA issued the final regulations on July 13th, 2000 and a 60-day Congressional Review period went into effect after the regulations were issued. The regulations have a delayed effective date of April 30, 2003. In 2001, EPA held numerous listening sessions throughout the Country to get input on potential revisions to the adopted regulations. Draft regulations are expected to be released sometime in 2002 for review. With regard to listing, in November 2001, EPA released its *2002 Integrated Water Quality Monitoring & Assessment Report Guidance* ("integrated report guidance") that for the first time integrates state development and submission of the Clean Water Act's 305(b) water quality reports and 303(d) lists of impaired waters. The release of the integrated report guidance was one of several reasons EPA listed for extending the deadline for the next state 303(d) lists until October 1, 2002.

California's 1998 303(d) List: The SWRCB adopted the statewide 1998 303(d) list on May 27, 1998. EPA took final action on California's 1998 303(d) list in May 1999, adding 37 water bodies and 12 pollutants for other water bodies, including dioxin for San Francisco Bay.

Development of California's 2002 303(d) List: On April 2, 2002, the State Water Resources Control Board issued a draft of the section 303(d) list for 2002. The SWRCB held three hearings on the proposed list in May and accepted written public comments through June 15, 2002. SWRCB staff is in the process of reviewing the comments and will release a revised draft list in late summer. The SWRCB is expected to approve the final 2002 list in October for submittal to the USEPA.

Tri-TAC submitted two comments letters on the draft list (dated May 17, 2002 and June 17, 2002) and presented testimony at the May 23, 2002 hearing.

California 303(d)/TMDL Lawsuits: In December 1997, the Natural Resources Defense Council (NRDC) and two other environmental groups sent a Notice of Intent to Sue the EPA over the failure of the Los Angeles RWQCB to adequately implement the 303(d) and (e) program. As a result of a settlement agreement between the parties, EPA adopted a consent decree establishing a schedule for completion of TMDLs in Region 4.

In northern California, the San Francisco Baykeeper filed a similar Notice of Intent to Sue with EPA Region 9 in October 1998 for the San Francisco and Central Valley Regions. On January 12, 2000, the San Francisco Baykeeper, San Diego Baykeeper and CalPIRG filed a lawsuit against EPA alleging failure to properly implement the TMDL and NPDES permit programs in California. CASA filed a similar suit against EPA regarding a failure to properly implement Section 303(d), 305(b) and other sections of the Clean Water Act. The Cases have been consolidated by the Court, which denied the BayKeeper's Motion for Summary Judgment to establish TMDL schedules for all waters in California that are not already subject to consent decrees. BayKeeper has appealed the decision. The Ninth Circuit upheld the trial court on appeal, and Baykeeper has filed a motion for re-hearing... CASA's remaining claims are scheduled to be briefed this Fall. CASA has dismissed its remaining claims.

In June 1998, Sacramento Regional County Sanitation District (SRCSD) filed a lawsuit against the SWRCB and Central Valley and San Francisco RWQCBs, alleging that the 1998 303(d) list is invalid due to the states failure to comply with provisions of the Clean Water Act, the Porter-Cologne Act, the Administrative Procedures Act, and the California Environmental Quality Act. CASA and SCAP joined as plaintiffs in this lawsuit; NRDC intervened on behalf of the State. A hearing for summary adjudication on two issues emerging from the CASA/Sacramento lawsuit against the SWRCB over the 1998 303(d) list was held in Sacramento Superior Court in November 1999. The court ruled in favor of the State on both issues. The remaining issues were heard by the court in August 2000, and the court ruled in favor of the State on all issues. CASA, SCAP and Sacramento have appealed. The case is fully briefed and pending oral argument in the Court of Appeal., and filed their opening briefs with the Court of Appeal.

The Farm Bureau filed a federal lawsuit seeking to have a TMDL for the Garcia River (north coast of California) overturned, based on the Administrative Procedures Act. This lawsuit questioned whether non-point sources fall under the 303(d) and TMDL regulations. AMSA intervened in the lawsuit in support of EPA's authority to address non-point sources under the TMDL program. Forestry associations also intervened, in support of the Farm Bureau. A federal court found in favor of EPA in March 2000. The Farm Bureau's appeal in the 9th Circuit Court of Appeals is proceeding. The 9th Circuit Court of Appeals upheld the trial court in a decision issued on May 31, 2002.

