



The July 10, 2003 meeting will be held at:

**Holiday Inn Oakland Airport
500 Hegenberger Road
Oakland, CA 94621
(510) 562-5311**

**General Meeting & Water Committee – Warriors 1&2, Athletics 2
Land Committee – Athletics 1**

TRI-TAC MEETING

THURSDAY, JULY 10, 2003

9:00 A.M. – 12:00 P.M.

HOLIDAY INN OAKLAND AIRPORT
500 HEGENBERGER ROAD
OAKLAND, CA 94621
(510) 562-5311

9:00 A.M. – GENERAL MEETING

ATTACHMENTS

1. INTRODUCTIONS
2. APPROVAL OF THE JUNE 12, 2003 –
TRI-TAC MEETING MINUTES SUMMARY/ACTION ITEMS PAGES 6-14
3. FUTURE MEETING SCHEDULE PAGE 15
4. TRI-TAC ROSTER PAGES 16-22
5. COMMITTEE ASSIGNMENTS PAGE 23
6. 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

LAND COMMITTEE AGENDA
July 10, 2003

	<u>Who</u>	<u>Time</u>
<u>A. Agenda Review and Approval</u>		
<u>B. Committee Action Items</u>		
1. California Biosolids Recyclers Update	Marlaine Hudnall	30 min.
2. SWRCB Biosolids Final EIR & Lawsuit	Marlaine Hudnall	5 min.
3. Ongoing Biosolids Litigation Discussion	Layne Baroldi	5 min.
4. AB 1427 Biosolids Legislation	Layne Baroldi	10 min.
5. NAS Report EPA Response Comments	Mike Moore/Layne Baroldi	10 min.
6. Environmental Justice	Liz Ostoich	5 min.
7. CIWMB Landfill ADC Regulations	Jeremy Neill	5 min.
<u>C. Information and Discussion Items</u>		
8. New Biosolids Contracts/Technologies	Ed McCormick	5 min.
9. Biosolids Management Options	Layne Baroldi	5 min.
10. Research/Biosolids Summit	Ed McCormick	5 min.
11. Recent Press Items	Layne Baroldi	5 min.
12. Local Ordinances		
• Kern County	Layne Baroldi	5 min.
• Kings County	Layne Baroldi	5 min.
• Riverside County	Anne Briggs/Liz Ostoich	5 min.
• Solano County	Ed McCormick	5 min.
• La Paz/Yuma/Mojave AZ	Layne Baroldi	5 min.
<u>E. Other</u>	All	<u>5 min.</u> 120 min.

WATER COMMITTEE AGENDA
July 10, 2003

<u>Priority</u>		<u>Estimated Duration (minutes)</u>	<u>Further Information</u>
Items of Highest Priority:			
1	EPA Stakeholder Meeting – CSOs/SSOs	15	
2	Chlorine Implementation Report	10	
3	MMP Legislation	10	
4	LACSD Permit Appeal	10	Attachment 1
5	Appellate Court Response to LA Permit Appeals	5	
6	State Board Draft TMDL Listing/delisting Policy and TMDL Development Guidance	10	
7	SWRCB 303(d) List – Comment Letter to EPA	10	
8	SWRCB Fees Update	5	
9	Supreme Court Decision re Prosolino	5	
10	Draft EPA CTR Change for SSOs in South SF Bay	5	Attachment 2
Pre-Regulatory Issues			
11	Mercury Water Quality Criteria	15	
12	Sediment Quality Objectives	10	
13	Blending Update	5	
14	Legislation Regarding Due Process For Non-NPDES Reqt's (WDRs, CDOs, TSOs, etc.)	5	
	Storm Drain Diversions (as necessary)		
	Effluent Trading (as necessary)		
	Nutrient Criteria (as necessary)		
	PAG Update (as necessary)		
If Time, We Will Also Discuss:			
	Reissuance of General Industrial Stormwater Permits		
	Tesoro Court Decision (published)		
	House Hearing re WQS Revision Process		
	DHS: Pb and Cu limits for Drinking Water		Attachments 3, 4
	DHS Guidance on Pharmaceuticals/RCRA Wastes		Attachment 5
	Other Permit Appeals (as necessary)		
	Legislation of interest		

2 hours

MEETING SUMMARY
THURSDAY, JUNE 12, 2003
HOLIDAY INN
OAKLAND, CA

SUBCOMMITTEE ISSUES AND GENERAL MEETING

THE FOLLOWING MEMBERS AND INTERESTED PARTIES WERE PRESENT:

Traci Minamide, City of Los Angeles	Chuck Weir, EBDA
Sheila Bocci, City of Los Angeles	Michele Pla, CH2M HILL
Shahrouzeh Saneie, City of Los Angeles	Melissa Thorne, Downey Brand LLP
Gail Chesler, CCCSD	Sharon Green, LACSD
Bob Reid, West Valley SD	Jim Marchese, City of LA
Ben Horenstein, EBMUD	Dave Williams, EBMUD
Jeff Berlin, Carollo Engineers	Monica Oakley, LWA
Bob Gillette, Carollo Engineers	Jim Colston, OCSD
Chris Scheuring, CASA	
Marlaine Hudnall, CASA	
Jerry Troyan, SRCSD	
Phil Bobel, Palo Alto	
Valerie Housel, San Bernardino MWD	
Bobbi Larson, CASA	
Layne Baroldi, OCSD	
Daniel McGivney, EMWD	
Roger W. Turner, EMWD	
Jay Witherspoon, CH2M HILL	
Tom Grovhoug, Larry Walker Associates	
Ed McCormick, EBMUD	
Margie Nellor, LACSD	
Maura Bonnarens, EBMUD	
Jackie Kepke, CH2M HILL	
Vaughn Henrie, Union Sanitary District	
Dan Jackson, EBMUD	
Jennifer Smith, EBMUD	

Announcements and Discussion Items

Approval of Last Meeting's Action Items

Future Meeting Schedule

AIR COMMITTEE MINUTES FROM JUNE 12, 2003 MEETING
JAY WITHERSPOON AND DANIEL MCGIVNEY

1. ARB Diesel Engine ATCMs (Stationary & Portable ICEs, H/D Fleet Vehicles)

A new draft was released and a workshop was held on the stationary diesel engine rule. Digester gas engines were exempted from this rule. Originally, dual-fueled engines that use diesel as pilot fuel were part of that rule, and ARB staff based their entire justification for the exemption on information provided by Tri-TAC members.

Provisions related to Interruptible Load Contracts are important to Southern California agencies. This battle has already been lost in the Bay Area, but a lot of Southern California agencies participate in interruptible service agreements with the local power utilities, where if there is a power emergency they are called upon to run their diesel engines. We're making progress on that issue. There is some language in the new draft that does allow for that type of agreement under certain circumstances, but we're not quite satisfied. We're still working with ARB on that because it grandfathers in contracts signed by January 1, 2003, but it doesn't allow for any that have been signed in the last year and until this rule is implemented next year. It also doesn't allow for enough hours of operation. There are some details that need to be worked out, but as a policy issue, we're making progress.

The bottom line, just as a reminder, is that this rule is still going to force retrofit of all diesel emergency standby engines if they operate more than 18 hours per year for maintenance and testing. If you like to run your engines once a week, you're going to have to retrofit them with diesel particulate filters or diesel oxidation catalysts.

ARB is also working on new rules for portable engines. Those are a little bit muddier. They do not have draft language yet, but the compliance dates are farther out. For stationary engines you have to retrofit by 2006; portable engines they're looking at 2018. What they're looking at is not necessarily retrofit, but more of a turnover of your fleet. If you're buying a new engine, buy a clean one and get rid of your old dirty one.

