



**The January 9, 2014 meeting will be a conference call:**

**Call Times:**

**8:30 a.m. – 10:30 a.m. Land Call – Page 2**

**10:30 a.m. – 12:30 p.m. Water Call – Pages 3- 22**

**Land and Water Issue Summaries – Pages 23 & 27**

**RSVP** to Molly Ranes [mranes@casaweb.org](mailto:mranes@casaweb.org) with which call you would like to participate in. The call information will be provided in response to the RSVP.

**Tri-TAC BIOSOLIDS LAND COMMITTEE**

AGENDA

January 9, 2014

Conference Call

<b>Item No.</b>	<b>Topics</b>	<b>Lead Person</b>	<b>Est. Time (minutes)</b>	<b>Attachments</b>
1.	<b>Tri-TAC Retreat Update</b>	T.Meregillano/G.Kester/ V./De Lange	5	
2.	<b>Regulatory/Legislative/Legal Updates</b>			
	<ul style="list-style-type: none"> <li>▪ Ordinances Update                             <ul style="list-style-type: none"> <li>- Imperial</li> <li>- San Luis Obispo</li> <li>- Solano (+Measure E)</li> </ul> </li> <li>▪ Kern (Measure E)</li> </ul>	G. Kester/L. Baroldi	10	
		G. Kester/D. Gilbert		
3.	<b>State and Regional Updates</b>			
	<ul style="list-style-type: none"> <li>▪ CalRecycle FOG/Food Waste Digestion</li> <li>▪ CalRecycle 75% Diversion Plan</li> <li>▪ CDFA Regulations on Rendering</li> </ul>	G. Kester G. Kester/V. De Lange G. Kester	15	
4.	<b>EPA and Nationwide Updates</b>			
	<ul style="list-style-type: none"> <li>▪ NPDES Proposed Electronic Reporting Rule</li> <li>▪ Arsenic Cancer Slope Factor</li> <li>▪ New Proposed FDA Rules</li> </ul>	G. Kester/T. Meregillano G. Kester G. Kester	10	
5.	<b>Regional Facilities Updates</b>			
	<ul style="list-style-type: none"> <li>▪ Bay Area Agencies</li> <li>▪ So. Cal. &amp; C.V.</li> <li>▪ IERCF</li> <li>▪ Westlake Farms</li> <li>▪ TIRE</li> </ul>	B. Gillette, B. Jones T. Meregillano/E. Have M. Bao M. Bao D. Gilbert	15	
6.	<b>Industry Association Updates</b>			
	<ul style="list-style-type: none"> <li>▪ WEF</li> <li>▪ CASA</li> <li>▪ CWEA</li> <li>▪ SCAP</li> <li>▪ BACWA</li> <li>▪ CVCWA</li> </ul>	G. Kester/V. De Lange G. Kester J. Hay M. Bao M. Krupp TBD	10	
7.	<b>Emerging Contaminants</b>			
	<ul style="list-style-type: none"> <li>▪ Pyrethroid Working Group</li> <li>▪ Trace Organics Activities</li> </ul>	G. Kester G. Kester	10	
8.	<b>Biosolids Research</b>			
	<ul style="list-style-type: none"> <li>▪ WEF Biogas Study</li> <li>▪ Other</li> </ul>	G. Kester G. Kester	5	
9.	<b>Conferences/Webinars</b>	All	5	
10.	<b>Information Sharing</b>	All	10	

Tri-TAC Water Committee Agenda – January 2014

ITEM #	Topic	LEAD	Time (min)	Relevant material
<b>Discussion Items:</b>				
1.	Biological Objectives	Phil Markle	15	
2.	Groundwater Concept Paper – SWB Workshop 1/22/2014	Adam Link/Debbie Webster	15	<a href="http://www.waterboards.ca.gov/water_issues/programs/groundwater/workplan.shtml">http://www.waterboards.ca.gov/water_issues/programs/groundwater/workplan.shtml</a>
3.	Electronic Reporting	Shannon Bishop	10	Attachment 1 – Comment Letter
<b>Updates</b>				
1.	CEC Update	Phil Freiss	10	
2.	Statewide Mercury Program	Shannon Bishop	10	<a href="http://www.waterboards.ca.gov/water_issues/programs/mercury/">http://www.waterboards.ca.gov/water_issues/programs/mercury/</a>
3.	Water Quality Standards	Adam Link	10	Attachment2—Comment Letter
<b>Items that are out there:</b>				
CDPR Webinar	January 13 10:00 -11:00 PST	<p>“Update on Pyrethroid Detections in Urban Surface Waters Post Regulations” Contacts: Mike Ensminger or Robert Budd, <a href="mailto:mensminger@cdpr.ca.gov">mensminger@cdpr.ca.gov</a>, <a href="mailto:rbudd@cdpr.ca.gov">rbudd@cdpr.ca.gov</a></p> <p>Go to <a href="https://van.webex.com/van/j.phpED=231045832&amp;UID=0&amp;PW=NYzI5MzU5MWUx&amp;RT=MiM0">https://van.webex.com/van/j.phpED=231045832&amp;UID=0&amp;PW=NYzI5MzU5MWUx&amp;RT=MiM0</a></p> <p>Call-in toll-free number: 1-8886959132 (US) Attendee access code: 827 324 9</p>		
US EPA		<p>New Vision for the CWA 303(d) Program—An Updated Framework for Implementing the CWA 303(d) Program Responsibilities</p> <p><a href="http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/programvision.cfm">http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/programvision.cfm</a></p>		



Reply to:  
Roberta Larson  
1225 8<sup>th</sup> Street  
Suite 595  
Sacramento, CA 95814  
blarson@casaweb.org

December 11, 2013

U.S. Environmental Protection Agency  
EPA Docket Center  
Enforcement and Compliance Docket Center  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460  
Attention Docket ID No. EPA-HQ-OECA-2009-0274

Submitted via Federal Rulemaking Portal

**EPA-HQ-OECA-2009-0274**  
**NPDES Electronic Reporting Rule**

Tri-TAC and the California Association of Sanitation Agencies (CASA) are pleased to submit input to the U.S. Environmental Protection Agency (USEPA) on the proposed National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule (Reporting Rule). As background, Tri-TAC and CASA are statewide organizations that represent municipal wastewater collection, treatment, biosolids recycling and management, and water recycling agencies that serve more than 90% of the sewered population in California. Tri-TAC is a technical advisory group for publicly owned treatment works (POTWs) jointly sponsored by CASA, the California Water Environment Association, and the League of California Cities. CASA is a statewide organization representing over 110 local public agencies providing wastewater services.

**General Comments**

The proposed Reporting Rule requires electronic reporting for current paper-based NPDES reports. Specifically, Discharge Monitoring Reports (DMRs), Notices of Intent to discharge in compliance with a general permit, other general permit waivers, certifications, and notices of termination of coverage, and program reports must be submitted electronically by NPDES-permitted facilities to USEPA through the National Environmental Information Exchange Network or to the authorized state, tribe, or territory NPDES program. USEPA states that the Reporting Rule will save time and limited resources for permittees, states, tribes, territories, and USEPA while also improving compliance and providing better protection of the Nation's waters. Tri-TAC and CASA support USEPA's effort to conserve time and scarce resources for permittees and regulatory authorities; therefore, it is essential that USEPA work with states, tribes, and territories that currently have electronic reporting in place, such as California, to ensure these programs are not adversely affected. In an ideal framework, dischargers located in states with electronic reporting programs in place should enter data into the state's system, which would submit the required data to USEPA; this process would both save resources and reduce data entry errors through duplicative efforts, consistent with USEPA's goals.

Even though Tri-TAC and CASA are in agreement with the intentions of the Reporting Rule, we are concerned that USEPA will use its Clean Water Act Section 308C authority to obtain the required information directly from NPDES permittees if states do not meet the State Readiness Criteria by the deadline specified in the Reporting Rule. Furthermore, we believe this is especially troubling for states that have existing, successful programs in place. The State Readiness Criteria has three criteria which the State must satisfy:

*“(1) The authorized state, tribe, or territory has 90 percent acceptance rate by data group (i.e., NPDES-regulated entities submit timely, accurate, complete, and nationally consistent NPDES data using approved state, tribe, territory or third-party electronic reporting tools; and (2) The EPA, state, tribe, territory, or third-party electronic reporting tools used by the NPDES regulated entity meet all of the minimum Federal reporting requirements for 40 CFR part 3 (CROMERR) and 40 CFR part 127 (NPDES Electronic Reporting Rule); and (3) EPA lists the state, tribe, or territory as the initial recipients for electronic NPDES information from NPDES-regulated entities in that state on EPA’s Web site. Each authorized program will then designate the specific tools for these electronic submissions from their permittees. These designations are proposed to be made separately for each NPDES data group (see 40 CFR 127.2(c) and 127.27).”*

Part (1) of the State Readiness Criteria, the 90 percent acceptance requirement, is inappropriate given that it is out of the state’s and NPDES discharger’s control how many regulated entities are submitting complete electronic reports. Therefore, Tri-TAC and CASA request that the State Readiness Criteria omit the percentage requirement and only include Part 2 and Part 3. Additionally, USEPA is pursuing an aggressive two-year implementation schedule that will be difficult to accomplish and will prove especially challenging for states that are now required to submit information from non-delegated programs with which they have no experience, such as biosolids in California. While Tri-TAC and CASA commend USEPA for its commitment to work with states, tribes, and territories to ensure that their eDMR systems are Cross-Media Electronic Reporting Regulation (CROMERR) (40 CFR 3) and Reporting Rule (40 CFR 127) compliant in a timely manner, it is likely that some states, tribes, and territories with their own electronic systems will not successfully meet the deadline. This will force the NPDES dischargers to duplicate reporting efforts to their state’s electronic reporting system and to USEPA’s electronic reporting system until the state’s system becomes certified by USEPA, an inefficient and unacceptable outcome. This also means that dischargers in such states will need to modify their reporting protocol twice, once when the proposed Reporting Rule comes into effect, and again when the state’s electronic reporting system is certified by USEPA. This potential situation is a misuse of discharger resources, all of who are powerless to ensure the timely implementation of their state’s electronic reporting system. Therefore, USEPA should not require dischargers to change their reporting protocols until their state has a CROMERR and NPDES Reporting Rule compliant electronic reporting system. The onus should be on the states and USEPA, not the dischargers, to implement and certify the systems to ensure they are in place for dischargers to comply with the proposed rule.