TMDL Legislation: State legislation (AB 982) was enacted requiring the formation of an advisory group to evaluate the California TMDL program. A Public Advisory Group (PAG) has been established under this authority. Bobbi Larson of CASA and Vicki Conway of LACSD are the POTW member and alternate, respectively. The group is has developed consensus recommendations regarding a statewide ambient monitoring program and is finalizing its report on other elements of a TMDL program for California. The PAG submitted its report evaluating the State's program to the Legislature in February 2001. The PAG is continuing to meet, including subgroups who are offering recommendations to the SWRCB on the listing process.

CASA is working to develop proposed language for a federal Clean Water Act amendment to address TMDL issues.

TMDL Guidance in California: EPA Region IX released a public draft of TMDL guidance for California. Tri-TAC provided formal comments on the draft TMDL guidance document in a letter dated November 30, 1999. The guidance reflects EPA's legal view of minimum federal requirements for TMDLs and fails to require or endorse positions advocated by Tri-TAC and CASA.

TMDL-related Permit Issues: New NPDES permitting procedures emerged in the San Francisco Bay region for pollutants contained on the 1998 303(d) list. EPA Region IX indicated that it would object to permits issued by the Regional Board that did not contain the following elements:

(1) no dilution allowance for 303(d)-listed pollutants in performing reasonable potential analyses or setting final effluent limits; (2) mass limits for bioaccumulative 303(d)-listed pollutants based on current performance; and (3) final mass limits of zero (“no net loading”) for bioaccumulative pollutants. These requirements are similar in many respects to positions advocated by the San Francisco Baykeeper in numerous appeals filed on Bay area permits. In February and March, 2000 two Tosco refinery NPDES permits were adopted with these provisions in place. Each of these permits was appealed.

The San Francisco Regional Board has included in many subsequently issued NPDES permits for POTWs provisions similar to those contained in the Tosco permit. The Central Valley Regional Board placed similar requirements in Sacramento Regional's permit, and draft permits prepared by the LA Regional Board have proposed even more onerous requirements. It is hoped that these provisions will be removed upon remand or permit modification.

USEPA Region IX issued draft permit guidance dated April 20, 2000, which sought to codify the above-described permitting approach for California for 303(d)-listed pollutants prior to the adoption of TMDLs. Tri-TAC submitted comments on the draft guidance. Western State Petroleum Association (WSPA) filed a federal lawsuit challenging EPA's draft guidance document for NPDES permitting procedures prior to adoption of a TMDL. In addition, both Congress, Chuck Fox, the former Assistant Administrator for Water, directed EPA regions not to implement regional guidance in advance of a national policy/guidance on interim permitting, but Region IX has ignored these directives. At that time, EPA indicated it intended to issue national guidance on this topic, but this effort waned in 2001. However, in the Spring of 2002, EPA intends to issue guidance on development of ambient mercury criteria, which will include a section devoted to interim permitting.

The SWRCB conducted a two-day evidentiary hearing on the challenged “Tosco” permits in September 2000. On March 7, 2001, the SWRCB issued its decision in the appeals of the Tosco permits. The decision addressed the interim permitting issues in a way generally favorable to the regulated community's positions. The findings included:

- The no-net loading and criterion end-of-pipe limits in the findings of the permits are inappropriate; instead, the permit findings should simply state that the final WQBEL will be based on the TMDL.
- 303(d) listing alone is not a sufficient basis to conclude that a water body lacks assimilative capacity
- The arguments related to allowing dilution in the reasonable potential analysis have been mooted by the adoption of the SIP;
- Interim, performance-based mass limits for refineries are appropriate, but should be calculated using different statistical methods that account for historic variability in the effluent.
- The decision left open the question of whether interim performance-based mass limits are appropriate for POTWs, as that issue was not specifically before the SWRCB in the appeal of these industrial permits. However, in the subsequent Napa Sanitation District appeal decided Dec. 5, 2002, the SWRCB held that interim performance-based mass limits are appropriate for POTWs. That decision has been appealed to Superior Court.

Update: USEPA did not meet its stated goal of issuing its revised draft TMDL (or “Watershed Rule”) by June 20, 2002. EPA staff briefings on the revisions being considered have highlighted the following proposed changes to the 2000 Rule:

? Intergated 305(b) water quality assessments and 303(d) lists are to be submitted evry 4 years rather than every two years;

? Waters are to be included on a multi-part list that incorporates the concept of a “watch/need more information” category;

? Permits for discharges to impaired waters may allow special considerations if total point source contributions are “inconsequential.”

? Each TMDI must demonstrate that nonpoint source load allocations are “technically achievable” in order to provide reasonable assurances.