There's also a fleet rule for heavy-duty public fleets that are diesel. There's a rule in draft form on that as well and the most significant problem with that is they're going to make you regulate your contract fleets as well, so if you have contractors doing work for you, they're going to have to have their engines be compliant. We're drafting some comments jointly from Tri-TAC, Bay Area AIR Committee and SCAP that will ask that the whole contractor part be taken out because it's not practical.

2. New Risk Assessment Procedures for AB2588 (HARP)

A lot going on in the field of risk assessment. Office of Environmental Health Hazard Assessment (OEHHA) is coming out with a new set of guidelines. We're just waiting for the final stamp of approval on that from the OEHHA Executive Director and it will become an official document. In conjunction with that, the ARB has come up with a new

computer software program called the Hot Spots Assessment and Reporting Program (HARP), but it's looking pretty buggy, and we're not allowed to beta test it. They're just going to put it out anyway and say that they're going to fix the bugs in HARP 2. It's possible that your risk could go up by 30%, so if you are close to the threshold of reporting it, and your risk reaches a certain level, you may have to give public notification. If it's over another level higher than that then you have to install emissions controls. Usually POTWs are not in that realm, but this increase in risk could boost you into the public notification level. It's something we're keeping an eye on but there's not much we can do about it right now.

3. EPA Water 9 Model Development

Water 9 is an emissions model that has been developed by EPA and their new collection system component of that will be compared to a couple of other models that are currently on the street.. We think Water 9's emissions estimates are too high, so there's an effort going on through AMSA to evaluate it.

4. BASTE Air Toxics Model Revisions

We're making revisions to the BASTE model which is a toxic emissions model for wastewater treatment plant processes. That's underway and will be completed this year.

5. Environmental Justice

There's a meeting June 18-19 in Los Angeles. After that meeting is when they're going to put forth their draft document, which will have a 60-day comment period. At that point we should get together as Tri-TAC and make some comments on that since it does have cross-media implications.

LAND COMMITTEE MINUTES FROM JUNE 12, 2003 MEETING
LAYNE BAROLDI AND ROBERT GILLETTE

1. Biosolids Recyclers of CA, Status & Planning

Marlaine has been doing a lot of work pulling together ideas to make the website better, ideas on funding, alliances, developing a retreat, developing a business plan. Everyone is encouraged to talk to her and help her develop a program that she's already started and gone a long ways on.

2. SWRCB Biosolids Final EIR & Lawsuit

The adoption of the GO and EIR was appealed to superior court, where it was upheld. It was appealed and the court of appeals remanded it back to superior court to evaluate Class A only land application and use on non-food crops only. The plaintiff has filed their proposed findings with the superior court and these have been rebutted by the Attorney General and CASA's attorney. The court has to issue a new judgment to replace the judgment that was overturned by the court of appeals. The judgment will also address what happens in the interim to the sites permitted under the general order while an amended EIR is prepared.

In the meantime, CASA is working with the SWRCB to fund and hire the consultant to develop the amendment to the EIR. The Scope of Work for this amendment has been prepared by the consultant and approved by CASA and the State Board. CASA is in the process of sending out letters requesting funding for the preparation of the amendment.

3. Biosolids Legislation

AB1427 is going through the State Legislature. Originally it was looked at as a law to preclude county's from implementing anti-biosolids ordinances. It has been amended so that now it is a bill to require Cal EPA to study the feasibility of establishing a statewide policy for biosolids treatment, disposal, and recycling. The study would be funded by the Orange County Sanitation District.

4. NAS Report EPA Response Comments

EPA has requested comments to their proposed response the findings of the NAS Report. The Land Committee will put together a joint Tri-TAC, CASA letter together in response. The letter will utilize a lot of the work that the WERF Residuals and Biosolids Committee is doing in response to the request for comments.

5. CIWMB Landfill ADC Regulations

The Integrated Waste Management Board has developed new draft regulations concerning alternative daily cover. Most of that deals, at the present time at least, with green waste. It does not look like it will affect biosolids at this time. However, there are some discussions about changing the way it deals with biosolids and we're trying to follow that and see where that goes as well.

6. Kern County

When the County adopted their Class A ordinance, there was concern, at the Kern County Water Agency, over whether even Class A would cause a problem with ground water used as drinking water source. As a result of these concerns the County developed a committee that has held a number of hearings. The next hearing has now been postponed until August 18, 2003.

7. Riverside County

The Board has passed the recommendations of the committee developing proposed regulations for Class A biosolids land application. The Board directed staff to develop a new ordinance that will have four tiers and that was based on the committee's findings. These regulate based on the nuisance potential of the biosolids.

8. Enforcement

EPA has just published some findings that will require a company to pay a \$7,000.00 fine for over-applying biosolids in Ventura County.

**WATER COMMITTEE MINUTES FROM JUNE 12, 2003 MEETING
JIM COLSTON AND MONICA OAKLEY**

1. Mercury

Margie Nellor contacted the State Board on June 11, 2003 regarding the EPA's plan to amend the CTR with the new methyl mercury fish tissue criteria and inquired about corresponding implementation procedures needed in the SIP. It is the State Board's understanding that EPA is still planning on proceeding with a proposal for the CTR this fall and the State Board understands that it needs an implementation policy to go along with it. They are looking at different options but have not yet drafted anything for public review. A long comment period is anticipated. Margie asked if they were working with EPA headquarters in their development of guidance for national fish tissue criterion. State Board staff said no. Margie provided the State with information about the coalition between AMSA and Tri-TAC to develop a preferred option for applying the fish tissue criterion in permits and TMDLs. Tri-TAC and AMSA are working on a white paper and will share it with the State when complete. State Board staff agreed to meet with Tri-TAC in the near future on this issue.

2. EPA Stakeholder Meeting – CSOs/SSOs

The EPA has drafted the 2nd phase of their CSO/SSO report required annually or bi-annually as a congressional directive from 1999 legislation. There will be a meeting on July 8th in Huntington Beach (agenda in packet). Unfortunately no experts were included on the agenda. This is disturbing because the recent expert review of health impacts resulting from CSOs/SSOs included mixed opinions on whether sewer overflows are as significant as other health risks. In their report to Congress there is no clear evidence or scientific data that shows the impact on public health from SSOs and CSOs. Gail Chesler suggested that experts be invited. Tri-TAC would pay for it through CASA's budget. Dave Williams will follow up, call Kevin DeBell of EPA, and coordinate with Bob Reid to contact some of the experts and extend invitations.

AMSA has formed a pathogen workgroup and is trying to pull together information before the December deadline for EPA's CSO/SSO report to Congress. Key issues are the level of pathogens in CSOs and SSOs, the types of pathogens, the ability for exposure of these pathogens to the human population and the resulting impact on the human population and public health. This is a two phase project. In phase I a risk assessment will be done based on existing data. In phase II, if necessary, additional sampling and data will be collected to supplement the risk assessment.

3. LACSD Permit Appeal

After the State's April 1st and April 30th workshops, they decided to accept additional comments for two of LACSD's water reclamation plants. The issue relates to chronic toxicity effluent limitations. The arguments were successful in justifying that numeric limits should not apply. This is reflected in the revised order issued last week. The State's interpretation of this issue is

that Federal regulations allow the use of best management practices in lieu of numeric effluent limitations where numeric effluent limitations are infeasible. The State compared POTWs to storm water with the many domestic sources that really can't be controlled and could cause toxicity blips. A narrative limit was proposed which includes monitoring for toxicity and if triggered by a sample, a TRE must be conducted. The State is proposing to remand the permits to the Regional Board to add more specificity to those requirements. The accuracy of toxicity tests developed by EPA is also being questioned by POTWs. However the State believes that test methods are very accurate and has stated that claims of inaccuracy in results will not be acceptable. All other issues appealed were rejected.