On a related note, Tri-TAC and CASA recommend that USEPA extend the two-year timeline. The extension will allow states the necessary time to implement the requirements of the Reporting Rule and is critical considering the time required for USEPA CROMERR approval. The proposed Reporting Rule specifies that Phase 1 (basic NPDES facility and permit information and discharge monitoring report information) and Phase 2 (information for general permits and program

reports) will be collected one and two years after the effective promulgation date, respectively. According to information posted on the CROMERR website, "Once an application is received, USEPA's first step is to review applications for completeness, a process that can take up to 75 days. Once the application is determined to be complete, EPA then has up to 180 days to approve or deny the application. However, USEPA approval of applications for existing systems could take up to 360 days. The approval becomes effective when USEPA publishes a notice of the approval in the Federal Register." Thus, it can take USEPA up to 15 months to approve an application for CROMERR certification at the current levels (March 2013) of submittals. The approval time alone would consume three months beyond the Phase 1 timeline and about two thirds of the Phase 2 timeline. As of March 2013, there is a backlog of 36 applications pending approval. Furthermore, there are only eight states with approved biosolids programs, so the number of applications for CROMERR approval for these programs alone will substantially increase following promulgation of the Reporting Rule. Therefore, Tri-TAC and CASA request that the two-year timeline be extended so the Phase 1 and Phase 2 timelines start after CROMERR certification is granted for states seeking approval.

As the last general comment, Tri-TAC and CASA recommend that USEPA not expand the scope of the rule. We do not believe the proposed Reporting Rule should be modified to require additional data beyond what is currently required pursuant to existing regulations for NPDES dischargers.

Tri-TAC and CASA's comments on specific topics such as discharge monitoring reports, spills and bypasses, biosolids, and compliance are outlined below, and a more detailed list referencing specific pages in the Federal Register Notice is attached hereto (Attachment 1).

### **Discharge Monitoring Reports**

As noted previously, Tri-TAC and CASA recommend CROMERR approval be the first step in determining State Readiness, and dischargers should be given an additional year from the CROMERR approval date to report DMRs electronically. In California, the State Water Resources Control Board (State Board) requires reporting of permit monitoring data (except biosolids) through a state reporting tool, the California Integrated Water Quality System (CIWQS) eSMR. The State of California is currently in the process of seeking CROMERR approval for portions of CIWQS, and dischargers should not have to report electronically to USEPA while the system is pending approval. The State Board has already worked closely with USEPA and the discharger community through a public user group to incorporate electronic DMR data into the state reporting tool. Database modifications for data transfer to the Integrated Compliance Information System (ICIS-NPDES) and security upgrades for CROMERR approval have been in progress since mid-2012. Also, the state system was beta tested for DMR input by a limited number of dischargers and USEPA Region 9 representatives verified acceptable data was received in the ICIS-NPDES test system. Therefore, a significant amount of effort has already been put towards electronically reporting DMR data in California's system, which would be wasteful if CROMERR approval is not received by the proposed deadline and California dischargers are obligated to report directly to USEPA. Further, if the State Readiness Criteria is not modified as suggested, dischargers will be subject to duplicative time and cost intensive reporting requirements. For instance, dischargers with multiple facilities and extensive monitoring requirements can have as many as 5,000 parameters to report in a single month, which is the equivalent of 155,000 DMR fields. Since this is an unmanageable amount of data to enter by hand into an online data entry screen, capabilities would have to be developed and

maintained by the NPDES discharger to submit data via three potentially overlapping systems – paper DMRs, the State electronic DMR system, and the USEPA data entry tool, such as NetDMR. Since the Reporting Rule requires dischargers to wait until CROMERR approval is obtained to use any state's system, it is reasonable for the implementation deadline to be tied to that approval date for states awaiting CROMERR approval rather than an arbitrary regulatory mandate. If CROMERR approval is not forthcoming for California, then USEPA needs to notify the state and dischargers immediately and provide additional support and time so alternative implementation measures can be arranged.

### **Spills and Bypasses**

The proposed Reporting Rule requires electronic reporting of sewer overflow and bypass events, as specified by NPDES permits, and incidents of noncompliance under 40 CFR 122.41(l)(6). In California, the State Board already requires electronic reporting of sewer overflow events under the Statewide General WDR for Sanitary Sewer Systems, WQO No. 2006-0003 (SSO WDR). Under the SSO WDR, permittees are required to report sewer overflows through the CIWQS database. The CIWQS database was intended to meet the reporting requirements of the State Board's SSO WDR and not NPDES permits; however, the SSO WDR is referenced in NPDES permits throughout California. If this reference is interpreted to mean that electronic reporting will be required for sewer overflows, the State Board and USEPA should work together so that NPDES permittees are only required to supply information to one database. Based on discussions with members of the State Board CIWQS team, the State Board is not currently seeking CROMERR approval for the SSO portion of the CIWQS database. Security on the SSO portion of CIWQS does not meet CROMERR standards and the State Board does not have plans to update its security to meet these standards. Since this portion of the State Board's system does not meet USEPA's CROMERR criteria, NPDES permittees would be required to submit data both directly to USEPA and the CIWQS database, which is unnecessarily duplicative and an inappropriate use of public funds. When sewer overflows occur, staff time should be dedicated to stopping the overflow, cleaning it up, and preventing future occurrences rather than duplicative reporting.

Further, the proposed Reporting Rule will require electronic reporting for 40 CFR 122.41(l)(6) and (7) – sewer overflow 24 hour and 5 day reports and 40 CFR 122.41(m)(3)(i) – bypass reporting. As stated above, California SSO WDR permittees are already required to complete electronic reporting for overflow events and duplicative reporting should not be required. In regards to electronic reporting of bypasses, several regions throughout California include an NPDES permit requirement for a 5-day written notification to the appropriate regulator(s). If USEPA electronic reporting is going to be required for either overflows or bypasses, the data fields in Appendix A of the Reporting Rule need to specify what information is required for the 24 hour report and the 5 day report. Much of the information requested in Appendix A is not known immediately following an overflow or bypass, and therefore should not be required in the initial 24 hour notification.

Notwithstanding the above comments, if USEPA does not accept CIWQS as an approved method to report spills, then data items in Appendix A regarding 40 CFR part 127 are not sufficient. A significant amount of resources and effort are spent to recover spills and bypasses, monitor their impacts, and prevent them from reaching receiving waters. This information is important to characterize the event and should be included in the data. Additionally, there are several items in Appendix A that do not help to characterize the event and should be removed. These are further outlined in the detailed list of comments in Attachment 1.

## Biosolids

Tri-TAC and CASA agree that electronic reporting can be beneficial for biosolids, but caution must be taken to ensure that the correct and necessary information is required. Table 2 in Appendix A of 40 CFR part 127 in the proposed rule contains reporting requirements that appear to be misinterpretations of 40 CFR part 503. The development of a biosolids reporting database is not simple and will require input from biosolids experts to ensure the regulations are accurately interpreted and reporting requirements are consistent with the regulations. Tri-TAC and CASA strongly urges USEPA to evaluate the Biosolids Data Management System (BDMS) developed by the University of Florida, USEPA Region 8, and USEPA Office of Water in the late 1990s.

General comments are as follow:

- Biosolids regulations (40 CFR part 503) set different and unique monitoring requirements and limits depending on the end use of the biosolids. This nuance is not captured in the proposed regulations.
- Since USEPA is expecting to be able to judge compliance from the reports, there must be a means to identify monitoring requirements based on the end use of the biosolids. The end use may change from monitoring period to monitoring period or even within a single monitoring period. The electronic reporting tool must be able to delineate those differences since different compliance requirements apply based upon the end use.
- Similarly a single permittee may produce multiple biosolids types (i.e., liquid and dewatered; Class A and Class B; anaerobically digested and lime stabilized; etc.) so the electronic reporting mechanism must be able to account for each and its associated requirements for every monitoring period and for every end use.
- In some states, including California, biosolids from multiple generators may be applied to the same land application site. If there is intent to track individual site information as when 503.13(b)(2) applies, then this needs to be captured.
- Due to the ready public availability of the electronic data to be collected, it is incumbent upon USEPA to collect the required data that can be verified in a regulatory context. The electronic reporting system should be able to alert one as to the need for further review but should not be viewed as the means to a final determination of compliance. In addition, POTWs should have a mechanism for submitting corrections or modifications to the electronic system if errors are found.
- The proposed rule states that all of the electronic reporting tools, whether already existing or to be developed in implementing this rule, need to be compliant with USEPA's CROMERR if it is transmitted to USEPA. Presently, California does not have delegated authority for the biosolids program, and its electronic reporting system (CIWQS) does not support biosolids monitoring data. As a result, POTWs are required to report directly to USEPA. Clarification is sought on whether POTWs need to be CROMERR certified to authorize electronic reporting directly to USEPA.
- USEPA appears to be eliminating the benefits and responsibilities for delegated authority by phasing out the annual summary reports now provided to USEPA and relying solely on

electronic reporting by permittees. While Tri-TAC and CASA agree that electronic reporting will yield many benefits and improve accuracy of biosolids management and quality data reported, we do not agree that it will allow determination of compliance in most cases.