The RWQCBs were directed by the SWRCB to submit their draft 2002 303(d) lists to the SWRCB by the end of October, 2001. The RWQCBs submitted their lists as compiled by the staffs of each of the RWQCBs without formal action by the individual boards. The SWRCB is expected to put the final list out in early 2002 for public comment, and make an October 1, 2002 deadline for submission to EPA.

WSPA dismissed its lawsuit on the interim permitting guidance after the Tosco decision and EPA’s subsequent “repeal” of its guidance.

*Contacts: Melissa Thorme, Downey Brand; Margie Nellor, LACSD; Bobbi Larson, CASA;
Current as of: March 6, 2002 June 29, 2002.*

2. CALIFORNIA TOXICS RULE (CTR) / PROPOSED STATE IMPLEMENTATION POLICY (SIP)

The State Water Resources Control Board (SWRCB) was required to adopt water quality objectives for priority pollutants under the Clean Water Act, Section 303(c)(2)(B). SWRCB originally adopted the Inland Surface Water Plan/Enclosed Bays and Estuary Plan (ISWP/EBEP) in 1991, but both plans were rescinded in 1994 in response to a court order. As a result, USEPA began efforts to promulgate the California Toxics Rule (CTR), which was published a draft in the Federal Register on August 5, 1997, and finalized on May 18, 2000. The draft CTR included proposed numeric water quality standards for those EPA priority pollutants, which were not covered by the 1992 National Toxics Rule. An economic assessment of the effect of the proposed standards (primarily looking at point sources) was also developed.

EPA conducted a formal consultation process with the U.S. Fish & Wildlife Service and the National Marine Fisheries Service to resolve issues regarding the draft CTR for several years. This protracted process was the result of a finding by the Services that the CTR standards would be likely to jeopardize the continued existence of numerous endangered and threatened species found in California.

In conjunction with the CTR, the SWRCB developed and released a draft Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bay, and Estuaries of California (State Implementation Policy, or SIP) and functional equivalent document (FED), which became for public comment during Fall 1997.

SWRCB issued a Second Draft SIP and FED in November 1999 for public review. The SWRCB prepared a revised economic analysis for the Second Draft SIP. SWRCB issued a Third draft of the SIP in January 2000. A fourth draft of the SIP was provided to attendees of a March 2, 2000 Board meeting, at which time the SWRCB adopted a Revised Version of the fourth draft, which became effective upon USEPA promulgation of the CTR in May 2000 (*Federal Register*, May 18, 2000, following an extensive public review process). NPDES permits now must be written to incorporate the provisions of the SIP and CTR.

When the SIP was adopted, dischargers raised concerns about their inability to find laboratories that could perform analyses that met all of the minimum levels (MLs) adopted in the SIP. The SWRCB conducted a survey of laboratories in October 2000 to gather additional information about this issue. This is also a concern for the California Ocean Plan amendments adopted by the SWRCB in November 2000.

Environmental groups filed a lawsuit against the SWRCB in May 2000 challenging the SIP. CASA and the Western States Petroleum Association both joined the suit as intervenors on the side of the State Board. The judge ruled in favor of the SWRCB, CASA and WSPA on all claims. The environmental groups have appealed. The only issue remaining in the lawsuit is the legality of the use of MLs for compliance determination.

In early May of 2000, EPA issued its a letter conditionally approving the SIP. EPA approved most provisions of the SIP, subject to its understanding of the proper interpretation, but withheld action on the compliance schedule provisions which allows up to 15 years for a TMDL to be developed and 5 years for compliance with the wasteload allocations derived from the TMDL (for a total of up to 20 years). In light of EPA's action, the status of these compliance schedule provisions is unclear.

State Board staff began work on Phase II of the SIP, which will include policy provisions relating to effluent dependent waters (EDWs), as well as the development of technical guidance regarding

site-specific objectives and mixing zone delineation. Two public meetings were held regarding EDWs on February 28, 2001 in Los Angeles and March 14, 2001 in Sacramento. Additional information about Phase II efforts can be obtained from Chris Bailey, SWRCB Freshwater Standards Unit, 916/341-5571.

Update: None The State Board will release a document shortly that will contain procedures for applying for a case-by-case exception to the SIP. The intent is to provide a roadmap so there are no surprises. The State Board expects to release a draft of the SSO guidance for comment in Fall 2002. As for the EDW policy development, State Board staff expect to resume efforts on this front following a decision on the Vacaville permit appeal, which is expected in late summer or early fall. State Board staff are also beginning to work on the development of an implementation policy for EPA's methylmercury fish tissue criteria.

