



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

Reply to: Sharon N. Green, Chair
Tri-TAC
c/o Sanitation Districts of Los
Angeles County
P.O. Box 4998
Whittier, CA 90607

Via Electronic and U.S. Mail

November 8, 2004

Dena McCann
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 94812-1000

**SUBJECT: COMMENTS REGARDING THE SCOPE OF THE FED FOR
PROPOSED REVISIONS TO THE STATE IMPLEMENTATION POLICY
FOR TOXICS**

Dear Ms. McCann:

These comments are submitted on behalf of Tri-TAC and the California Association of Sanitation Agencies (CASA). Tri-TAC is a statewide organization comprised of members from public agencies and other professionals responsible for wastewater treatment. Tri-TAC is jointly sponsored by CASA, the California Water Environment Association, and the League of California Cities. CASA is a nonprofit association of 111 public agencies providing wastewater collection, treatment, recycling and disposal services to millions of Californians.

Tri-TAC and CASA support the development of a Functional Equivalent Document for the two substantive amendments proposed by SWRCB staff to the Policy for the Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (the "SIP"). Our comments on each of these proposed amendments follow. We do not have any comments at this time on Issue 3 (revisions of non-regulatory language of the SIP).

Issue 1: Revisions to Section 1.2 to Allow Adjustment of Criteria for Metals with Discharge-Specific Water Effect Ratios

Tri-TAC and CASA support the proposed amendment to the SIP to allow water effects ratios (WERs) to be established without amending the relevant Basin Plan to establish a site-specific objective, as contemplated by the National Toxics Rule (NTR) and California Toxics Rule (CTR). It does not make sense to require agencies to undertake a Basin Plan amendment process to adjust metals criteria in a manner expressly allowed by EPA when establishing the water quality criteria in the NTR, as well as in the CTR. As EPA stated in a 1994 memo to regional Water Division Directors and State Water Quality Standards Program Directors, “[t]he National Toxics Rule was a formal rulemaking process with notice and comment by which EPA pre-authorized the use of a correctly applied water-effect ratio As indicated on page 60866 of the preamble to the National Toxics Rule, the rule was constructed as a rebuttable presumption. The water-effect ratio is assigned a value of 1.0 until a different water-effect ratio is derived from suitable tests representative of conditions in the affected waterbody.” As EPA emphasized in the memo, the State must ensure that the calculations and data analysis are done completely and correctly, even if the WER is established through a permitting action or establishment of a Total Maximum Daily Load. This obligation would not change with this amendment to the SIP to allow approval of WERs through the permitting process.

The major advantages of proceeding with this amendment are that there will be reductions in the time and administrative costs necessary to process WERs through Basin Plan amendments, while achieving equally protective water quality criteria that are tailored to site-specific conditions. A good example of the considerable length of time necessary to go through the full Basin Plan amendment process was the copper site-specific objective developed for South San Francisco Bay using a WER, which required several years to conclude even after all the scientific and technical studies were complete.

Tri-TAC and CASA suggest that staff include in the SIP amendment clarification of what is meant by a “discharge-specific” WER (as used on p. 16 of the Scoping Document), and provide guidance as to when WERs should be established through permit amendments or other means versus through site-specific objectives. As for the scope of alternatives to be analyzed in the Functional Equivalent Document for this issue, we recommend that the SWRCB consider approval of additional methods as part of the FED analysis, including use of the Biotic Ligand Model (BLM) as a method for developing site-specific criteria to modify freshwater aquatic life criteria for copper, and use of the “Streamlined Procedure” for determining site-specific values for a WER. More information on these methods can be found on U.S. EPA’s website at <http://www.epa.gov/waterscience/criteria/copper/index.htm>.


Issue 2: Revisions to Section 1.3 Determination of Priority Pollutants Requiring Water Quality-Based Effluent Limitations

Tri-TAC and CASA support elimination of the ambient background-only trigger for reasonable potential. We believe that this step in the existing reasonable potential analysis can result in unnecessary effluent limits in NPDES permits that do not provide additional water quality protection. Requiring periodic monitoring when ambient background concentrations are greater than the water quality criterion or objective yet the pollutant is not detected in the effluent is an adequate method for ensuring that water quality is adequately protected. However, the FED should recognize that the frequency of this monitoring may have a cost impact to dischargers and should allow for flexibility

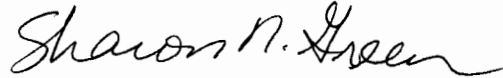
or make it optional, depending on site-specific circumstances (i.e. considering the nature of the pollutant and of the discharge).