## Compliance

The Reporting Rule notes that USEPA has received feedback from states and public data users that the existing terminology and nomenclature for cataloguing effluent violations is too confusing and that the proposed rule will simplify and improve the transparency and utility of violation information. Tri-TAC and CASA disagree that the Reporting Rule will improve transparency for categorizing violations, and to the contrary, believe that the proposed additions to 40 CFR 123.45(a)(G)(2)(v) and (vi) are overly broad. Specifically, subsection (v) *Non-numeric Effluent Limit Violations* includes violations that “caused or could cause serious impacts on water quality”. This statement can be interpreted in many ways and therefore does not provide clarity how this type of violation is assigned. In order to provide the transparency that USEPA is seeking with the proposed Reporting Rule, 40 CFR 123.45(a)(G)(2)(v) should be revised to read:

*“These include violations of non-numeric effluent limits (e.g., violations of narrative permit requirements or requirements to implement best management practices) that caused serious impacts on water quality. Examples of such serious impacts on water quality include, but are not limited to, discharges that caused exceedances in water quality standards, fish kills, oil sheens, beach closings, fishing bans, restrictions on designated uses, and pass through or interference with the operations of a POTW (see § 403.3 of this chapter).”*

With this change, it is clear what constitutes a non-numeric effluent limit violation and will avoid potentially minor violations being classified as a “Category 1” violation. Similarly, subsection (vi) *Other Violations* includes “any violation or group of violations, which in the discretion of the Director or EPA, are considered to be of concern.” With this “catch-all” definition, any violation can be classified as a “Category 1” violation, which does not clarify the methods applied to categorize violations. As such, Tri-TAC and CASA recommend that this ambiguous subsection be removed from the proposed Reporting Rule.

Additionally, USEPA is soliciting comments on the need for establishing a policy-making process with states, tribe, territories, and the public to add or delete pollutants that are subject to Category 1 classification for permit effluent limit violations. Tri-TAC and CASA agree that the development of any policy or guidance should include an open stakeholder process. Furthermore, if subsections 40 CFR 123.45(a)(G)(2)(v) and (vi) are not modified or omitted as requested, then the application of these categories should be further clarified in the new policy or guidance. Lastly, USEPA states that the Technical Review Criteria (TRC) for Group I and Group II Pollutants identified in 40 CFR 123.45, Appendix A will remain unchanged. Tri-TAC and CASA support USEPA’s decision to retain the TRC unchanged in the Code of Federal Regulations, especially given the potential financial impacts on POTWs in California. Specifically, a discharger is assigned a mandatory minimum penalty of \$3,000 for every “serious” violation, which is defined in the California Water Code as “any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for ... Section 123.45 of Title 40 of the Code of Federal Regulations...” Therefore, any modifications made to the TRC will have significant economic impacts to POTWs in California.

**Accuracy of Compliance Information**

Lastly, USEPA notes that the Reporting Rule will also enhance transparency and public accountability by providing the regulatory agencies and the public with more timely, complete, accurate, and nationally consistent sets of data about the NPDES program and potential sources of water pollution. Tri-TAC and CASA are in agreement with USEPA's goal to improve transparency and public knowledge and emphasize that, in order to achieve this goal, USEPA's Permit Compliance System (PCS), ICIS-NDPES, Enforcement and Compliance History Online (ECHO) database, and any other database created as a result of this rule must operate properly. For example, ECHO's "Known Data Problems" webpage lists numerous problems with the data displayed online. Specifically, the website notes that for the state of California, the ICIS-NDPES database contains a significant number of DMR late-reporting violations for dischargers that submitted the required monitoring documents in a timely basis. It is unacceptable for any of the systems to incorrectly show dischargers as out of compliance and all such problems should be addressed by USEPA immediately or removed from the websites until the problem is remedied.

Thank you for the opportunity to provide input on the proposed Reporting Rule. If you have any questions or require additional information pertaining to biosolids, please contact Greg Kester at (916) 446-0388 or [gkester@casaweb.org](mailto:gkester@casaweb.org) and for the remaining topics Shannon Bishop at (562) 908-4288, extension 2843 or [sbishop@lacs.org](mailto:sbishop@lacs.org).

Sincerely,



Terrie Mitchell  
Chair, Tri-TAC



Roberta L. Larson  
Executive Director, CASA

**ATTACHMENT 1: Specific Comments with Corresponding Page Numbers****Discharge Monitoring Reports**

1. Pages 46089-46091, Table 2 “Limit” – a field is necessary to contain a code indicating that a limit is a “wet” or “dry” limit. Wet and dry limits are included in various permits in California and data is reported as either wet or dry based on the conditions at the time of sampling. Currently, these are implemented inconsistently by using the codes (Effluent Gross and EG) available in the monitoring location. A comment field in ICIS-NPDES indicates the definition of wet/dry for that particular DMR. Since the codes change and are not defined across all of ICIS-NPDES, it would not be clear to anyone viewing data extracted from ICIS-NPDES (where the comment is not available) whether the data in the system corresponded to wet or dry limits.
2. Pages 46103-46104, Table 2 “Compliance Monitoring Activity (DMRs)” – a field is necessary in ICIS-NPDES to contain brief comments for each parameter that reports a value in the NO. EX (number of exceedances) data field or the capability to upload an attachment. The hard copy DMR form contains a blank field below the certification that states the field is for “COMMENTS AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here).” Dischargers have been diligently filling in this field not knowing that the data is not being entered into ICIS. This data should be input into ICIS-NPDES and go directly to ECHO as well. As an additional DMR field, the RNC resolution code and RNC resolution date could be entered to further characterize the violation.
3. Page 46113, Table 2 “Violation” – some violations can be generated in ICIS-NPDES based on DMRs; therefore, the discharger-provided information about the violation should flow directly to the Violations data set. Since the Quarterly Non-Compliance Reports (QNCR) are going to be generated directly from electronic DMR data, the Dischargers should have an opportunity to resolve the violation at the time it is entered into ICIS-NPDES. The RNC Resolution Code can be more quickly and efficiently determined and show the RNC resolution status thus closing numerous open violations. As it is now, dischargers must determine that a violation is in ECHO, submit corrections, and communicate directly with USEPA to clear up the RNC status of violations.

**Spills and Bypasses****Current Information Proposed in Appendix A Not Needed to Characterize SSOs and Bypasses**

1. Page 46030, Should overflow reports be limited to sewer overflows at a threshold volume or include de minimus releases? – Sewer overflow reporting requirements should not only be limited based on volume, but whether or not the spill reaches surface water. According to the California Water Code Section 13271, Cal-EMA must be contacted for spills greater than 1,000 gallons that may likely make their way to waters of the State. Therefore, we propose that de minimus releases not be included in sewer overflow reports. Only overflows greater than 1,000 gallons that may likely reach receiving waters should be included in the reports.
2. Page 46037, Electronic submission of follow-up reports under 40 CFR 122.41(l)(6) and (7) not required – the only reporting discussed under 40 CFR 122.41(l)(6) and (7) are the 24 hour and 5 day written reports. Therefore, electronic reporting of the 5 day written report would not be required. However, pages 46038 and 46039 of this proposed rule do not consider the 5 day report (a follow-up report) and require electronic reporting. Clarification should be provided as to what follow-up reports under 40 CFR 122.41(l)(6) and (7) are not required.

3. Page 46085, Facility Site Longitude, Facility Latitude, Facility Site Source Map Scale Number, Facility Site Horizontal Accuracy Measure, Facility Site Horizontal Collection Method, Facility Site Horizontal Reference Datum, Facility Site Reference Point – This data should not be required because it is not relevant. If the overflow is not occurring at the facility, the facility name and address is sufficient. Overflow longitude and latitude are more appropriate information to collect and these are already questions on page 46112.
4. Page 46086, Permit Application Total Design Flow and Permit Application Total Actual Average Flow – This information is not relevant and should not be required. The design flow or actual average flow downstream of an overflow has no relation to a sewer overflow event.
5. Page 46087, Permit Application/NOI Received Date – This information should not be required as it is unnecessary and irrelevant to the event. Other questions in the database ask for the permit effective date and the permit number, which is much more useful information.
6. Page 46087, SIC and NAICS Codes – The economic activity of the facility is irrelevant to the type of event and is also irrelevant in characterizing an overflow or bypass event. Economic information is more pertinent to enforcement, which is not covered in this proposed rule.
7. Page 46088, Narrative Condition and Permit Schedules Section – Clarification of this section is needed. Overflows and bypasses are unforeseen events. Therefore, there would not be a “scheduled event”.
8. Page 46104, Federal Regulatory Section(s) Requiring the Program Report – It is inappropriate to require the permittee to enter this information. In most cases, the person submitting the report will not know this information and does not have the legal background to accurately provide this information.
9. Page 46114, Penalty Assessment – Please clarify who will be entering this information. This information comes from the entity assessing the penalty and should not be the responsibility of the permittee.

#### Additional Information Needed in Appendix A to Characterize SSOs and Bypasses

1. Bypass reporting – There should be a data item to indicate if all permit limitations were met. Often times there are tertiary filter bypasses at a treatment plant that are reportable; however, the permit limits were not violated. This is an important distinction that is not otherwise clear and would prevent confusion for both regulators and the public.
2. Volume Reaching Receiving Water and Volume Recovered – While there is a data question related to volume, a lot of money and effort is spent trying to recover spills and prevent them from reaching receiving waters. This effort should be recognized and permittees should be encouraged to take such actions. Also, this information would help to more accurately characterize the spill. As an example, a 10,000 gallon spill that was all recovered from a parking lot and properly disposed of is very different than a 10,000 gallon spill that all reaches a receiving water and discharges to the ocean.
3. Estimated Spill Time – While there is a question relating to discovery time, the spill time can be very different than the discovery time.
4. Monitoring – A question should be included asking if any monitoring was conducted. Monitoring is an important tool to assess impact of the event. If monitoring was conducted, this information could provide useful.
5. Overflow Location – The overflow location question should have room for multiple entries since sometimes overflows daylight in several locations.
6. Receiving Water Body – This question should allow for multiple water bodies to be entered.