*Contacts: Bobbi Larson, CASA; Sharon Green, LACSD;
Current as of: June 27/March 6, 2002*

3. ENFORCEMENT ISSUES – Mandatory Minimum Penalties

SB709: SB 709, which established discretionary pollution prevention programs and mandatory minimum penalties for NPDES violations, became effective as law on January 1, 2000. SWRCB issued guidance on SB 709 implementation in December 1999.

Tri-TAC sent a letter to the SWRCB regarding chlorine residual limit compliance determinations and reporting. SWRCB has responded to say they are considering this issue. In the Bay Area, Regional Board staff has indicated a willingness to consider additional monitoring information (e.g. sulfur dioxide or bisulfite monitoring) in defining chlorine violations.

SB 2165: The follow-up legislation, SB 2165 (Sher) was chaptered on September 28th, 2000. This bill modified the original law by allowing for some relief for dischargers issued Time Schedule Orders. The SWRCB issued an updated Question and Answer memorandum for the implementation of Minimum Mandatory Penalties in 2001. The document is located on the SWRCB website at http://www.swrcb.ca.gov/water_laws/index.html.

In October 2000, the SWRCB issued a draft enforcement policy. Tri-TAC and CASA submitted extensive comments and testified a hearing in early 2001. In October 2001, the policy was re-released with extensive revisions, many of which incorporated Tri-TAC and CASA's recommendations. The document was revised again in December 2001, in advance of a hearing held in January 2002. Tri-TAC and CASA submitted comments again, including specific wording changes for the remaining issues of concern.

Update:

The SWRCB adopted amendments to the Enforcement policy on February 19, 2002. The final version can be viewed at <http://www.swrcb.ca.gov/plnspols/index.html#waternews>. It incorporated essentially all of the Tri-TAC and CASA recommendations. A summary of the key provisions can be found (we should put Bobbi's memo on the Tri-TAC website).

*Contact: Margie Nellor, LACSD
Current as of: March 6, 2002*

4. OFFSETS/POLLUTANT TRADING

The concept of pollutant offsets and/or pollutant trading has re-emerged in numerous forums as a by-product of the 303(d) and TMDL process. Pollutant offsets are being discussed as one of several options that dischargers may have to comply with restrictive wasteload allocations resulting from TMDLs. A major issue is whether pollutant offsets will be voluntary or required. In its proposed NPDES regulations to address permitting while TMDLs are being developed, USEPA proposed a mandatory offset program. Some NPDES permits in the San Francisco Bay area still include a finding that suggests that “no net loading” is a feasible wasteload allocation decision for specific pollutants. The concept of “no net loading” presumes that existing and future loadings from a discharger to a 303(d)-listed water body would be offset by reductions in other sources of the pollutant in question. For practical purposes, this is being viewed as a mandatory offset approach for many dischargers. A draft mercury TMDL wasteload allocation document prepared by Regional Board staff includes a discussion of a pollutant offset program that may be considered for the San Francisco Bay area.

Tri-TAC formed a workgroup to produce a position paper on pollutant offsets. The work group started with the 1996 Tri-TAC pollutant trading document and modified it to address current issues and approaches. Workgroup meetings have been held and drafts produced for comment. The current draft of the offset position paper is dated September 11, 2000.

Based on the actions of some regional boards to place offset requirements in discharge permits, the Tri-TAC Water Committee addressed this issue to the SWRCB at its presentation to the Board on October 4. Terry Oda, from EPA Region IX, has asked members from POPS to discuss the development of an offset program with EPA and the USGS. No meeting dates have been set yet.

Update:

At this time, the SWRCB is not planning to adopt an Effluent Trading Program; however, the Office of Chief Counsel drafted guidelines for trading. Tri-TAC will work from our set of principles in hopes of helping the state to develop reasonable guidelines for effluent trading in California. These guidelines could then be used for the voluntary development of site specific trading plans to approach specific problems. Meanwhile, EPA is developing a water quality trading policy that may be modeled after regulations being developed in Michigan. Tri-TAC provided input to AMSA on key issues that should be addressed in the policy. It is expected that that EPA policy will be released in the summer of 2002.

*Contact: Monica Oakley, LWA; Phil Bobel, Palo Alto; Jim Colston, OCSD
Current as of: August 10th, 2000*

5. CALIFORNIA OCEAN PLAN AMENDMENTS/FUNCTIONAL EQUIVALENT DOCUMENT

The Draft California Ocean Plan Amendments were issued for public comment during early September, 2000. Issues included the adoption of an Acute Toxicity Objective to replace the current acute toxicity technology based standard; new water quality objectives, new compliance determination using minimum levels; formatting and administrative changes; and new uses and proposed use nomination process for ASBS, OSRW and ONRW. Tri-TAC submitted comments jointly with SCAP and CASA in September and October 2000 .