Comments on the revised order are due June 25th. A workshop will be held on July 1st – no comments will be accepted at that time. The State is scheduled to have it considered for adoption on July 16th. Monica Oakley will distribute the revised order.

4. DHS Guidance on Pharmaceuticals/RCRA Wastes

Ann Heil has collected comments on her draft letter. Information is included in the packet. If anyone has concerns or comments – get them to Anne by the end of the week.

5. EPA's Permit Tracking System – Article

Informational item – article in packet.

6. SWRCB Fees Update

The Legislature passed legislation signed by the governor that removes all of the general fund support to State Water Board programs and directs the State Board to raise fees to make up the loss, a \$14.9 million deficit. There is also a possibility that the \$6.8 million for ambient monitoring cut from the general fund will be added to the fees, although, that has not yet been decided.. The fee stakeholder group that was formed by the Water Board will meet on Monday, June 16. Bobbi Larson distributed a summary sheet. The state is proposing to increase the municipal NPDES fees to \$50,000, so POTWs who are currently paying \$20,000 will now pay \$50,000. Superdischargers of 100 mgd or more permitted capacity would pay \$100,000 per year. There are also adjustments for stormwater fees to increase them by 25%. This will be discussed at the fee stakeholder meeting on Monday. Dairies will not be exempt, but will negotiate separately. Send comments to Bobbi Larson before Monday.

7. Chlorine Implementation Project

There has been a lot of activity in Region 2 in the San Francisco Bay Area, and very recently at the State level. Ben Horenstein distributed copies of a packet developed by the State Board. The State process was set up rather quickly and includes a statewide group of State and Regional Board representatives and a few dischargers with the directive and intent to set forth a statewide policy on chlorine residual permit limits and compliance determination. Key issues include: chlorine implementation project timeline (fast paced), attendees, discharger and EPA criteria numbers. State staff emphasized that this is not a consensus building process. Region 8 has divergent issues from other regions. Tri-TAC should send a letter, before the next

meeting in August, to the State Board group and discuss concerns of the dischargers. Margie, Ben, Val, and Jim, will work to write the letter. Ben Horenstein will take the lead on preparation of the letter.

8. DHS: Pb and Cu limits for Drinking Water

Margie Neller reported that the Department of Health Services released revisions to their drinking water standards for lead and copper and they are now open for public comment. Members indicated that it would be a good idea for the regulations to consider the need to control corrosion because of its impact on copper limits for wastewater dischargers.

9. SWRCB 303(d) List

EPA released a letter to the State a week ago with their comments on the State's 303d list. EPA issued a Federal Register notice last Thursday approving everything that the State submitted to EPA on the list. However, they are disapproving the State not including approximately 20 water body segments/pollutant combinations. The approval is not out for comment, as the EPA's decision is final. Comments on the disapproval portion are due by July 8th to Dave Smith at Region 9. The information is available on the Region 9 website. Bobbi Larson will prepare a letter based on the information she receives from Tri-TAC members.

10. SWRCB Enforcement Q&A

Tri-TAC's letter to the State Board is included in this packet. AB1541, sponsored by Environment California, proposes new mandatory penalties for failure to file discharge monitoring reports. Tri-TAC, League of Cities, and the California State Association of Counties originally opposed the bill; however, the language has been modified and is now more acceptable. The current proposal allows a discharger to submit compliance reports up to 30 days past the due date without mandatory penalties being assessed. If the discharger fails to file a complete report, then penalties would apply. The question of what constitutes a "complete report" still needs to be resolved. The State's aim is to apply penalties to dischargers blatantly failing to submit any report or those that submit only a token filing. Dischargers also made it clear that reports required under stormwater NPDES permits do not fall under the mandatory minimum penalty umbrella.

11. Tesoro/North Bay Permit Decisions

The North Bay permit decision was for Fairfield and Petaluma. The challenge was on antidegradation grounds and mass limits issued to the dischargers. The court upheld the discretion of the Regional Board and is deferring judgment to that lower level.. The decision has not been published.

Tesoro was the Tosco case, which became the Altamar case, which became the Tesoro case. The court of appeals decision stated that the definition of "effluent limit" does not mean that the limit must be a numeric effluent limit. Compliance schedules, pollution prevention plans, source control, or BMPs would also qualify as valid effluent limitations. The justices remanded

the case back to the superior court to take up the remaining issues of anti-backsliding and compliance schedules.

12. Blending Update

Many plants across the country blend; primary effluent can be blended with secondary effluent and still meet permit limits. There has been concern raised over the last several years about this practice being in violation of the Clean Water Act, specifically the bypass rule. Within the EPA there is an internal debate as to whether this long-standing practice should be allowed to continue as it has for the last 30 years. The debate is between the Office of Water, headed by Tracy Meehan, and the Office of Enforcement and Compliance, headed by JP Suarez. The Office of Water generally supports the practice of blending; The Office of Enforcement does not. Linda Fisher, Deputy Administrator, appears to be leaning towards supporting the Office of Enforcement's arguments. Dave Williams, through AMSA, was involved in putting together a presentation and met with Suarez and his staff, consisting of his attorneys and technical staff. The Office of General Council was also present at that meeting and Linda Fisher also sent a representative. In general, the practice of blending was explained, as was the problem with handling large wet weather flows coming suddenly into a treatment plant. There are real operational problems trying to meet secondary standards for peak wet weather flows. The argument was that, yes – bypassing is prohibited by the Clean Water Act, but bypassing is not blending. AMSA supported this argument by providing quotes from the administrative record when the bypass language was developed that shows that this wasn't blending. The Office of Enforcement then argued that blended effluent does not provide effective pathogen kill and sited a study done by the Massachusetts Water Resource Authority (MWRA) which stated that blended effluent had excess pathogens. AMSA argued that MWRA themselves had documented that the study was flawed, invalid, and never issued in final form.

The Office of Enforcement said that they are inclined to not disallow blending; they're trying to get those who use blending as a way to put wet weather flows into sewers. They want a test of no feasible alternatives. AMSA argued this is not necessary because it is already in the permit and in the master plan for planning the facility. AMSA followed up with a letter reiterating all the arguments. The next step is that EPA policy or guidance needs to come out on this.

13. Potential Legislation Regarding Due Process For Non-NPDES Requirements

Proposed AB1248 requires the State Board to give 30 days notice and opportunity to comment on certain types of actions such as WDRs, TSOs, State Board orders, and NPDES permits. Originally, CASA included Cease and Desist Orders. However, in order to get the bill out of the appropriations committee CDOs had to be removed because the State Board felt that a 30 day review period would limit their ability to deal with CDOs on an emergency basis. CASA will revisit the issue at the State Board. CASA either needs to go with the bill the way it is or go back to the State Board again.

LACSD has been having problems with the Regional Board with late changes. Melissa Thorne drafted a letter to the Regional Board Chair to make some changes. A generic proposal could be developed based on this and used as guidance to all of the Regional Boards. The

suggestion was that the comment period stay open through the hearing with comments on new changes allowed up to 2 days before the hearing.

14. Prop 40 – The Clean Beach Initiative

The State Board has compiled a priority list of projects eligible for funding. They have 250 applications. About 45 are going to be invited back to submit full proposals. The State is inviting comments, which are due June 30th. They intend to apply a cap per agency of \$5M, for eligible projects per distribution. They are also going to limit the annual distribution to \$20M this summer, and \$26M next fall.