#### **Biosolids**

1. Page 46016 – it is stated that all of the electronic reporting tools, whether already existing or to be developed in implementing this rule need to be compliant with USEPA’s CROMERR (40 CFR part 3) if it is transmitted to USEPA. Presently, California does not have delegated authority for the biosolids program, and its electronic reporting system (CIWQS) does not support biosolids monitoring data. As a result, POTWs are required to report directly to USEPA. Clarification is sought on whether POTWs need to be CROMERR certified to authorize electronic reporting directly to EPA.
2. Page 46033 – it is stated that 40 CFR 503 requires data to be reported by certain agencies meeting size or class designations. However the data cited here is only required under one scenario of one disposition option. Specifically the proposed rule states that certain agencies must report monitoring data, quantity of biosolids managed, ultimate end use or disposal location, and vector and pathogen reduction measures. The specific end use or disposal locations are required only for land application and only when the biosolids fail to meet the requirements of 503.13(b)(3) and are within 90% of reaching the limits of 503.13(b)(2). Vector and pathogen reduction measures are only required for land application and in special cases of surface disposal.
3. Page 46034 – comments are sought on standardizing biosolids reporting in several areas. However, in Appendix A to 40 CFR part 127, requirements addressing these areas are already added even though they are not all required in 503 as explained below.

Areas:

- a. Type and amount of biosolids generated and managed – agree that this is required and is appropriate but note that it is critical for the database to accept this data by monitoring period (one, four, six, or 12 per year) and for each different end use and type of biosolids managed within each monitoring period. Furthermore it is critical that compliance is tied to the end use and the associated monitoring requirements tied to that use.
- b. Sampling and analytical methods – 503 requires certain analytical methods be used but does not require the reporting of those methods. Appendix A does so. Appendix A also requires reporting of sampling method and location. This is not required in 503 and should not be. Every biosolids generator will have different sampling locations depending on their treatment type and location. The requirement is that sampling be “representative” and this will be uniquely variable. Reporting the location will not inform a regulator as to its representativeness and will be subject to incorrect interpretation.
- c. Location of biosolids disposal and management practices – based on Appendix A, it appears that location information for every land application site is required which is not a requirement of 503. Many states already require this data but 503 does not and it would be a new and burdensome exercise to do so. It also takes extensive database development and nomenclature to accept the data. Moreover, as stated above, many POTWs use contract land applicators to manage their biosolids; this requirement would necessitate that POTWs obtain and duplicate the reporting of their land application contractors. It is reasonable to require general information regarding the means of biosolids management (i.e.; land application, mine reclamation, public distribution, surface disposal, incineration, etc.). Please see Part d. below.
- d. Land application data – note that Appendix A does appear to require this for every application site, but as noted above 503 only requires application site

- information if and when a biosolids does not comply with 503.13(b)(3) and when the site has been loaded to 90% of the limits in 503.13(b)(2). This should change to remain consistent with 503.
- e. Surface disposal data – the requirements in 503.23 are required for unlined and no leachate collection system surface disposal sites and for those within 150 meters of property lines. Appendix A appears to require them in all cases. This should change to remain consistent with 503.
  - f. Incineration data – data as required in 503.48 is reasonable. Appendix A appears to have added data on the disposition of incinerator ash which is not now required and should not be added, as it does not relate to compliance with federal biosolids regulations.
4. Page 46046 – USEPA seeks comment on whether to eliminate the requirement for states, tribes, or territories delegated for biosolids to provide annual summary information regarding non-compliance and an inventory of generators and disposal facilities. This is made under the assumption that such data will now be readily available to USEPA from the electronic reports received directly from permittees. Since California is not a delegated state for biosolids, we are not directly impacted. However, as noted above, extreme caution should be taken in assuming that all non-compliance, or compliance, can be determined from the electronic reports. Any database will need to be complex in its underpinnings but readily understandable on its surface. At best, flags can be generated to alert a regulator to a need to investigate an anomaly or “apparent” violation further.
  5. Page 46091 – Table 2 in Appendix A of 40 CFR part 127 – The biosolids data required in this section for permit applications is reasonable and acceptable.
  6. Pages 46104-46106 – Table 2 in Appendix A of 40 CFR part 127 - Comments are offered for each entry of this biosolids section below:
    - a. Treatment Processes – It is unclear what this will actually require and whether it is currently required or a new requirement. Other than how pathogen control is achieved for land application and some surface disposal scenarios, it is unclear. While it is not disagreed that a complete picture of a POTW is desirable and would be instructive, without more detail it remains unclear as to whether this is a new entry point.
    - b. Biosolids Class – This data element only is applicable to land application scenarios but is acceptable for that situation. It is critical that any reporting be able to differentiate biosolids types and end use applicable during that monitoring period. For instance if a facility has a bimonthly monitoring frequency and does not land apply in January-February then the class is irrelevant during this monitoring period and no compliance for such should be connected to it. Moreover, multiple end uses may be utilized within a monitoring period so the appropriate monitoring requirements must be tied to each end use.
    - c. Management practice – This is reasonable and necessary information but again must be tied to each monitoring period and then tied to relevant management practices (i.e., if no land application during a monitoring period, or if multiple end uses are utilized within a monitoring period, then the appropriate monitoring requirements must be determined and tied to each end use). Furthermore, there are additional end uses allowed in California which must be accounted for in the regulation. These include:
      - i. Deep well injection
      - ii. Use as an alternative fuel for cement kilns
      - iii. Gasification
      - iv. Use for alternative renewable energy production

- v. Mine reclamation
  - vi. Fire ravaged land reclamation
  - vii. Other emerging technologies
- d. Sampling and Analytical methods – See above comment 2.b. This is not a current requirement and sampling point description will not be instructive.
  - e. Biosolids Volume amount – Reasonable and acceptable.
  - f. Biosolids Receiving Site Name (and site street address, site city, site state, site zip code) – It is unclear to what this and the following sections refer. If it is intended as a facility receiving biosolids for further treatment, a landfill, an off-site surface disposal site, or other similar facility then this and the following four sections may make sense. If it is intended to mean every land application site then please see comments 2.c. and d. above.
  - g. Biosolids receiving site latitude – This is not currently reported nor should it be.
  - h. Biosolids receiving site longitude – This is not currently reported nor should it be.
  - i. Biosolids Monitored Parameter – Reasonable and acceptable (but it must be for each biosolids type)
  - j. Biosolids Monitored Parameter Concentration and Unit – Reasonable and acceptable.
  - k. Actual Measured Cumulative Pollutant Loading Rate – Please see Comment 1 and 2.d. above. This appears to be a misunderstanding of the regulation. Cumulative pollutant loading rates need only be calculated if pollutant concentrations in biosolids are between the pollutant concentration limits (503.13(b)(3)) and the Ceiling Concentrations (503.13(b)(1)) and land applied. They need only be reported when the site is within 90% of the limit of 503.13(b)(2)).
  - l. Actual Measured Annual Application Rate – This is not currently required to be reported. Furthermore USEPA states that this is then compared to the limits in 503.13(b)(4) for compliance. This is a misunderstanding of the regulations. Section 503.13(b)(4) was developed for biosolids distributed for home use in containers less than 1 metric ton but which did not meet the requirements of 503.13(b)(3). It was assumed a homeowner would use such material at their home for no more than 20 years and thus the limits in 503.13(b)(2) were divided by 20. Section 503.13(b)(4) is only narrowly applied in this most unlikely scenario.
  - m. Disposition of Incinerator Ash – As noted above in comment 2.f. this is not currently required and should not be now.



Reply To:  
Adam Link  
1225 8<sup>th</sup> Street Suite 595  
Sacramento, CA 95814  
alink@casaweb.org

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December 30, 2013

Water Docket, Environmental Protection Agency  
Mail Code 2822T  
1200 Pennsylvania Ave. NW  
Washington, DC 20460  
Attention: Docket ID No. EPA-HQ-OW-2010-0606

*Submitted via Federal Rulemaking Portal*

**EPA-HQ-OW-2010-0606**  
**Comments on Water Quality Standards Clarifications Proposed Rule**

The California Association of Sanitation Agencies (CASA) and Tri-TAC appreciate the opportunity to submit comments to the United States Environmental Protection Agency (USEPA) in accordance with the September 4, 2013 Federal Register Notice (Notice) requesting stakeholder input regarding proposed changes to the federal water quality standards (WQS) regulations. CASA is a statewide association of municipalities, special districts, and joint powers agencies that provide wastewater collection, treatment, and water recycling services to millions of Californians. Tri-TAC is a technical advisory group for publicly owned treatment works (POTWs) in California jointly sponsored by CASA, the California Water Environment Association (CWEA), and the League of California Cities. Together, Tri-TAC and CASA represent municipal wastewater collection, treatment, and water recycling agencies that serve the vast majority of California's population, approximately 38 million people.

The Notice identifies six primary topics within the current WQS regulations that are being considered for modification. These include (1) parameters for Administrator determinations that new or revised WQS are necessary; (2) processes to identify and refine designated uses; (3) requirements for triennial reviews; (4) revisions to USEPA's involvement with state antidegradation implementation policies and related requirements; (5) WQS variances; and (6) provisions authorizing the use of in-permit compliance schedules.

**1. Water Quality Standards Determinations**

With regard to the first issue, CASA and Tri-TAC fully support the proposed clarification in Notice Section III.B 9 (40 CFR section 131.22(b)) that specifies Clean Water Act (CWA) section 303(c)(4)(B) determinations must be expressly identified and signed by the Administrator, and have

no further comment on that issue. Our input on the remaining topics in the Notice as well as general comments on suggested revisions to the WQS regulatory clarifications are set forth below.