Tri-TAC members attended the adoption hearing which occurred on November 16, 2000. All draft amendments to the COP were adopted except those related to the development and nomination of OSRW and ONRW. Tri-TAC, in conjunction with other interested dischargers,

submitted detailed comments related to the development and nomination of OSRW and ONRW. This issue was held over for further consideration at a January, 2001 hearing, which was later extended indefinitely. The final COP did include replacing the former freshwater acute toxicity test with an updated marine acute test that uses a mixing zone.

Update: The amended COP was adopted by the SWRCB and approved by OAL. In December 2002, the EPA issued final approval of the plan. The amended plan is available at <http://www.swrcb.ca.gov/plnspols/oplans/op2001.pdf>.

Contact: Margie Nellor, LACSD; Sharon Green, LACSD; Jim Colston, OCSO
Current as of March 6, 2002

6. PERMIT ISSUES

A. Appeals

The majority of recently issued POTW permits throughout the State have been appealed, challenging, among other things, the regional boards' use of narrative water quality objectives to impose stringent effluent limitations.

The City of Los Angeles/ Burbank appeals yielded a favorable initial ruling from a Los Angeles Superior Court judge, who determined that the regional board failed to consider economics, potential environmental impacts and other public interest factors when adopting the permits, as required by the Porter-Cologne Water Quality Control Act and Clean Water Act. The judge also found that the regional board failed to "bridge the analytical gap" between narrative standards and numeric limits, and failed to state how it intended to translate narrative water quality objectives into numeric permit limits, as required by federal regulations (40 CFR 131.11(a)(2).)

The Attorney General (AG), representing the SWRCB and LARWQCB, appealed of the LA/Burbank decisions. The cities has simultaneously filed an appeal of the judge's denial of attorney's fees. Hearings are expected late 2002. The AG did not appeal all of the issues decided in the case. Issues not appealed included the overruling of daily max permit limits for POTWs, the invalidation of language prescribing particular manner of compliance, and the determination that the regional board failed to "bridge the analytical gap" between narrative standards and numeric limits. These unappealed items are now "law of the case" and will apply to the reissued LA and Burbank permits (and arguably any other similar permits issued by the Regional Board (and State Board?) as they are parties bound by the decision. How this decision will be used by the state when issuing new permits remains to be seen.

Similar issues regarding the use of narrative criteria were at issue in a lawsuit filed by the University of California, Davis, challenging a permit issued by the Central Valley Regional Water Quality Control Board. The judge in that case upheld the permits, reaching a conclusion opposite to that in the LA/Burbank case. The judge ruled that the use of federal advisory [304(a)] criteria was "within the [regional board's] discretion," and that the permit was "an application of the narrative toxicity objective, not an interpretation of it."

The City of Turlock has filed a petition for writ of mandate with the Stanislaus County Superior Court and received a temporary stay and order to show cause why the stay should be lifted. The case and the judicial stay were dismissed because the State Board acted to

independently stay the permit pending decisions in other similar cases (e.g., Napa and Vacaville).

After receiving a dismissal of its stay request by the SWRCB, the Napa Sanitation District filed a petition for writ of mandate with the Napa County Superior Court along with a Motion for Stay of portions of the permit. The case was subsequently transferred to Solano Superior Court and the Bay Area Clean Water Agencies have been added as a Petitioner. An administrative stay from the SWRCB and a supplemental judicial stay are in place until the writ appealing the permit and the SWRCB's order on the permit is decided.

The SWRCB heard the City of Vacaville's Permit appeal on September 11-13th. CASA/SCAP/Tri-TAC were consolidated as one party in this evidentiary hearing. Other parties include the City of Turlock, LACSD, DeltaKeeper, and Heal the Bay/Southern California Keepers.

Update:

The Vacaville Permit Appeal continued with a site visit for State Board staff and Member Pete Silva in February 2002. A draft decision is not expected to be released in Summer until mid-2002.

Southern California dischargers sued EPA over approval/disapproval of the 1994 Basin Plan for Los Angeles. The favorable decision and subsequent re-issued EPA approval letter ruled the condition MUN use designation had no legal effect. Thus, permits in the LA region no longer require MUN-based effluent limitations. The decision and letter also reviewed the narrative standards for toxic pollutants. EPA upheld the PCB narrative, but disapproved the bioaccumulation narrative due to the lack of a translator required by 40 C.F.R. §131.11(a)(2). EPA also stated that the narrative toxicity standard was approved.