15. Region 2 P2

Ben has been working with several folks in the Bay Area to develop a pollution prevention menu system. Agencies can review this and incorporate appropriate items for their use to meet their P2 plan permit requirements. The Regional Board has been working with the small ocean dischargers in the Bay Area and they have come to agreement on a pollution prevention program that was distributed yesterday as a draft. One requirement is that dischargers monitor their effluent data and when a pollutant reaches 75% of the permit limit, it becomes a pollutant of concern and a pollution prevention program must be implemented. You get penalized for being in compliance with your permit. Ben and Chuck are working on this.

16. Ballona Creek UAA/LA Region UAA

The Los Angeles Regional Board voted against the Ballona Creek UAA to change the REC1 use designation to limited REC1. There is another UAA currently open for comment which provides an exemption, during high flow conditions, of the REC 1 designation and associated bacteriological objectives. This UAA is much broader and applies to all engineered channels. The item will be heard at the July 10th Los Angeles Regional Board hearing.

TRI-TAC MEETING LOCATION & SCHEDULE 2003

TRI-TAC MEETING DATE ¹	LOCATION/HOTEL	AFTER TRI-TAC MEETINGS ²
JANUARY 15, 2003	HILTON ONTARIO AIRPORT 700 NORTH HAVEN AVENUE ONTARIO, CA 91764 (909) 980-0400	
FEBRUARY 13, 2003	HOLIDAY INN AIRPORT 500 HEGENBERGER ROAD OAKLAND, CA 94621 510-562-5311	STORM DRAIN DIVERSIONS
MARCH 13, 2003	DELTA KING RIVERBOAT 1000 FRONT STREET OLD SACRAMENTO, CA 95814-3231 916-444-5464	SRF LOAN PROGRAM
APRIL 10, 2003	DELTA KING RIVERBOAT 1000 FRONT STREET OLD SACRAMENTO, CA 95814-3231 916-444-5464	SEDIMENT QUALITY OBJECTIVE
MAY 8, 2003	HILTON ONTARIO AIRPORT 700 NORTH HAVEN AVENUE ONTARIO, CA 91764 (909) 980-0400	CHANGES TO THE SB709 Q&A DOCUMENT
JUNE 12, 2003 Air Committee	HOLIDAY INN AIRPORT 500 HEGENBERGER ROAD OAKLAND, CA 94621 510-562-5311	
JULY 10, 2003 Baseball?	HOLIDAY INN AIRPORT 500 HEGENBERGER ROAD OAKLAND, CA 94621 510-562-5311	

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.

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.

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	Randersen@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
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Donna Chen	City of Los Angeles	dchen@san.lacity.org	213-473-8567	
James Chen	Union Sanitary District 5072 Benson Road Union City, CA 94587	Jim_chen@unionsanitary.com	510 477-7561	510 477-7505

Name	Company	E-mail Address	Phone Number	Fax Number
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Via Hand Delivery

June 24, 2003

Elizabeth Miller Jennings, Esq.
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**SUBJECT: COMMENTS REGARDING CHRONIC TOXICITY
EFFLUENT LIMITATIONS INCLUDED IN JUNE 10, 2003
DRAFT ORDER REGARDING LOS COYOTES AND LONG
BEACH WATER RECLAMATION PLANTS—SWRCB/OCC
FILES A-1496 AND A-1496(a)**

Dear Ms. Jennings:

The California Association of Sanitation Agencies (CASA) appreciates the opportunity to provide comments regarding the issue of chronic toxicity effluent limitations as addressed in the draft order regarding the Los Coyotes and Long Beach Water Reclamation Plants. CASA is a statewide association of cities and special districts that provide wastewater collection, treatment, disposal and water recycling services to millions of Californians.

CASA supports the deletion of numeric effluent limitations for chronic toxicity from the permits, as proposed in the draft order. In addition, we find the supporting discussion in the revised draft order significantly improved over the prior version. The revised draft sets forth a clear rationale as to why such numeric effluent limitations are not appropriate “in the first instance” for publicly-owned treatment works, which must deal with residential sources of toxicity that are difficult to predict, identify and control. (Draft Order at p. 10-11.)

Our remaining concern with the draft order is the apparent dismissal of the issues we raised regarding the accuracy of the whole effluent toxicity (WET) test methods. (Draft Order at p. 12, fn 28.) The footnote suggests that CASA and other commenters raise the issue of the accuracy and reproducibility of WET tests in order to question or challenge toxicity identification and toxicity reduction evaluations. We did not intend to assert that the tests are of no value, or that, once a discharger has embarked upon implementing a TIE/TRE process, the unreliability of the underlying WET tests could be used to avoid taking actions required by the permit. To the contrary, we accept the usefulness of the WET tests as diagnostic tools to trigger further testing to identify toxicants. The tests themselves cannot reduce toxicity.

Elizabeth Miller Jennings, Esq.
June 27, 2003
Page 2

We highlighted the problems with WET test accuracy in order to emphasize the due process and fairness issues associated with imposing a numeric chronic toxicity effluent limitation of 1 TU_c. As noted by the Association of Metropolitan Sewerage Agencies in comments on the draft order, none of the tools available for ensuring the accuracy of chemical tests—method detection levels, calibration curves, spikes of known concentration—are available for WET tests. Many states and USEPA Regions have recognized these problems and have opted to use chronic WET test results as triggers, rather than enforceable limits. The use of triggers that require additional testing and toxicity identification/reduction evaluations is the preferred approach because it recognizes the need for a pattern of toxicity (in lieu of a single result), acknowledges that single tests can sometimes give erroneous results, and establishes the need to react to confirmed toxicity through investigations and actions as the enforceable requirement. This approach provides the regulatory agency with enforceable assurances that the permittee will conduct the necessary corrective action, while at the same time giving permittees a clear understanding as to what is needed to maintain compliance.

In light of the proposed deletion of the numeric effluent limitations from the permit, and the recognition of the problems presented by imposing numeric limits for chronic toxicity on POTWs, we recommend that the SWRCB delete footnote 28 from the order.

Thank you for consideration of our comments.

Sincerely,

Roberta L. Larson

cc: Service List (via U.S. Mail)

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June 27, 2003
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Federal Register

**Wednesday,
June 25, 2003**

Part III

Environmental Protection Agency

40 CFR Part 131

**Water Quality Standards; Withdrawal of
Federal Aquatic Life Water Quality
Criteria for Copper and Nickel Applicable
to South San Francisco Bay, California;
Proposed Rule**

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Part 131

[FRL-7519-4]

**Water Quality Standards; Withdrawal
of Federal Aquatic Life Water Quality
Criteria for Copper and Nickel
Applicable to South San Francisco
Bay, California**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the Federal regulations to withdraw aquatic life water quality criteria for copper and nickel applicable to south San Francisco Bay, California. South San Francisco Bay is the area of San Francisco Bay that is located south of the Dumbarton Bridge. On May 18, 2000, EPA promulgated Federal regulations establishing water quality criteria for priority toxic pollutants for the State of California, since the State had not complied with the Clean Water Act. This regulation is known as the "California Toxics Rule" or "CTR." Thereafter, on May 22, 2002, the California Regional Water Quality Control Board, San Francisco Bay Region (the RWQCB), adopted amendments to its Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan). The amendments contained copper and nickel aquatic life water quality criteria for south San Francisco Bay. The State of California calls these criteria site-specific water quality objectives or site-specific objectives. The State of California's State Water Resources Control Board (SWRCB) and Office of Administrative Law (OAL) then reviewed and approved the Basin Plan amendments containing the site-specific objectives. On January 9, 2003, the SWRCB submitted the Basin Plan amendment containing the site-specific objectives to EPA Region 9 for review and approval. On January 21, 2003, EPA Region 9 approved the copper and nickel aquatic life site-specific objectives for south San Francisco Bay.