**2. Designated Uses [Notice Section III.C, FR 54522 – 54525, 40 CFR sections 131.10(g), 131.10(k), 131.3(m).]**

Appropriate designated use classification remains a critical issue for municipal wastewater treatment facilities in California. CASA and Tri-TAC appreciate many of the proposed clarifications related to designated uses, and particularly the fact that the regulatory proposal reflects an emphasis on assigning use designations that accurately reflect the highest *attainable* uses. We also appreciate USEPA's acknowledgement that "states and tribes have broad discretion to determine the appropriate level of specificity to use in identifying and defining designated uses, and nothing in this proposal is intended to narrow that discretion." (FR 54523) It is important to emphasize that the rebuttable presumption of fishable/swimmable designated uses currently provided for in the CWA does not restrict the discretion that states have to determine whether fishable/swimmable uses or subcategories of these uses are not, in fact, attainable in a particular case.

However, we remain concerned about the lack of detail surrounding the requirements of a Use Attainability Analysis (UAA). This uncertainty can make the UAA process difficult for States to undertake, and thus make States reluctant to change designated uses even when there is a wealth of evidence it would be appropriate to do so. Achieving greater clarity in the process and requirements surrounding regulatory tools such as UAAs was one of the focus areas of a recent effort of the California State Water Resources Control Board (State Water Board). While we intend to work with the State and Region IX to develop a common understanding of these parameters under existing rules, CASA and Tri-TAC request that USEPA directly clarify the process and requirements for an acceptable UAA as part of these WQS clarifications.

The proposed modifications also provide that where a State or tribe adopts new or revised water quality standards based on a UAA, it must adopt the Highest Attainable Use (HAU). (FR 54522, 40 CFR section 131.10(g).) CASA and Tri-TAC originally commented that it is not always clear what the "highest attainable use" would be, and we appreciate that the proposed clarification includes a definition of HAU at section 131.3(m) as follows:

"Highest attainable use is the aquatic life, wildlife, and/or recreation use that is both closest to the uses specified in section 101(a)(2) of the Act and attainable, as determined using best available data and information through a use attainability analysis defined in § 131.3(g)."

However, CASA and Tri-TAC remain concerned regarding how the HAU, as defined, will be implemented if it is based on the UAA (40 CFR 131.10(g)) factors. The UAA factors are written in the negative, meaning the context for their use is an effort to demonstrate why a use *cannot* be met. This is essentially the opposite of designating an *attainable* use, and could lead to significant confusion. Thus, CASA and Tri-TAC recommend that USEPA either: (1) provide a significant number of examples describing exactly how this is intended to work using each factor, or (2) modify the language of the HAU to place it in its proper context. At a minimum, we request that USEPA include multiple examples in the preamble describing precisely how a HAU would be determined using the UAA factors.

Finally, CASA and Tri-TAC appreciate that the proposal is responsive to an issue of significant concern to POTWs: properly delineating circumstances where a UAA is not required. Specifically, CASA and Tri-TAC had previously requested improvements to the process for redefining or subcategorizing beneficial uses, noting that the adoption of subcategories of a particular use should not require a full UAA and should not require a demonstration of one of the factors required for downgrading a use, but rather should be allowed as a clarification to reflect the actual uses of the waterbody. Consistent with this request, the rule has been revised to state that:

“...a UAA is not required when a state or authorized tribe designates or has designated uses specified in section 101(a)(2) of the act for a water body for the first time, removes a designated use that is not specified in section 102(a)(2) of the Act, or adopts a subcategory that requires criteria as stringent as the previously applicable criteria.” (FR 54525, revised section 131.10(k).)

This approach is consistent with previous and existing USEPA policy and is critically important given that numerous states have inappropriately designated all waters categorically and without data or analysis as fishable/swimmable or as municipal and domestic drinking water supply sources, and then require a UAA to later remove these broad “blanket” designations. This has, at least in EPA Region IX, been subject to differing interpretations and often involves the expenditure of significant financial resources to attempt to remove designated uses that are not mandated under federal law (i.e. those not in section 102(a)(2) of the CWA). This clarification should help address the unnecessary perceived mandate of performing a UAA when not required under the regulations, saving significant time and public resources.

### **3. Triennial Review [Notice Section III.D, FR 54525, 40 CFR sections 131.20(a)-(b)]**

We agree with USEPA’s proposal to clarify that States and tribes must solicit and consider public comments when determining the scope of a triennial review. We also agree that it is appropriate during the triennial review process to re-examine water quality criteria to ensure that designated and existing uses are protected and appropriate. However, it is important to note that USEPA’s CWA section 304(a) criteria are merely guidance and recommendations developed on a

national scale in a very conservative context, and may not be applicable or needed in all geographies around the U.S. As it applies to California, these criteria are often developed with species not present in the state (or within its various regions), and often contain very low numbers that should not be applicable. As such, we request that USEPA not make an explicit reference to 304(a) criteria guidance in the revised regulations given their lack of universal applicability.

We are also concerned the Notice focuses almost exclusively on circumstances in which uses “that were previously unattainable are now attainable.” (FR 54525) It is important to note that this “re-examination” process should also identify circumstances in which water quality criteria are more stringent than necessary to protect a particular use, or are unattainable. Efforts to change water quality criteria should carefully examine, through the use of sound science, not only whether existing criteria are inadequate, but also if they are overly conservative or unnecessarily restrictive. We believe this perspective is implicit in the scope of the revised rule and request that the rule be modified to make it explicit.

**4. Antidegradation Implementation [Notice Section III.E, FR 54525-54531, 40 CFR sections 131.12, 131.5(a)]**

As a general comment, CASA and Tri-TAC maintain that there is no demonstrated need to establish prescriptive minimum federal antidegradation implementation requirements, which would require USEPA review and approval. The proposed modification includes a requirement that antidegradation implementation methods be adopted as WQS and thus subject to USEPA’s review and approval or disapproval. (FR 54529, 40 CFR section 131.12) Currently, the federal rules leave implementation of antidegradation policies to the individual States and tribes, and States should continue to have such discretion over implementation methods. The proposed framework set forth in the rule would reduce flexibility needed by individual States and regions to address unique watershed conditions. For example, in California, the State has had an antidegradation policy in place since 1968, before passage of the CWA in 1972, and the policy as well as subsequent implementation guidance from the State have functioned well over that time period. Thus, in direct response to USEPA’s request for comment relating to “whether EPA should include a requirement that antidegradation implementation methods be adopted as WQS and thus subject to EPA’s review and approval or disapproval” (FR 54529), CASA and Tri-TAC oppose such a proposal and believe USEPA should not have a role in approving State antidegradation implementation policies.

If, despite these concerns, USEPA elects to adopt the proposed methods as described, several changes are needed. First, as it relates to the identification of high-quality waters, CASA and Tri-TAC are concerned with the requirement that States and tribes would need to undertake a process of identifying high quality waters on a parameter-by-parameter or waterbody-by-waterbody basis. (FR 54527-54530) The concern stems not from the fact that the States have the authority to identify high quality waters, nor the particular process for doing so articulated in the proposed change. Rather, we are concerned that the language could be improperly construed to require states or tribes to

undertake a proactive process of identifying all high-quality waters in their jurisdiction upon promulgation of the new regulations. CASA and Tri-TAC would appreciate clarification on this issue and potential modifications to the proposed regulatory changes that would specify that no such large-scale, proactive endeavor is required under this section, with a concomitant opportunity to comment on the clarification. If USEPA confirms that such a process is required, then the rule should indicate that Integrated Reports prepared using USEPA's five-category system satisfy this requirement, since such waterbodies are identified with the category system.

Second, CASA and Tri-TAC oppose expanding the scope of the antidegradation analysis by mandating a complex new alternatives analysis (FR 54528, 40 CFR section 131.12(b)(2)). In California, an alternatives analysis is generally a component of an antidegradation analysis, even though as the Notice states, there is no explicit requirement to conduct one. However, it is best left to the discretion of the State as to how and whether to conduct such analysis, and the details should not be included as part of a prescriptive federal regulation.

Third, the antidegradation implementation plan should include language requiring States and tribes to assess and apply negligible or *de minimis* levels to exempt insignificant new or increased discharges from antidegradation review. This is absent from the proposed modifications, but is particularly crucial given the time-consuming and resource-intensive nature of the technical and economic analyses involved in a full antidegradation review. Finally, for the same reasons indicated above, CASA and Tri-TAC oppose the proposal for States to adopt antidegradation implementation methods as WQS, either as a mandate or a discretionary approach.

#### **5. WQS Variances [Notice Section III.F, FR 54531-54536. 40 CFR sections 131.14]**

The need for an adequately articulated variance process was one of CASA and Tri-TAC's original comments when concepts for revision to the WQS regulations were circulated in 2010, and we appreciate that USEPA has incorporated that concept into the proposed amendments. We are very supportive of the proposed time period for variances of up to 10 years. This amount of time is needed not only for the reasons indicated in the preamble to the proposed regulation revisions, but also for at least two more reasons: (1) the water quality problems states are facing today are more complex and incremental than when the Clean Water Act was passed, particularly given that secondary and higher treatment has been accomplished across the vast majority of the country; and (2) federal funding has become extremely limited, if available at all, and economic considerations are of grave concern to municipalities. Thus, sufficient time is needed to implement programs in a practicable fashion.

Overall, the variance provisions appear broad enough to encompass the range of variances being discussed at the State and regional level in California, and should not pose a problem or result

in inconsistencies in that regard. However, there are three elements of the proposed modifications that require clarification and, potentially, modification.