Contacts: Melissa Thorne, Downey, Brand; Monica Oakley, LWA
Current as of March 7/June 27, 2002



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Quality

10011 Street • Sacramento, California 95814 • (916) 341-5560
Mailing Address: P.O. Box 944213 • Sacramento, California • 94244-2130
FAX (916) 341-5550 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
Governor

October 3, 2002

Interested Parties

2002 CLEAN WATER ACT SECTION 303(d) LIST

The State Water Resources Control Board (SWRCB) Staff are planning to release a draft final version of the 2002 Clean Water Act section 303(d) list of water quality limited segments and the accompanying staff report on October 15, 2002. The documents will be posted at:

<http://www.swrcb.ca.gov/303dupdate.html>

The staff report will provide a summary of the recommended list changes, SWRCB staff analysis of all available data and information, and the responses to the comments received. Staff anticipates that the SWRCB will consider the draft final document at its November 6, 2002 workshop and consider approval of the section 303(d) list at the November 19, 2002 Board Meeting.

Should you wish to discuss the section 303(d) list or this schedule, please call me at (916) 341-5560.

Sincerely,

Craig J. Wilson, Chief
TMDL Listing Unit
Division of Water Quality

Laguna Beach Administrative Order Documents

USEPA Press Release

Subject: U.S. EPA Issues Sewer Order to Laguna Beach

For Immediate Release: October 2, 2002

Contact: Mark Merchant, U.S. EPA, (415) 947-4297

The move requires that the city end sewage spills

SAN FRANCISCO The U.S. Environmental Protection Agency announced today that it has formally ordered the city of Laguna Beach to create a plan that will stop sewer spills in the city.

Laguna Beach operates a 95-mile network of sewer pipes and pump stations that collect sewage from throughout the city. The federal Clean Water Act prohibits discharging raw sewage to "navigable waterways" such as the Pacific Ocean.

Between July 1, 1997 and June 30, 2002, Laguna Beach reported 64 sewage spills from its sewer system, 20 of which were into local waterways. The city reported 16 spills in calendar year 2000; 16 spills in calendar year 2001; and 6 spills between January 1 and June 30, 2002. The last spill to reach a waterway was in December 2001.

The EPA and the city have determined that the main cause of sewer spills in Laguna Beach are roots in the system. This accounts for more than 50 percent of the sewer spills. Many of the City's sewer pipes are old and deteriorated making them prone to invasion by roots.

Portions of the city's sewer system date back to the 1930. In 2001, the city of Laguna Beach had the second worst record of sewer spills of 30 communities surveyed in depth by the EPA.

In March 2002, the city identified 17 miles of sewer lines in need of replacement or rehabilitation. In addition, many of the city's 26 sewage pump stations are also in need of rehabilitation.

"City officials are aware of the problem and have already been taking steps to solve it," said Wayne Nastri, regional administrator of the EPA's Pacific Southwest office. "They have made a bold commitment to ending sewage discharges, and we applaud them for all they've done and continue to do. Our action simply commits the city to carryout their planned sewer system improvements."

In March, the city council adopted the "City of Laguna Beach Sewer System Strategic Plan" to reduce sewage spills and improve the performance of its collection system. The plan includes an \$18.9 million

plan to repair, rehabilitate, replace and upgrade sewer pipes and pump stations over the next decade.

In May, the city completed 45 high priority sewer pipe repairs at a cost of \$250,000. To fund sewer improvements, the city council in June approved two 10 percent increases in sewer fees.

In August, the city council adopted a grease control ordinance requiring grease interceptors at new restaurants, banning restaurant food grinders, and mandating "best kitchen management practices."

The EPA, at the behest of Congress, gave the city \$873,000 in August for sewer system improvement, a figure the city matched, bringing the total for repair and rehabilitation to \$1.6 million. This figure is included in the \$18.9 million strategic plan.

With this order, the city must commit to a Sewage Spill Reduction Action Plan by March 2003 that includes a sewer system cleaning and root control program; a sewer pipe inspection and condition assessment; a sewer repair, rehabilitation and replacement schedule; and a pump station and force main maintenance repair and upgrade plan.

The EPA expects the city to submit a plan similar to the plan approved by city council earlier this year. The order also requires the city to implement their recently adopted restaurant grease control ordinance which will be evaluated by the EPA after its first full year.

For more information about sewer spills and the environment in Laguna Beach, visit these Web sites:

<http://www.laguna-beach.ca.us/lagenv.htm>

<http://www.epa.gov/ebtpages/water.html>

<http://www.epa.gov/OWOW/oceans/yoto/topten.html>

<http://www.yearofcleanwater.org/>

Los Angeles Times Article

Los Angeles Times

October 4, 2002

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THE REGION

Laguna Ordered to Fix Its Sewers

* Environment: The EPA wants steps taken to halt spills that have polluted beaches, but also praises the city for what it's already done.