Since the State of California now has aquatic life site-specific objectives, effective under the Clean Water Act (CWA), for copper and nickel for south San Francisco Bay, EPA has determined that the Federally-promulgated copper and nickel aquatic life criteria are no longer needed for south San Francisco Bay. In this proposed rule, EPA is proposing to withdraw the copper and nickel aquatic life criteria for south San Francisco Bay from the CTR.

DATES: All written comments received on or before July 25, 2003, will be considered in preparation of the final rule. Comments postmarked after this date may not be considered.

ADDRESSES: You should address written comments to Diane E. Fleck, P.E., Esq., Water Division (WTR-2), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, Attention Docket ID No. OW-2003-0015. Please send an original and three copies of comments and enclosures (including references). You may also submit comments electronically or through hand-delivery or courier. Follow the detailed instructions as provided under "How and To Whom to Submit Comments."

FOR FURTHER INFORMATION CONTACT: Diane E. Fleck, P.E., Esq. (WTR-2) or Nancy Yoshikawa (WTR-5) at U.S. EPA Region 9, Water Division, 75 Hawthorne Street, San Francisco, CA 94105 (tel: 415-972-3480 or 415-972-3535, respectively, fax: 415-947-3537 or 415-974-3545, respectively) or e-mail at Fleck.Diane@EPA.gov or Yoshikawa.Nancy@EPA.gov. For general or administrative questions, please contact Brian Thompson at U.S. EPA Headquarters, Office of Water, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (tel: 202-566-0382, fax: 202-566-0409) or e-mail at Thompson.Brian@EPA.gov.

SUPPLEMENTARY INFORMATION:

Potentially Regulated Entities

No one is regulated by this proposed rule. This proposed rule, if adopted, merely withdraws Federal copper and nickel aquatic life water quality criteria applicable to south San Francisco Bay, California.

How To Obtain Copies of This Document and Other Related Information

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OW-2003-0015. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing under, "Water Quality Standards; Withdrawal of Federal Aquatic Life Water Quality Criteria for Copper and Nickel Applicable to South San Francisco Bay,

California," at U.S. EPA Region 9, Water Division, 75 Hawthorne Street, San Francisco, California 94105, phone: 415-972-3480. This Docket Facility is open from 8:30 a.m. PST to 4:30 p.m. PST, Monday through Friday, excluding legal holidays. A reasonable fee will be charged for copies.

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For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the

version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available through the docket facility.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket, visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

How and To Whom To Submit Comments

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." While EPA is not required to consider these late comments, we will make every attempt to consider them.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EDOCKETS.* Your use of EPA's electronic public docket to submit

comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID OW-2003-0015. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to Fleck.Diane@EPA.gov, Attention Docket ID No. OW-2003-0015. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the address identified in the following paragraph. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Diane E. Fleck, P.E., Esq., Water Division (WTR-2), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, Attention Docket ID No. OW-2003-0015.

3. *By Hand Delivery or Courier.* Deliver your comments to the address identified in the preceding paragraph, attention Docket ID OW-2003-0015. Such deliveries are only accepted during the docket's normal hours of operation from 8:30 a.m. PST to 4:30 p.m. PST, Monday through Friday, excluding legal holidays.

Background

On May 18, 2000, EPA promulgated a final rule known as the "California Toxics Rule" or "CTR" to establish numeric water quality criteria for priority toxic pollutants for the State of California, since the State had not complied fully with section 303(c)(2)(B) of the Clean Water Act (CWA) (65 FR 31682). The criteria, codified at 40 CFR 131.38, became the applicable water

quality criteria in California effective May 18, 2000, for all purposes and programs under the CWA.

EPA acknowledged in the preamble to the CTR that the State of California is working to satisfy the requirements of CWA section 303(c)(2)(B) and anticipated that the Agency, once the state submitted its water quality standards to EPA, would approve the State-adopted water quality criteria for pollutants included in the CTR (65 FR 31684, May 18, 2000). The State of California calls these criteria site-specific water quality objectives or site-specific objectives. The water quality standards program was developed with an emphasis on State primacy. Although in the CTR EPA promulgated toxic criteria for the State of California, EPA prefers that States maintain primacy, revise their own standards, and achieve full compliance (see 57 FR 60860, December 22, 1992).

In a rulemaking similar to the CTR, EPA determined that if the State's criteria were no less stringent than the promulgated Federal criteria, EPA would withdraw its criteria without notice and comment. However, if the State adopted criteria that were less stringent than the Federally-promulgated criteria, but in the Agency's judgment fully met the requirements of the Act, EPA would provide an opportunity for public comment before withdrawing the Federally-promulgated criteria (see 57 FR 60860, December 22, 1992). As described in detail below under "Site-Specific Aquatic Life Objectives for Copper and Nickel," the State of California recently adopted copper and nickel aquatic life site-specific objectives for the south San Francisco Bay which EPA subsequently approved.

In today's action, EPA is proposing to amend the CTR by withdrawing aquatic life copper and nickel criteria applicable to south San Francisco Bay, California.

Site-Specific Aquatic Life Objectives for Copper and Nickel

On May 22, 2002, the California Regional Water Quality Control Board, San Francisco Bay Region, adopted site-specific water quality objectives for nickel and copper to protect aquatic life in the south San Francisco Bay and submitted the revised Water Quality Control Plan to EPA on January 9, 2003. The aquatic life water quality criteria for copper contained in the CTR table at 40 CFR 131.38(b)(1) for saltwater are: 4.8 ug/l dissolved acute (exposure for a short period of time) and 3.1 ug/l dissolved chronic (exposure for an extended [4 day] period of time). The aquatic life water quality criteria for

nickel contained in the CTR table at 40 CFR 131.38(b)(1) for saltwater are: 74 ug/l dissolved acute (exposure for a short period of time) and 8.2 ug/l dissolved chronic (exposure for an extended [4 day] period of time). Both the copper and nickel criteria are further expressed as a function of the water-effect ratio (or WER). The WER in the CTR is assumed to be 1 for all applicable pollutants but may be otherwise defined by the State using appropriate procedures (*see* 65 FR 31718).

The aquatic life water quality objectives for copper adopted by the State of California and approved by EPA for south San Francisco Bay are: 10.8 ug/l dissolved acute (exposure for a 1 hour average period of time) and 6.9 ug/l dissolved chronic (exposure for a 4 day average period of time). The aquatic life water quality objectives for nickel adopted by the State of California and approved by EPA for south San Francisco Bay are: 62.4 ug/l dissolved acute (exposure for a 1 hour average period of time) and 11.9 ug/l dissolved chronic (exposure for a 4 day average period of time).

Under the procedures set out in the National Toxics Rule, published December 22, 1992, and referenced in the CTR, when a state adopts and EPA approves water quality criteria that meet the requirements of the CWA, EPA will issue a rule amending the federal regulations to withdraw the federally applicable criteria. If the State's criteria are no less stringent than the promulgated Federal criteria, EPA will withdraw its criteria without notice and comment rulemaking because additional comment is unnecessary. However, if a State adopts criteria that are less stringent than the Federally promulgated criteria, but that in the Agency's judgement fully meet the requirements of the Act, EPA will provide an opportunity for public comment before withdrawing the Federally promulgated criteria.