First, there is a need to clarify the meaning of the term “highest attainable condition” as that term is used in FR 54531-54534 and proposed additions to 40 CFR section 131.14 (“...A water quality standards variance (WQS variance) is a time-limited designated use and criterion for a specified pollutant(s), permittee(s), and/or water body or waterbody segment(s) that reflect the *highest attainable condition* during the specified time period.”) To the extent that “highest attainable condition” is interpreted to be the same as “highest attainable use” as defined in section 131.3(m), and to the extent that the new definition in 131.3(m) necessarily requires a UAA, then we believe that this qualification for a variance is unnecessary and inappropriate. Requiring a full UAA defeats the purpose of a variance in the first instance as variances are designed to be limited in nature and time, and represent a method to provide regulatory flexibility without changing the underlying water quality standard. Requiring a full UAA equivalent to what would be required to change the water quality standard to determine highest attainable condition for variance purposes is not an effective or supportable approach and should be removed from the regulation. However, if “highest attainable condition” is a discrete concept, then USEPA should clarify its use of that term in the context of the proposed variance modifications.

Second, CASA and Tri-TAC are supportive of the concept related to identification and documentation of BMPs for nonpoint sources for waterbody variances, since this class of dischargers is important for water quality standards attainability. However, we are concerned that if one or more POTWs is participating with a State agency to develop the justification for a variance for a waterbody, the POTWs might be required to develop (or pay to develop) identification and documentation of BMPs for nonpoint sources. This is an inappropriate use of municipal public resources. Therefore, we request that if this activity is retained in the regulation, it should be specifically indicated as a responsibility of the State governments and not third parties that are not nonpoint source dischargers.

Finally, CASA and Tri-TAC suggest modifying the proposed language of 40 CFR 131.14(b)(ii)(B) to allow for a time-limited lowering of water quality for water conservation purposes. Specifically, section 131.14(b)(ii)(B) states that a WQS variance must specify “[a]n interim numeric effluent condition that reflects the highest attainable condition for a specific permittee(s) during the term of the variance. Neither (A) nor (B) of this paragraph shall result in any lowering of the currently attained water quality *unless a time-limited lowering of water quality is necessary during the term of a variance for restoration activities*, consistent with paragraph (b)(2)(ii) of this section.” (Emphasis added.) However, water conservation activities also will necessitate a time-limited lowering of water quality and the language of this provision should be redrafted to encompass this circumstance as well. For example, many California cities have been observing an increase in pollutant concentrations entering wastewater treatment plants as flow is reduced (due in part to water conservation activities) but mass remains the same.

**6. Permit-Based Compliance Schedules [Section III.G, FR 54536, 40 CFR section 131.15]**

CASA and Tri-TAC support the proposed clarification regarding compliance schedules designed to be consistent with the decision in *In the Matter of Star-Kist Caribe, Inc.*, and specifically the language within section 131.15 that states “[i]ndividual compliance schedules issued pursuant to such authorizing provisions are not themselves water quality standards.” However, we do not concur that a state’s compliance schedule authorizing provision “...is a water quality standard subject to EPA review and approval...” Compliance schedules are an implementation provision and permitting tool, not WQS subject to USEPA approval. The modifications should simply state that a NPDES permitting authority may issue compliance schedules in NPDES permits if the State has a compliance schedule authorizing provision in place (whether it be policy, regulation, or statute).

Thank you for the opportunity to provide input on the proposed water quality standards regulatory clarifications. If you have any additional questions or would like additional information on the issues identified above, please do not hesitate to contact CASA’s Director of Government Affairs, Adam Link at (916) 446-0388, [alink@casaweb.org](mailto:alink@casaweb.org).

Sincerely,



Adam Link  
Director of Government Affairs, CASA



Jackie Kepke,  
Chair, Tri-TAC

# Tri-TAC Land Committee Key Issue Summary

(as of January 03 , 2014)

Item No.	Description	Issues for POTWs	Meeting Notes/Updates	Lead(s)	Next Steps	Due Date
<b>Goal: Support Long-term Viability of Land Application Options</b>						
<b>1</b>	<p><b>Local County Ordinances</b></p> <ul style="list-style-type: none"> <li>▪ Imperial</li> <li>▪ San Luis Obispo: Ordinance placing restrictions on Class B biosolids land application.</li> <li>▪ Solano Ordinance: Ordinance requires agencies to divert a portion of biosolids to Class A or B2E facility by 2012; annual progress reporting.</li> <li>▪ Solano Measure E (1984): This measure restricts waste imported from other counties and is currently in litigation. If upheld and enforced, 90% of imported waste (up to 820,000 tpy) would be banned.</li> <li>▪ AB 845, Ma, Solid Waste Place of Origin – This bill prohibits an ordinance enacted by a city or county from otherwise restricting or limiting the importation of solid waste into a privately-owned solid waste facility in that city or county based on place of origin</li> <li>▪ Kern (Measure E): A voter-approved ordinance that would prevent land application of biosolids in unincorporated parts of the county. A legal challenge was brought in state court in Jan 2011 after dismissal of a federal appeal by the 9<sup>th</sup> Circuit, in Nov 2010. A Preliminary Injunction (PI) was granted by Tulare County Judge Hicks in Jun 2011.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Potential loss of existing and future land application practices.</li> <li>▪ Increased biosolids management costs (e.g., longer hauling distances, more expensive alternative practices).</li> </ul>	<ul style="list-style-type: none"> <li>▪ Imperial: Advocacy efforts to challenge ordinance ban on biosolids is placed on hold until a final decision on Kern County Measure-E case is made.</li> <li>▪ San Luis Obispo: On 3/12/13, the Board of Supervisors (BOS) unanimously approved the extension of the existing interim biosolids ordinance until March 2017 as requested by County staff and supported by wastewater agencies and CASA. By extending the interim ordinance until 2017, the County is provided time to review the science and the issues, and consult with others, while drafting a new ordinance. The BOS committed to providing funding as they go through their budget process to allow the Department of Health the ability to perform due diligence as they work on a new ordinance.</li> <li>▪ Solano: The Board of Supervisors would like a court decision as to whether Solano’s Measure-E is moot under AB 845.</li> <li>▪ The court agreed with CASA and the Respondents and found that “enactment of Assembly Bill No. 845 has rendered the issues raised on appeal moot. Because the portion of the judgment directing enforcement of Measure E is contrary to existing law, the appropriate course of action is to reverse that portion of the judgment with instructions to dismiss the petition.” Although the court did not reach the merits of the case, and the opinion remains unpublished, this is a very positive result and underscores the impropriety of out-of-county bans of solid waste and biosolids alike.</li> <li>▪ Potrero Landfill continues with plans for expansion.</li> <li>▪ State Supreme Court agreed to review one of Kern County’s claims concerning a statute of limitation issue. The City has submitted an opposition brief due on September 23. A trial date has not been scheduled at this time. City continues to process biosolids at Green Acres.</li> </ul>	G. Kester D. Gilbert L. Baroldi	<ul style="list-style-type: none"> <li>▪ Imperial: No updates.</li> <li>▪ San Luis Obispo: No updates, continue to track.</li> <li>• Continue to track</li> <li>▪ Continue to track</li> </ul>	
<b>Goal: Sustain and Develop Biosolids Management Options with Focus on Sustainability</b>						
<b>2</b>	<p><b>FOG/Food Waste Digestion Program Regulation</b></p> <ul style="list-style-type: none"> <li>▪ CalRecycle vs. State/Regional Board oversight</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ensure that existing and future programs are regulated under NPDES permit framework by Water Boards rather than under SW regulations by CalRecycle.</li> <li>▪ Review and comment on draft/proposed regulations that may impact existing and planned programs.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Tom Howard, SWRCB Executive Officer, sent a letter to POTWs &gt;1MGD, addressing multi-jurisdictional issues on co-digestion of organic material. The letter outlines steps to notify RWQCB of planned or existing co-digestion projects.</li> <li>▪ CalRecycle formal rule making process on co-digestion exemption regulation is anticipated to start Jan 2014. CalRecycle will conduct a financial impact analysis.</li> <li>▪ CASA is working with CWEA in developing an SOP training module.</li> </ul>	G. Kester	<ul style="list-style-type: none"> <li>▪ G. Kester to work with CWEA on SOP training module.</li> </ul>	

## Tri-TAC Land Committee Key Issue Summary

(cont'd)

