
Tri-TAC

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Via Electronic and U.S. Mail

April 6, 2001

NPS-CAG Comments
Ken Harris, Chief
Watershed Pollution Prevention Section
State Water Resources Control Board
101 I Street, 15th Floor
Sacramento, CA 95814

**SUBJECT: COMMENTS REGARDING DRAFT COMPLIANCE ASSISTANCE
GUIDANCE FOR IMPLEMENTING CA'S NONPOINT SOURCE
PROGRAM PLAN**

Dear Mr. Harris:

Thank you for the opportunity to provide comments on the State Water Resources Control Board's draft "Compliance Assistance Guidance for Implementing the Plan for California's Nonpoint Source Pollution Control Program ("NPS-CAG"). The California Association of Sanitation Agencies (CASA) and Tri-TAC are statewide associations representing local public agencies that provide wastewater collection, treatment, disposal and water recycling services. The constituent agencies of CASA and Tri-TAC comprise most of the sewered population in California.

We recognize that the NPS-CAG does not create any new regulations and relies upon the existing three-tier process described in the Nonpoint Source Program Plan. We believe, however, that the SWRCB should implement the three-tier program in a different manner than that proposed in the draft NPS-CAG. Specifically, the NPS-CAG states that "all three tiers of the three-tier process may be used simultaneously in addressing watershed-wide sources of NPS pollution." (Draft NPS-CAG at p. 7.) As representatives of publicly-owned point sources, we do not believe it is appropriate to rely on voluntary measures (Tier 1) to implement total maximum daily load (TMDL) load allocations.

TMDLs are an important water quality tool, as they identify all sources of pollutants entering a waterbody, whether point or nonpoint, and assign load reductions to those sources necessary to attain water quality standards. The new federal TMDL regulations provide, however, that unless there are "reasonable assurances" that nonpoint source reductions will be implemented, the entire load reduction is to be assigned to point source dischargers. (40 CFR §130.2 (g).) For this reason, it is important that California employ mechanisms available under the existing regulatory structure to demonstrate, at the time the TMDL is adopted, that nonpoint source load reductions are reasonably likely to occur. While Tier 1 approaches may be successful in other contexts, we do not believe that a voluntary self-determined approach is sufficient once a load allocation has been assigned to a nonpoint source.

CASA and Tri-TAC recommend that the NPS-CAG be amended to indicate that when a nonpoint source has received a load allocation pursuant to a TMDL, a minimum of Tier 2 will be used. This tier, which involves regulatory-based encouragement of management practices, does not require effluent limitations nor formal enforcement, and allows NPS dischargers to continue to rely on BMPs to achieve load reductions. Tier 2 would, however, provide increased oversight by the regional board or other state agencies and provide greater assurances that the nonpoint source load reductions will be achieved.

Thank you for your consideration of our comments. If you have any questions, please contact Roberta Larson, CASA's Director of Legal and Regulatory Affairs, at (916) 446-0388.

Sincerely,



Phil Bobel, Chair
Tri-TAC



Roberta Larson
Director of Legal and Regulatory Affairs
CASA

cc: Nora Lynn, Senator Alpert's Office