Thank you for the opportunity to provide our comments regarding the scope and content of the FED being prepared for these issues. We look forward to the opportunity to work with the SWRCB on additional amendments to the SIP in the future to address high priority issues such as whole effluent toxicity and the need for modifications to the compliance schedule provisions to address newly applied effluent limits and other such situations.

Sincerely,

Handwritten signature of Roberta L. Larson in cursive, with the initials 'SNG' written below it.

Roberta L. Larson, Director of Legal
& Regulatory Affairs, CASA

Handwritten signature of Sharon N. Green in cursive.

Sharon N. Green, Chair
Tri-TAC

cc: Ben Horenstein, Tri-TAC Water Committee Co-Chair
Terrie Mitchell, Tri-TAC Water Committee Co-Chair
Jim Kelly, CASA Water Issues Forum Chair



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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JAMES F. STAHL
Chief Engineer and General Manager

November 12, 2004
File No. 31-370.40.4A

Via U.S. and Electronic Mail

Ms. Dena McCann
Freshwater Standards Unit
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95814

Dear Ms. McCann:

**Comments on the Scope of the FED for Proposed Revisions
to the Statewide Implementation Policy for Toxics**

On behalf of the County Sanitation Districts of Los Angeles County (Districts), I am submitting these comments regarding the scope of the Functional Equivalent Document (FED) for the proposed revisions to the Policy for the Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries of California (SIP) currently being developed by the SWRCB. We have also reviewed the comments submitted to you on November 8th by Tri-TAC and the California Association of Sanitation Agencies (CASA), and we endorse their comments.

Based on our review of the Scoping Document and various EPA documents, such as the California Toxics Rule (CTR), National Toxics Rule (NTR), and EPA's guidance on water effect ratios (WERs), we offer the following additional comments regarding Issue 1 for your consideration. It is our opinion that, with the "discharge-specific" limitation currently proposed, depending on how it is defined, few EDW dischargers would be able to take advantage of this amendment to the SIP. Thus, the time and resource efficiencies this amendment is supposed to provide may not materialize. We believe that EPA regulations and guidance clearly pre-authorize the use of all water effect ratios for the metals identified in the CTR and NTR, not just the use of "discharge-specific" WERs. Therefore, we strongly recommend that the SWRCB drop the use of the term "discharge-specific" when referring to some WERs, and instead, consistent with the CTR, NTR and EPA guidance on WERs, pre-authorize the development and use of WERs without going through the Basin Planning process for those metals already identified by EPA in the CTR and NTR. This approach would necessarily be predicated upon the use of EPA approved methodologies, or other scientifically-defensible methodologies approved by the State. The SIP should then specify that the alternative of developing a site-specific objective through a WER (including a basin plan amendment) would apply for all other constituents (i.e., any for which WERs are not pre-authorized by EPA). This approach would be clearer, and would take full advantage of the flexibility already provided by EPA.

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If the SWRCB is concerned about the potential for less public involvement in developing WERs without a basin plan amendment process, an alternative would be to allow Regional Boards to require that a public advisory committee and/or technical expert panel be convened during the development of a WER for a waterbody. In other words, the Regional Board would have the discretion to require that these types of committees be convened if they believe the project to be particularly technically challenging, or if they have knowledge that there is sufficient interest in participating in development of the WER by other parties. Therefore, we recommend that this alternative be considered in the FED.

We also concur with the recommendation by Tri-TAC and CASA that the SWRCB should consider pre-approving the use of methods such as the Biotic Ligand Model for freshwater copper, and the use of the "Streamlined Procedure" for WERs.

Thank you for your consideration of our comments. If you have any questions, please contact Martha Rincon at (562) 699-7411, extension 2830.

Very truly yours,

James F. Stahl



Victoria O. Conway
Section Head
Monitoring Section

VOC:MR:drs