Item No.	Description	Issues for POTWs	Meeting Notes/Updates	Lead(s)	Next Steps	Due Date
3	<b>CalRecycle 75% Recycling, Composting or Source Reduction of Solid Waste by 2020</b>	<ul style="list-style-type: none"> <li>May prohibit agencies from claiming recycling credits for utilizing biosolids as an alternative daily cover (ADC) for landfills.</li> </ul>	<ul style="list-style-type: none"> <li>In discussions with Mark De Bie, CalRecycle is not proposing a "ban" on biosolids at landfills nor on its use as ADC. However, they do not expect to allow its use as ADC to count toward the 75% recycling goal (it will still count for AB 939 diversion credit). As noted, ARB is proposing phasing out of organics at landfills in their scoping plan but biosolids are not included in that ban at this time. Basically we will need to pay attention to legislation resulting from the recycling plan, to regulations proposed by CARB, and to regulations proposed by CalRecycle to implement the recycling goal. But it does appear to be a favorable outcome for us at this point.</li> </ul>	G. Kester	<ul style="list-style-type: none"> <li>Continue to track.</li> </ul>	
4	<b>Rendering Facility Regulations</b> <ul style="list-style-type: none"> <li>California Department of Food &amp; Agriculture (CDFA)</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that existing and planned FOG acceptance programs are not subject to rendering facility permitting requirements by CDFA.</li> </ul>	<ul style="list-style-type: none"> <li>CASA and Tri-TAC working with CDFA on Slaughter House Waste exemption. Possible concerns with prions.</li> </ul>	G. Kester	<ul style="list-style-type: none"> <li>G. Kester to follow up with CDFA regarding slaughter house exemption.</li> </ul>	
5	<b>Biosolids Solid Waste Definition</b>	<ul style="list-style-type: none"> <li>CISWI rules could have applied to POTWs utilizing methane in an internal combustion (IC) engine.</li> </ul>	<ul style="list-style-type: none"> <li>EPA released a clarification letter that it did not intend to define methane transported in a pipe for combustion in an IC engine as a solid waste.</li> </ul>	G. Kester	<ul style="list-style-type: none"> <li>Ensure clarification letter is widely distributed.</li> </ul>	
7	<b>FDA – Proposed Food Safety Rule</b>	<ul style="list-style-type: none"> <li>Proposed rule may spur potential controversy.</li> </ul>	<ul style="list-style-type: none"> <li>On 1/16/13, FDA published (in the Federal Register) proposed rules for the handling, storage, and safety of produce in the U.S. The use of biosolids is mentioned in the proposed rule; use is permissible as long as it is in compliance with EPA regulations (CFR503). B. Bastian and B. Brobst (EPA staff) have offered their services in providing responses to comments received. <b>Comments extended to November 22, 2013.</b></li> <li>Greg K. provided draft to biosolids group for review.</li> <li>Comment letter was sent.</li> </ul>	G. Kester	<ul style="list-style-type: none"> <li>Support proposed rule.</li> <li>G. Kester reviewing proposed regulations.</li> </ul>	
8	<b>WEF – NBP Update</b>	<ul style="list-style-type: none"> <li>May impact EMS Certification Program.</li> </ul>	<ul style="list-style-type: none"> <li>Vin De Lange holding NBP Chair position.</li> </ul>	G.Kester/ V. De Lange	<ul style="list-style-type: none"> <li>Continue to track and monitor.</li> </ul>	
9	<b>EPA Maximum Available Control Technology (MACT) Standards</b>	<ul style="list-style-type: none"> <li>Ability to comply with new regulations is currently uncertain. NACWA and NRDC filed a request for reconsideration and advance notice of possible litigation.</li> </ul>	<ul style="list-style-type: none"> <li>Oral arguments were held May 3 in NACWA's litigation challenge to EPA's sewage sludge incineration (SSI) rule, with the Association aggressively challenging EPA's legal basis for its new SSI regulations. NACWA is hopeful for a ruling from the court within the next 3-4 months</li> </ul>	G. Kester/L. Baroldi	<ul style="list-style-type: none"> <li>Continue to track and monitor litigation if filed.</li> </ul>	
10	<b>Arsenic Cancer Slope Factor</b> <ul style="list-style-type: none"> <li>In Feb 2010, EPA proposed a 17-fold increase in the cancer slope factor for inorganic arsenic based on questionable interpretations of available data.</li> </ul>	<ul style="list-style-type: none"> <li>If adopted, the new cancer slope factor would likely impact recycled water, effluent and biosolids limits.</li> </ul>	<ul style="list-style-type: none"> <li>National Academy of Science is reviewing the process in which EPA used to develop the arsenic slope factors (IRIS) and the research that supported the slope factor.</li> <li>NAS incorporating comments from EPA.</li> </ul>	G. Kester	<ul style="list-style-type: none"> <li>Continue to track, monitor, and comment as efforts proceed.</li> </ul>	
11	<b>EPA's Proposed Electronic NPDES Reporting Requirement</b> <ul style="list-style-type: none"> <li>Proposed regulations will require permittees and regulators electronically report information and data related to the NPDES permit program in lieu of written reports.</li> </ul>	<ul style="list-style-type: none"> <li>If adopted and among other requirements, NPDES regulated biosolids generators and handlers will be required to electronically submit data elements specific to biosolids annual program reports.</li> </ul>	<ul style="list-style-type: none"> <li>Public comments period has been extended to December 12, 2013 due to Federal Gov. shutdown.</li> <li>General comments: 1) agree with the general goal to go paperless, 2) concerns with duplication of data entry (State/Fed), 3) concerns that the State's CIWQS system is not CROMERR certified, 4) ambiguity of SSO reporting, and 5) question on whether it is possible to request for biogas production information in platform.</li> <li>Tri-TAC/CASA joint letter.</li> </ul>	G. Kester/T. Meregillano	<ul style="list-style-type: none"> <li>G.Kester to look into Dept. Energy and EPA the best way to capture reliable biogas data.</li> </ul>	

Goal: Share Information

## Tri-TAC Land Committee Key Issue Summary

(cont'd)

Item No.	Description	Issues for POTWs	Meeting Notes/Updates	Lead(s)	Next Steps	Due Date
12	<b>Regional Facilities</b> <ul style="list-style-type: none"> <li>▪ <u>Bay Area Agencies</u>: Updates from Bay Area municipalities and Bay Area Biosolids to Energy Coalitions.</li> <li>▪ <u>Southern CA &amp; Central Valley</u>: Biosolids projects and facilities in Southern and Central Valley regions.</li> <li>▪ <u>Inland Empire Regional Composting Facility (IERCF)</u>: Indoor composting facility located in Rancho Cucamonga, owned by LACSD/IEUA.</li> <li>▪ <u>Westlake Farms</u>: Covered ASP composting facility located in Kings County, CA developed by LACSD.</li> <li>▪ <u>Terminal Island</u>: The City of Los Angeles and its partners operate the Terminal Island Renewable Energy (TIRE) biosolids injection project, which is designed to reduce greenhouse gas emissions and create renewable energy.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Maintain awareness of collaborative efforts to develop regional biosolids management facilities.</li> <li>▪ Understand challenges and lessons learned from new facilities in startup or operation.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Bay Area Agencies:                             <ul style="list-style-type: none"> <li>- Bay Area Biosolids to Energy Coalitions (BAB2E): A coalition of 19 agencies is developing a regional biosolids management facility.                                     <ul style="list-style-type: none"> <li>o Bay Area Biosolids to Energy: Received two proposals which are being reviewed. In additions, vendors are being interviewed.</li> <li>o Paul Kelly leading BAB2E</li> </ul> </li> <li>- Lawrence Livermore/Chemergy Inc – hydrogen demonstration project to start in Delta Diablo treatment plant.</li> <li>- City of San Jose looking at other technologies after working with Harvest Power on their gasification system.</li> <li>- SFPUC looking into Cambi pilot project with Brown and Caldwell</li> </ul> </li> <li>▪ Southern CA &amp; Central Valley:                             <ul style="list-style-type: none"> <li>- <u>OCSD</u>: Research group looking into Aquacritox. A technology that utilizes super critical-oxygenation process to destroy solids and to recover energy.</li> <li>- <u>Encina Wastewater Authority (EWA)</u>:                                     <ul style="list-style-type: none"> <li>o EWA continues to make progress marketing their PureGreen product.</li> <li>o EWA continue to conduct a pyrolysis trial on PureGreen pellets with Energia (Pyrolysis) producing gas for energy recovery and concentrate that is fed back into digesters to enhance methane production</li> </ul> </li> <li>- <u>IERCF</u>: Facility continues to operate within its permitted capacity. Modifications to material conveyance are currently in design. Construction is anticipated for summer 2012 and completion in 2013.</li> <li>- <u>Westlake Farms</u>: Facility is currently in construction – anticipate completion by Spring or Summer 2014.</li> <li>- <u>Terminal Island</u>:                                     <ul style="list-style-type: none"> <li>o Demonstration project continues to take an average of 85-90 wet tons per 5 days of biosolids. Draft EPA permit for public release was postponed due to Federal Gov. shutdown.</li> </ul> </li> </ul> </li> </ul>	B. Jones T. Meregillano M. Bao D. Gilbert B. Gillette	<ul style="list-style-type: none"> <li>▪ Continue to provide regional biosolids management updates.</li> </ul>	
13	<b>Regional Associations Report</b>	<ul style="list-style-type: none"> <li>▪ Foster partnerships between regional associations by sharing info regarding new issues of concern, lessons learned, project updates, training and educational programs, and public outreach efforts.</li> </ul>	<ul style="list-style-type: none"> <li>▪ SCAP: Meeting TBE.</li> <li>▪ BACWA: Joint meetings held w/Tri-TAC meeting TBD.</li> <li>▪ CVCWA: Joint meetings held w/Tri-TAC meeting TBD</li> <li>▪ CWEA: Conference (Santa Clara) April 2014</li> </ul>	M. Bao V. De Lange B. Gillette G. Kester J. Hay		
14	<b>Conferences/Webinars</b>	<ul style="list-style-type: none"> <li>▪ Stay abreast of upcoming conferences, local seminars, and webinars.</li> </ul>	<ul style="list-style-type: none"> <li>▪ 2014 Soil in the City Conference in Chicago – Enhancing Urban Soils Living Landscapes and Healthy Communities. June 29-July 2, 2014.</li> </ul>	All		
<b>Goal: Address Emerging Issues of Concern</b>						
15	<b>Pyrethroids</b> <ul style="list-style-type: none"> <li>▪ Pyrethroid Working Group (PWG)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Potential impacts (positive/negative) to existing programs, public perceptions.</li> <li>▪ May provide opportunities for direct</li> </ul>	<ul style="list-style-type: none"> <li>▪ PWG to submit final pyrethroid report to DPR.</li> <li>▪ PWG working on scientific journal/article (summary) for distribution.</li> <li>▪ Tri-TAC Steering working on next steps – Pyrethroid Strategic Plan,</li> </ul>	G. Kester		