On October 17, 2002, the State Water Resources Board adopted the site-specific objectives for copper and nickel in the lower south San Francisco Bay. The objectives were subsequently submitted to EPA on January 9, 2003, for its review and approval. EPA recognizes that three out of the four California criteria for copper and nickel are less stringent than the federally CTR promulgated criteria. However, the site-specific objectives were developed from the results of a number of detailed studies and technical reports that were the subject of technical peer review and were part of the collaborative stakeholder process known as the

“Santa Clara Basin Watershed Management Initiative.” Based on this additional information, EPA determined that these adopted criteria are fully protective of the aquatic life designated uses of California's waters in the south San Francisco Bay and met the requirements of the Clean Water Act. EPA approved California's water quality objectives on January 21, 2003. Therefore, EPA determined that the federal aquatic life water quality criteria for copper and nickel in these waters are no longer necessary.

Because three out of the four California criteria for copper and nickel are less stringent than the federally promulgated criteria, EPA is requesting comments on its action to withdraw copper and nickel criteria from the CTR. EPA will address public comments in a subsequent final rule based on this proposed rule. Any parties interested in commenting must do so at this time.

Statutory and Executive Order Reviews

1. Executive Order 12866—Regulatory Planning and Review

This action withdraws specific Federal requirements applicable to south San Francisco Bay, California and imposes no regulatory requirements or costs on any person or entity, does not interfere with the action or planned action of another agency, and does not have any budgetary impacts or raise novel legal or policy issues. Thus, it has been determined that this rule is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to Office of Management and Budget (OMB) review.

2. Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it is administratively proposing to withdraw Federal requirements that no longer need to apply to south San Francisco Bay, California.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare a regulatory flexibility analysis of a rule that is subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial

number of small entities. This proposed rule imposes no regulatory requirements or costs on any small entity. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandate Reform Act

Title III of the Unfunded Mandates Reform Act (UMRA) (Public Law 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal and local governments and the private sector. Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, Tribal, or local governments or the private sector because it imposes no enforceable duty on any of these entities. Thus, today's proposed rule is not subject to the requirements of UMRA section 202 and 205 for a written statement and small government agency plan. Similarly, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments and is therefore not subject to UMRA section 203.

5. Executive Order 13132—Federalism

Executive Order 13132, entitled, “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure State and local government officials have an opportunity to provide input in the development of regulatory policies that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments. This proposed rule imposes no regulatory requirements or costs on any State or local governments, therefore, it does not have federalism implications under Executive Order 13132.

6. Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

Again, this proposed rule imposes no regulatory requirements or costs on any Tribal government. It does not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000).

7. Executive Order 13045—Protection of Children From Environmental Health and Safety Risks

This proposed rule is not subject to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant, and EPA has no reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211—Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

9. National Technology Transfer and Advancement Act

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because this rule does not involve technical standards.

List of Subjects in 40 CFR Part 131

Environmental protection, Indian-lands, Intergovernmental Relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: June 20, 2003.

Christine Todd Whitman,
Administrator.

For the reasons set out in the preamble, 40 CFR part 131 is proposed to be amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

Subpart D—[Amended]

2. Section 131.38(b)(1) is amended by revising Footnote b to read as follows:

§ 131.38 Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California.

* * * * *

(b)(1) * * *

Footnotes to Table in Paragraph (b)(1):

* * * * *

b. Criteria apply to California waters except for those waters subject to objectives in Tables III–2A and III–2B of the San Francisco Regional Water Quality Control Board’s (SFRWQCB) 1986 Basin Plan that were adopted by the SFRWQCB and the State Water Resources Control Board, approved by EPA, and which continue to apply. For copper and nickel, criteria apply to California waters except for waters south of Dumbarton Bridge in San Francisco Bay that are subject to the objectives in the SFRWQCB’s Basin Plan as amended by SFRWQCB Resolution R2–2002–0061, dated May 22, 2002, and approved by the State Water Resources Control Board. EPA approved the aquatic life site-specific objectives on January 21, 2003. The copper and nickel aquatic life site-specific objectives contained in the amended Basin Plan apply instead.

* * * * *

[FR Doc. 03–16231 Filed 6–24–03; 8:45 am]

BILLING CODE 6560–50–P



David R. Williams
Tri-TAC Chair
EBMUD
375 11th Street
Oakland, CA 94612

Via Email

June 13, 2003

Department of Health Services
Office of Regulation
714 P Street, Room 100
P.O. Box 942732
Sacramento, CA 94234-7320

Subject: Proposed Regulations Regarding Lead and Copper Requirements for Drinking Water

Tri-TAC appreciates the opportunity to provide comments regarding the Department of Health Services' (DHS) proposed drinking water regulations for copper and lead. Tri-TAC is a statewide technical advisory group for the California Association of Sanitation Agencies, the California Water Environment Association, and the League of California Cities. Together these groups represent publicly owned treatment works (POTWs) that treat approximately 90% of the sanitary wastewater in California.

We are submitting these comments to encourage DHS to consider the potential impact of the proposed regulations on California POTWs in meeting discharge standards for copper and to consider modifications to the proposed regulations to more actively trigger corrosion control programs for drinking water systems. We believe these regulations, with some modification, can play a significant role in enabling POTWs throughout the state to significantly reduce pollutant discharges to California waterways and to assist POTWs in complying with regulatory requirements designed to protect the health of these waterways.

By way of background, copper is one of the heavy metals that has been determined to have adverse effects on aquatic life and, as a result, POTWs throughout California are faced with increasingly stringent limitations on the level of copper allowed in their wastewater effluent based on their National Pollutant Discharge Elimination System (NPDES) permits. Water quality criteria for copper for the protection of aquatic life were established in the California Toxics Rule (40CFR Part 131) in saltwater as 4.8 µg/L as a maximum and 3.1 µg/L as a continuous criteria. In freshwater, the criteria established by the California Toxics Rule (CTR) are hardness dependent and may

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range from an acute criteria of 7.3 µg/L (hardness of 50 mg/L) to 27 µg/L (hardness of 200 mg/L) and a chronic criteria of 5.23 µg/L (hardness of 50 mg/L) to 17 µg/L (hardness of 200 mg/L).

For many POTWs in California, it is difficult if not impossible to meet the effluent limits that are calculated from the CTR criteria. As an example, a comparison of copper effluent levels and final NPDES permit limits for some selected California POTWs are shown in Table 1. As you can see, these existing and proposed limitations are significantly lower than the DHS proposed drinking water action level of 1.3 mg/L for the 90th percentile of tap water samples evaluated.

Table 1: Copper Effluent Levels and NPDES Permit Limits

POTW	POTW Size (MGD)	Average Cu Effluent Conc. (µg/L)	Maximum Cu Effluent Conc. (µg/L)	NPDES Monthly Average Effluent Limit (µg/L)
Pinole-Hercules Water Pollution Control Plant	3.2	4.2	8	20
Fairfield-Suisun Sewer District	17.5	4.3	10	6.7*
Central Contra Costa Sanitary District	45	5.3	8	14.2
Palo Alto Regional Water Quality Control Plant	28	6.5	17	12*
City of Yuba City	6	6.8	13	1.4*
Delta Diablo Sanitary District	10.4	6.9	12.5	3.5*
City of Davis	5.4	10.3	13	9 ²
Novato Sanitary District	6.2	11	19.1	2.4*
University of California, Davis	1.6	11.7	18	13
LACSD – Saugus WRP		13	47	31
East Bay Municipal Utility District	72	15.4	48	37 ³
Dublin San Ramon Sanitary District	11.5	32	65	23

*Proposed final limit. Current permit contains a higher interim limit.