By SEEMA MEHTA, TIMES STAFF WRITER

The U.S. Environmental Protection Agency on Thursday ordered Laguna Beach to take immediate steps to halt sewage spills that have polluted local beaches. The city has one of the worst records in California, the agency said.

But officials of the federal agency described the order as a formality, making a point of praising the city for measures it has already taken, and the millions of dollars it already has spent, to reduce sewage spills.

The move comes less than two months after the EPA awarded the city \$873,000 to help meet the no-spill mandate of the federal Clean Water Act.

"City officials are aware of the problem and have already been taking steps to solve it," EPA regional administrator Wayne Nastri said in a written statement. "They have made a bold commitment to ending sewage discharges, and we applaud them for all they've done and continue to do.

Our action simply commits the city to carry out their planned sewer system improvements."

EPA spokesman Mark Merchant added, "This is just a formal step. We're not fining them, we're not doing anything special. This just puts down on paper in the form of an agreement what Laguna already told us they're going to do."

The agency also on Thursday ordered the city of Carpinteria to stop spills. These are the first orders of their kind in the region, though the agency is investigating another half-dozen California cities.

Portions of Laguna Beach's crumbling 95-mile network of pipes and other infrastructure date to the 1930s.

Between July 1, 1997, and June 30, the city reported 64 sewage spills, nearly a third of which flowed into local waterways and closed picturesque beaches. The order requires the city to complete a sewage spill-reduction action plan by March. The plan must include a sewer-system cleaning and root-control program; a pipe inspection and assessment; a repair and replacement schedule; and a pump-station and force-main maintenance, repair and upgrade plan.

City leaders welcomed the news.

"I think the EPA is doing its job by issuing the order," said Mayor Wayne Baglin. "And I'm very pleased that it reflects much of the proactive actions the city has taken on during just the last couple years."

The order notes that the city increased sewer fees, adopted an \$18.9-million sewer plan and completed 45 high-priority repairs.

"This shows that the City Council was acting in a responsible manner in spending the millions of dollars it has been spending," Baglin said.

City Manager Kenneth C. Frank said he plans to use the order to bolster

the city's request for \$12 million in state loans and \$1 million in additional federal grant money.

[Federal Register: September 25, 2002 (Volume 67, Number 186)]
[Notices]
[Page 60229-60231]
>From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr25se02-48]

ENVIRONMENTAL PROTECTION AGENCY
[OPP-2002-0259; FRL-7275-6]

The Association of American Pesticide Control Officials; State
FIFRA Issues Research and Evaluation Group; Working Committee on Water
Quality and Pesticide Disposal

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: The Association of American Pesticide Control Officials
(AAPCO), The State Federal Insecticide, Fungicide, and Rodenticide Act
(FIFRA), and the Issues Research and Evaluation Group (SFIREG) Working
Committee on Water Quality and Pesticide Disposal will hold a 2-day
meeting. This notice announces the

[[Page 60230]]

location and times for the meeting and sets forth the tentative agenda
topics.

DATES: The meeting will be held on Monday, October 28, 2002, from 8:30
a.m. to 5 p.m., and Tuesday, October 29, 2002, from 8:30 a.m. to 12
noon.

ADDRESSES: This meeting will be held at the Doubletree Hotel, 300 Army-
Navy Drive, Arlington, VA.

Comments may be submitted by mail, electronically, or in person.
Please follow the detailed instructions for each method as provided in
Unit I. of the SUPPLEMENTARY INFORMATION. To ensure proper receipt by
EPA, it is imperative that you identify docket ID number OPP-2002-0259
in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Georgia A. McDuffie, Field and
External Affairs Division (7506C), Office of Pesticide Programs,
Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,
Washington, DC 20460; telephone number: (703) 605-0195; fax number:
(703) 308-1850; e-mail address: mcduffie.georgia@epa.gov.
Philip H. Gray, SFIREG Executive Secretary, P.O. Box 1249,
Hardwick, VT 05843-1249; telephone number: (802) 472-6956; fax (802)
472-6957; e-mail address: aapco@plainfield.bypass.com</A
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SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to all parties interested in SFIREG's information exchange relationship with EPA regarding important issues related to human health, environmental exposure to pesticides, and insight into EPA's decision-making process are invited and encourage to attend the meetings and participate as appropriate. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under FOR FURTHER INFORMATION CONTACT.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. Electronically. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select ``Laws and Regulations,'` ``Regulations and Proposed Rules,'` and then look up the entry for this document under the ``Federal Register--Environmental Documents.'` You can also go directly to the Federal Register listings at <http://www.epa.gov/fedrgstr/>.