2 Effluent limit calculated for a hardness of 100 mg/L.

3 Interim limit. Final limit will be lower.

These kinds of stringent effluent limitations have led several wastewater agencies to conduct studies to determine sources of copper contributions coming into their sewerage systems. Consistently, a major source, and in many cases the largest source, has been corrosion of copper plumbing. The Palo Alto Regional Water Quality Control Plant¹ and the Novato Sanitary District² have each estimated that corrosion accounts for approximately 60% of the influent copper loading (e.g., loading in terms of pounds per day) to their treatment plants. The East Bay Municipal Utility District has estimated that corrosion accounts for 58% of their influent

¹ Palo Alto Regional Water Quality Control Plant. Clean Bay Plan 2003. February 2003.

² Novato Sanitary District. Copper Reduction Study. December 1, 2001.

loading.³ The City of San Mateo has estimated that corrosion accounts for 39% of the influent copper loading.⁴

Historically, industries were once a significant source of copper to POTW sewerage systems. But with the advent of the Federal Pretreatment Program in the 1980s and the application of source control on industrial dischargers such as metal finishers, the industrial source contribution decreased, and corrosion from water plumbing systems became a significant source. Corrosion control of the water supply has proven to be the single most effective approach to reducing influent wastewater copper loadings for the San Francisco Bay Area POTWs that have attempted to meet copper effluent limits through source control and pollution prevention programs. Marginal reductions have been achieved through pollution prevention programs targeting commercial sources such as vehicle service facilities and printers. However, with respect to corrosion, the experience of Novato Sanitary District is instructive.

The Novato Sanitary District performed a source identification study for copper and determined that the primary source was residential copper piping.⁵ The District was able to reduce its effluent copper loadings by working with its single water purveyor, the Sonoma County Water Agency (SCWA), to adjust the pH of the water supply from approximately 7.5 to 8.5. Prior to pH control in 1995 the influent wastewater copper concentration was 140 µg/L. In 1996, after implementation of pH control, the influent wastewater copper concentration decreased to 57 µg/L, representing a reduction of 55%. Since POTWs incidentally remove metals as a result of solids reduction, there were more dramatic changes in the effluent wastewater copper concentrations. In 1995 the effluent concentration was 29 µg/L and decreased to 12 µg/L in 1996.

Other northern California POTWs have also experienced significant copper loading reductions as a result of corrosion control including Sonoma Valley County Sanitation District, Dublin San Ramon Services District, and Fairfield Suisun Sewer District. However, POTWs that may benefit from implementation of corrosion control for the water supply are not always able to successfully work with their water purveyors to initiate such studies due to the high regulatory triggers for drinking water in comparison to the wastewater water quality criteria. We therefore recommend that DHS consider modifying the proposed regulation to include provisions requiring water agencies to consider the need for wastewater agencies to meet effluent discharge requirements as an additional trigger for conducting corrosion optimization studies in the proposed Lead and Copper Rule. We believe this modification could result in significant reductions in copper discharged by POTWs to impaired water bodies throughout the state with

³ East Bay Municipal Utility District. NPDES Feasibility Analysis for Achievement of Project final Effluent Limits for EBMUD Main Wastewater Treatment Plant. May 23, 2001.

⁴ Karmendy, K., City of San Mateo. Letter to L. Barsamian. City of San Mateo Final Effluent Limits Infeasibility Study. May 23, 2001.

⁵ Water Environment Research Foundation. Tools to Measure Source Control Program Effectiveness. Project 98-WSM-2. 2000.

Department of Health Services

June 13, 2003

Page 4

significant environmental and monetary benefits that should be evaluated by DHS as part of this rulemaking.

Thank you for your consideration of our comments. Should you have any questions or need additional information, please feel free to contact Monica Oakley, the Co-Chair of the Tri-TAC Water Committee at 925/962-9700.

Sincerely,

David R. Williams
Chair, Tri-TAC

cc: Art Baggett, Chair, State Water Resources Control Board

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*County Sanitation Districts
of Los Angeles County
1955 Workman Mill Road
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June 13, 2003

Via electronic mail
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**Proposed Regulations Regarding
Lead and Copper Requirements for Drinking Water**

The County Sanitation Districts of Los Angeles County (Districts) appreciate the opportunity to provide comments regarding the Department of Health Services' (DHS') proposed drinking water regulations for copper and lead. The Districts provide refuse disposal and wastewater collection, treatment, and disposal services for over five million people who reside in 78 cities and unincorporated areas in Los Angeles County. The Districts operate 11 wastewater treatment plants, including 10 water reclamation plants that produce about 150 million gallons per day (MGD) of recycled water of which 70 MGD is reused at over 448 sites for a wide variety of reuse applications including landscape irrigation of parks, playgrounds, golf courses, agricultural irrigation, industrial use and groundwater recharge. Water that is not reused is discharged to inland surface waters that have a wide range of beneficial uses including water recreation, warm fresh water habitat, wildlife habitat, commercial and sport fishing, and rare, threatened or endangered species spawning, reproduction, and early development.

We are submitting these comments to encourage DHS to consider the potential impact of the proposed regulations on California publicly owned treatment works (POTWs) in meeting discharge standards for copper and to consider modifications to the proposed regulations to more actively trigger corrosion control programs for drinking water systems. We believe these regulations, with some modification, can play a significant role in enabling POTWs throughout the state to significantly reduce pollutant discharges to California waterways and in assisting POTWs to comply with regulatory requirements designed to protect the health of these waterways. Copper is one of the heavy metals that has been determined to have adverse effects on aquatic life and, as a result, POTWs throughout California are faced with increasingly stringent limitations on the level of copper allowed in their wastewater effluent based on their National Pollutant Discharge Elimination System (NPDES) permits.

We understand that Tri-TAC is also submitting comments on the proposed regulations that provide background information on copper corrosion as a primary source of copper in wastewater and the effectiveness of corrosion control programs in reducing copper levels in

wastewater effluents. As such, we hereby endorse Tri-TAC's comments and incorporate them by reference.

Compliance with copper discharge requirements has become an issue for the Districts via the issuance of a tentative NPDES permit for the Districts' Saugus WRP. The Saugus WRP is a tertiary treatment plant located in the Santa Clarita Valley that discharges to the Santa Clara River. The tentative NPDES permit includes a monthly copper limit based on the California Toxics Rule (CTR) of 31 µg/L and a daily maximum limit of 52 µg/L. These limits are significantly lower than the DHS proposed drinking water action level of 1.3 mg/L for the 90th percentile of tap water samples evaluated. Based on historical data, it appears that the Districts may not be able to consistently meet these new copper limits, and as a result, we will need to implement further source control measures for copper, including a program to prevent or minimize corrosion of copper plumbing. Other CTR-based permits will be issued for three more of the Districts' WRPs in the next 12 months and we anticipate that these permits may also contain problematic copper discharge limits necessitating the implementation of corrosion control program for drinking water systems within the sewersheds for those facilities.

As noted in the Tri-TAC letter, POTWs that may benefit from implementation of corrosion control for the water supply are not always able to successfully work with their water purveyors to initiate such programs due to the high regulatory triggers for drinking water in comparison to the wastewater water quality criteria. We therefore agree with Tri-TAC's recommendation that DHS consider modifying the proposed regulation to include provisions requiring water agencies to consider the need for wastewater agencies to meet effluent discharge requirements as an additional trigger for conducting corrosion optimization studies in the proposed Lead and Copper Rule. We believe this modification could result in significant reductions in copper discharged by POTWs to surface waters throughout the state with significant environmental and monetary benefits that should be evaluated by DHS as part of this rulemaking effort.