2. In person. The Agency has established an official record for this action under docket ID number OPP-2002-0259. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP-2002-0259 in the subject line on the first page of your response.

1. By mail. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. In person or by courier. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall <greek-i>2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. Electronically. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP-2002-0259. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under FOR FURTHER INFORMATION CONTACT.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

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II. Tentative Agenda

The following outlines the tentative agenda of the 2-day meeting.

1. Introductions and new members.
2. Review of isoxaflutole registration and monitoring experiences.
3. EPA Office of Water and Office of Pesticide Program presentation and discussion, various topics including: 319 guidance development Re: How to Address Pesticides and Monitoring Standards Development/Setting and Selection of Priority Compounds Resources for Surface Water Monitoring Responsibility for New Products versus Reregistrations.
4. Pesticide regulatory education program (PREP) report and content of revised pesticide/water quality management plan.
5. Issue team report--disposal label language project.
6. Disposal initiatives--national pesticide stewardship alliance management report.
7. Iodosulfuron registration review--issue team and EPA perspectives.
8. FY 2003 registration work plan (EPA).
9. Review ad hoc roster--FY 2003 work group assignments.
10. Issue team report--registration authority project.
11. EPA update on copper chromated arsenate (CCA) update.
12. State and regional reports.
13. Farm association and environment review training experience.
14. Office of Pesticide Program up-date.
15. Office of Enforcement and Compliance Assurance up-date.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 18, 2002.

Jay S. Ellenberger,
Acting Director, Field and External Affairs Division, Office of
Pesticide Programs.

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Tri-TAC
Jointly Sponsored by:
League of California Cities
California Association of Sanitation Agencies
California Water Environment Association

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 (916) 446-0388 (phone)
 (916) 448-4808 (fax)

September 13, 2002

Mr. Alan Glabe
California Integrated Waste Management Board
Permitting and Enforcement Division
P.O. Box 4025
Sacramento, CA 95812-4025

Dear Mr. Glabe:

Subject Comments on the August 29, 2002 proposed regulatory text changes for draft Title 14 CCR Div 7, Chapter 3.1 "Compostable Material Handling Operations and Facilities Regulatory Requirements."

Tri-TAC appreciates the opportunity to provide comments on the proposed regulatory text changes for the draft regulation "Compostable Materials Handling Operations and Facilities Regulatory Requirements" proposed by the California Integrated Waste Management Board (CIWMB).

Tri-TAC is a technical advisory group that includes representatives from the California Association of Sanitation Agencies (CASA), the California Water Environment Association, and the League of California Cities. Tri-TAC's goal is to improve the overall effectiveness of environmental programs, and ensure that regulations affecting POTWs in California are reasonable and in the publics' best interest. The constituent agencies of Tri-TAC provide water and wastewater services to most of the population of California.

Tri-TAC provided comments on the proposed draft regulations in May 2002 concerning the selenium concentration as stated in the comment below. The CIWMB did not address the comment in the proposed regulatory text changes nor provide a response to Tri-TAC concerning the comment. Tri-TAC would appreciate if the CIWMB would consider the comment below and use the 100 mg/kg limit for selenium in their proposed regulation or provide a rationale why 36 mg/kg is being used instead of using the US EPA federal regulations Part 503 limit.

Section 17868.2 Table 2 - Maximum Acceptable Metal Concentrations

The Maximum Acceptable Metal Concentrations listed in Table 2 are consistent with the EPA Pollutant Concentration Limits (40CFR Part 513.13 - Table 3), with the exception of selenium. Tri-TAC recommends changing selenium to the scientifically based limit set forth

Mr. Alan Glabe
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in 40 CFR Part 503 limit, 100 mg/kg. The concentration limit for selenium of 36 mg/kg was originally used by the US EPA but was removed after the research that was used to develop the limit was legally challenged and retracted by its source. In order to promulgate legally and-scientifically defensible limits, the CIWMB should use the selenium limit currently promulgated by the US EPA.

Thank you for the allowing Tri-TAC to comment on the proposed regulation. Please contact Robert Gillette at (916) 565-4888 or Layne Baroldi at (714) 593-7456.

A handwritten signature in black ink, appearing to read "Robert Gillette". The signature is written in a cursive style with a large, prominent initial "R".

Robert Gillette
Tri-TAC Land Committee Co-Chair