Thank you for your consideration of our comments. Should you have any questions or need additional information, please feel free to contact Ann Heil of the Districts' Industrial Waste Section by phone at 562/699-7411, extension 2950, or by e-mail at aheil@lacs.org.

Sincerely,

Margaret H. Nellor
Assistant Department Head
Technical Services Department

cc: Art Baggett, Chair, State Water Resources Control Board
Celeste Cantú, Executive Director, State Water Resources Control Board
Dave Spath, Chief of the Division of Drinking Water & Environmental Management,
Department of Health Services
Alexis Milea, Department of Health Services
Dennis Dickerson, Executive Offer Los Angeles Regional Water Quality Control Board
Dave Williams, Chair Tri-TAC
Sharon Green, Vice-Chair Tri-TAC
Monica Oakley, Chair Tri-TAC Water Committee

DRAFT

To: Directors of Environmental Health
Medical Waste Program Managers

From: Jack McGurk, Chief Environmental Management Branch

Subject: SEWER DISPOSAL OF PHARMACEUTICAL WASTE

The purpose of this memo is to clarify issues regarding the disposal of pharmaceutical wastes into wastewater sewerage systems. The discharge of waste to sewerage systems is highly regulated throughout California by the federal Clean Water Act and by the state's Porter-Cologne Water Quality Act as codified in the Water Code. California law also restricts the discharge of hazardous wastes to wastewater sewerage systems. California wastewater agencies (also known as publicly owned treatment works or POTWs) have additional local authority specified in ordinances to restrict the discharge of materials to their systems. Wastes from medical facilities may not be discharged to sewers without the prior authorization of the POTW operating the sewers.

Guidance

In order to obtain authorization to discharge waste pharmaceuticals to a sewerage system, *it is first necessary to contact the POTW* that provides sewerage services in your area. Wastewater treatment plants are designed to remove conventional pollutants such as suspended solids and easily biodegradable organic material, not other pollutants such as pharmaceuticals. Other pollutants are only accepted by POTWs if they are compatible with the POTW's operations and discharge requirements.

The POTW will evaluate your request to ensure that the discharge is in conformance with all applicable laws and regulations and will not cause a violation of any pertinent waste discharge and/or water reclamation requirement. The POTW will also evaluate your request to ensure that the discharge does not interfere with the operation of the treatment plant, including its biological treatment processes. The POTW may require a discharger to prove that the waste is non-hazardous and/or that the discharge of the waste to the sewerage system will not adversely affect humans or aquatic life prior to accepting a waste.

In general, specific written permission *must* be obtained from your POTW before any wastes, including pharmaceutical wastes, are seweraged.

Although each POTW has the right to deny a request to sewer a waste based on local conditions, the following wastes are generally **acceptable for sewerage**:

- 1) Solutions in IV bags containing *only* saline solution, lactate, nutrients such as glucose (e.g., D5W), added salts such as potassium, vitamins, and/or other electrolytes.

The following wastes are generally **not acceptable for sewerage**:

- 1) Any hazardous wastes, both California-only hazardous wastes and federal hazardous wastes regulated under RCRA.
- 2) Solutions in IV bags containing biologically active materials such as antibiotics, painkillers, and antineoplastics.
- 3) Liquid pharmaceutical wastes, including controlled substances
- 4) Solid pharmaceutical waste, including controlled substances

Many hospitals currently waste excess material in syringes into drains, where they pass into sewer systems. It is highly recommended that medical facilities adopt a best management practice of wasting excess material in syringes into a pharmaceutical waste container prior to administration of injections.

If you have any questions about the discharge of a specific waste into the sewerage system, please contact your local POTW.

Background Information

1. Why are pharmaceuticals in water and wastewater of concern to POTWs?

There is increasing concern that the pharmaceuticals present in surface waters could cause various disruptive environmental effects, including endocrine disruption in aquatic life and increased antibiotic resistance. Studies have identified pharmaceuticals and chemicals in personal care products in lakes and streams nationwide, and many of these pollutants are believed to be coming from wastewater discharges. The impact of pharmaceuticals in surface waters, including effects on aquatic life development and effects on human development, is still being studied. While these studies are occurring it is reasonable and prudent to be cautious about sewerage waste pharmaceuticals.

2. What is the Clean Water Act and how does it relate to the control of pharmaceutical wastes?

Section 307 of the Federal Water Pollution Control Act (more commonly referred to as the Clean Water Act) called for the Environmental Protection Agency to develop national pretreatment standards to control industrial discharges into sewerage systems. Included in this program are "Prohibited Discharge Standards," which are uniform national requirements that restrict the level of pollutants that may be discharged by nondomestic sources to sanitary sewer systems. All POTWs that are required to implement a Pretreatment Program must enforce the federal standards. Prohibited Discharge Standards specifically prohibit the discharge of pollutants that cause pass through or interfere with a POTW's operations. A pass through is a discharge that, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of a POTW's discharge permit, per 40 Code of Federal Regulations,

Part 403.5(a)(1). Wastewater discharge permits issued by the California Regional Water Quality Control Board for POTWs pursuant to the Clean Water Act generally contain a requirement that wastes discharged shall not contain any substances in concentrations toxic to human, animal, plant, or aquatic life. This means that no pharmaceutical wastes may be sewered that in and of themselves, or in conjunction with other wastes discharged by businesses or households, could create a concentration of the pharmaceutical in the treatment plant effluent that, when discharged to surface or groundwater, adversely impacts humans or aquatic life. Individual POTWs have the authority to determine what wastes may adversely impact their own systems.

3. How do California's hazardous waste regulations apply to pharmaceutical waste discharges?

The California Environmental Protection Agency's Department of Toxic Substances Control (DTSC) implements hazardous waste regulations in California, along with various local agencies. California does not allow hazardous wastes to be sewered (California Code of Regulations, Sections 66261.3 and 66261.4). Hazardous wastes may be listed wastes or characteristic wastes. Listed hazardous wastes include epinephrine, nitroglycerin, and many chemotherapy agents. Characteristics that make a waste a hazardous waste include ignitability (including formulations with more than 24% alcohol, collodion, and oxidizers such as potassium permanganate and silver nitrate), corrosivity (having a pH less than 2 or greater than 12.5), reactivity (including nitroglycerin, which is generally exempt from federal hazardous waste regulations, but not California hazardous waste regulations), and toxicity.

There are a number of considerations to determine if a waste exhibits the characteristic of toxicity under California standards. The material must not contain concentrations of certain chemicals above certain concentrations, as defined in the California Code of Regulations Sections 66261.24(a)(1) and 66261.24(a)(2). The material must also not have an acute oral LD₅₀ less than 5,000 mg/kg, an acute dermal LD₅₀ less than 4,300 mg/kg, an acute inhalation LC₅₀ less than 10,000 parts per million as a gas or vapor, or an acute aquatic 96-hour LC₅₀ less than 500 mg/L when measured in soft water using fathead minnows, rainbow trout, or golden shiners. Additionally, a waste is hazardous waste if "it has been shown through experience or testing to pose a hazard to human health or environment because of its carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative properties or persistence in the environment." Violation of any of these criteria makes the waste a hazardous waste.

The generator of a waste has the responsibility to determine whether a waste is a hazardous or not. For pharmaceutical wastes, all criteria that may reasonably be expected to make a waste a hazardous waste need to be explored before contacting a POTW to seek authorization to discharge the waste. Improper determination of whether a waste is hazardous does not shield the generator from felony criminal liability for illegal hazardous waste disposal. For more information on hazardous waste regulations and disposal, please contact DTSC or your local hazardous waste authority.