## Tri-TAC Land Committee Key Issue Summary (cont'd)

Item No.	Description	Issues for POTWs	Meeting Notes/Updates	Lead(s)	Next Steps	Due Date
		participation in research/studies to address local concerns/issues.	covering communication and regulatory advocacy. .			
16	<b>Trace Organics Activities</b> ▪ Recognized need to fill data gaps to provide U.S. EPA data to conduct credible risk assessment on trace organics that may be present at low concentrations in biosolids.	▪ Potential impacts (positive/negative) to existing programs, public perceptions. ▪ May provide opportunities for direct participation in research/studies to address local concerns/issues.	▪ The Phase 2 report is complete and set for release by early summer. Phase 2 examined unpublished data (largely from manufacturers) to help fill data gaps for 62 constituents identified by U.S. EPA as high priority. Data was found for 29 of them.	G. Kester	▪ Phase 3 will be scoped with an RFP developed by this fall. Will need to solicit funding from across the country, because this phase will involve actual research.	
17	<b>Climate Change Legislation</b>	▪ Ensure development of strategic approach to climate change issues.	▪ CWCCG is focused on resolving the pricing structure approach to renewable feed-in-tariffs with the CPUC. An alternative proposal has been submitted (waiting for response from CPUC).	G. Kester	▪ Meet with the CPUC to discuss the pricing structure approach to feed-in-tariffs.	
<b>Goal: Maintain Awareness of Key Research Initiatives</b>						
18	<b>Biosolids Research</b> WEF Biogas Study: Create a robust, consensus data set regarding the current and potential production of biogas from anaerobic digestion at WWTPs in the U.S.	▪ Potential impacts (positive/negative) to existing programs, public perceptions. ▪ May provide opportunities for direct participation in research/studies to address local concerns/issues.	▪ WEF Biogas Study published.	G. Kester		

# Tri-TAC Water Committee Key Issue Summary

(as of  
January 2014)

**DRAFT**

Item No.	Description	Issues for POTWs		Links	Lead(s)	Next Steps	Due Date
1	<b>Whole Effluent Toxicity</b> <ul style="list-style-type: none"> <li>State is developing a new Toxicity Policy that will dictate how toxicity is reported and enforced. The draft "Policy" is now being reformatted for distribution as a "Plan" with an expected update to become available in the summer of 2013 with eventual adoption in late 2013 or later.</li> </ul>	<ul style="list-style-type: none"> <li>Draft State Toxicity Policy issued in 2011 would establish/ require:                             <ul style="list-style-type: none"> <li>numeric limits for chronic toxicity</li> <li>use of Test of Significant Toxicity (TST) as statistical method to determine toxicity (concerns it will lead to more false positive results);</li> <li>use of marine organisms in &gt;1,000 mg/L salinity waters which affects current use of flow-through testing for acute-toxicity</li> <li>single and multiple test numeric violations that will also trigger accelerated monitoring</li> <li>RWQCB discretion on inclusion of acute toxicity in permits and whether to allow for dilution</li> </ul> </li> </ul>	•	<a href="#">State Board Page</a>	Bobbi Larson, Phil Markle	<ul style="list-style-type: none"> <li>We are currently waiting for the next release of the draft "Plan" to see if and how our previously voiced concerns have been addressed.</li> <li>We will then conduct an evaluation of the required elements and determine the likelihood of a non-toxic effluent being in violation and the costs associated with such exceedances as well as the likelihood of non-toxic receiving waters being erroneously identified as impaired using the requirements of the Plan..</li> </ul>	
2	<b>Recycled Water Policy</b> <ul style="list-style-type: none"> <li>State Water Board is modifying the monitoring requirements for CECs in the policy to implement the Expert Panel's recommendations.</li> </ul>		•		Bobbi Larson	<ul style="list-style-type: none"> <li>Work on draft comment letter (possibly joint letter with other associations)</li> </ul>	
3	<b>Nutrient Policy</b> <ul style="list-style-type: none"> <li>This effort is part of a statewide initiative, supported by the U.S. EPA Region IX and the SWRCB, to establish numeric water quality standards, expressed as NNEs, for State Waters</li> </ul>	<ul style="list-style-type: none"> <li>Any POTW that discharges to inland surface water will be affected under the policy.</li> <li>Adoption of a statewide approach to nutrient control will affect NPDES permitting, 303(d) listings, and TMDL development.</li> <li>Possible outcomes associated with the policy include stringent numeric endpoints for total nitrogen and phosphorus.</li> </ul>	•		Tom Grouvhog	<ul style="list-style-type: none"> <li>Develop a suggested monitoring template that will support CASA's recommendations for the nutrient policy.</li> </ul>	
4	<b>CECs</b> <ul style="list-style-type: none"> <li>Pharmaceuticals and other trace constituents of emerging concern (CECs) are ubiquitous in wastewater at low concentrations and have unknown effects on aquatic organism</li> </ul>	<ul style="list-style-type: none"> <li>The State Board, along with Southern California Coastal Water Research Project (SCCWRP), has been working with the Ecosystems Advisory Panel to determine next regulatory steps.</li> <li>The panel will recommend monitoring wastewater for CECs, and possibly bioanalytical assays to test for toxic effects</li> </ul>		<a href="#">Draft Report</a>	Chris Stacklin	<ul style="list-style-type: none"> <li>Wait for final report and await Determine our preference for how this study should be conducted and funded.</li> </ul>	
5	<b>Statewide Mercury Programs</b> <ul style="list-style-type: none"> <li>The Mercury Programs will incorporate methylmercury objectives and control plans for mercury impaired waterbodies</li> <li>Mercury Control Program for Reservoirs will address all mercury impaired reservoirs included on the 2010 303(d) list</li> </ul>	<ul style="list-style-type: none"> <li>Any wastewater that discharges to a mercury-impaired waterbody will eventually be included under the policy</li> <li>The State Board is considering ways to harmonize efforts with existing TMDLs</li> <li>If control program for NPDES permitted sources is developed implementation</li> </ul>	•	<a href="#">State Board Mercury Page</a>	Tom Grovhoug, Shannon Bishop	<ul style="list-style-type: none"> <li>Continue to provide input at public meetings and submit comments</li> </ul>	

**Tri-TAC Water Committee Key Issue Summary**  
(cont'd)

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Item No.	Description	Issues for POTWs		Links	Lead(s)	Next Steps	Due Date
	<ul style="list-style-type: none"> <li>Future elements of the policy could include control programs for future impaired reservoirs, rivers/creeks/streams/enclosed bays/coastal bays/estuaries/lagoons impaired by mercury, NPDES permitted sources, and nonpoint sources</li> </ul>	measures such as mercury-specific pollution prevention, installation of amalgam separators for dental offices, and improving wastewater treatment may be required.					
6	<b>Methylmercury Objectives</b> <ul style="list-style-type: none"> <li>State Board is developing a methylmercury fish tissue objective and implementation plan</li> <li>The scientific underpinnings for the criteria development are still under consideration, but there will likely be two objectives in terms of fish tissue, one to protect human health and one to protect the California Least Tern</li> </ul>	<ul style="list-style-type: none"> <li>The State Board staff are working on the implantation plan for the objectives.</li> </ul>	•	<a href="#">State Board Mercury Page</a>	Tom Grovhoug, Shannon Bishop	<ul style="list-style-type: none"> <li>Begin to work on internal strategy and then begin working with State Water Board and to iron out issues</li> </ul>	
7	<b>Biological Objectives</b> <ul style="list-style-type: none"> <li>The State Board is developing a Biological Objective Policy that will incorporate bioassessment results into Basin Plans, impairment listing decisions and eventual enforcement actions to protect aquatic life beneficial uses.</li> </ul>	<ul style="list-style-type: none"> <li>If biological impairment is found to be caused by a pollutant, it could impact how NPDES permits are written and permit limits.</li> </ul>	•	<a href="#">State Board Biological Objectives Page</a>	Phil Markle	<ul style="list-style-type: none"> <li>There is a current Tri-TAC technical workgroup that has been involved in providing technical comments on various documents as they have been released. Tri-TAC is now in the process of forming a Policy workgroup to address policy issues of BO. Ann Heil should be included in the Tri-TAC working group since she is representing the POTW perspective on the working group.</li> </ul>	
8	<b>SSS WDR</b> <ul style="list-style-type: none"> <li>The Monitoring and Reporting Program for the SSS WDR is being revised by the State Board</li> </ul>		•	<a href="#">Draft SSS WDR</a>	Bobbi Larson, Monica Oakley	<ul style="list-style-type: none"> <li>Continue to monitor the SSS WDR program for possible future changes and review data presented in the annual compliance reports.</li> </ul>	
9	<b>Delta Issues</b> <ul style="list-style-type: none"> <li>Standing topic to discuss issues in the Delta that can have statewide impact.</li> <li>State Board is updating Bay Delta Plan</li> </ul>	<ul style="list-style-type: none"> <li>Ammonia discharged from POTWs has been suggested to be disrupting the food-web, and ultimately contributing to the decline of pelagic fish populations in the Bay-Delta estuary</li> <li>This rationale was used by the Central Valley RWQCB to support requiring Sacramento Regional County Sanitation District to upgrade to nitrification, at an estimated cost of \$800 million</li> <li>Various studies to resolve uncertainties related to the impacts of ammonia are underway</li> </ul>	•		Terrie Mitchell	<ul style="list-style-type: none"> <li>Continue to track issues as they emerge and act on those with state-wide significance</li> </ul>	
	•	•	•			•	
11	<b>EPA Ammonia Criteria</b> <ul style="list-style-type: none"> <li>EPA released the final version of the new freshwater ammonia criteria in August 2013.</li> </ul>	<ul style="list-style-type: none"> <li>The 2013 freshwater ammonia criteria is lower than the 2009 draft criteria and depending on how the criteria is applied, it could be difficult for POTWs to meet to limits.</li> </ul>	•		Tom Grouvhog/ Phil Markle	<ul style="list-style-type: none"> <li>Track and provide comments when necessary</li> </ul>	

**Tri-TAC Water Committee Key Issue Summary**  
(cont'd)

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Item No.	Description	Issues for POTWs		Links	Lead(s)	Next Steps	Due Date
12	<p><b>EPA Water Quality Criteria</b></p> <ul style="list-style-type: none"> <li>EPA is proposing changes to the water quality criteria regulations regarding administrator determinations, attainable uses, triennial reviews, compliance schedules, antidegradation, and variances.</li> </ul>	<ul style="list-style-type: none"> <li>Key elements likely to be included in the regulation:                             <ul style="list-style-type: none"> <li>Antidegradation- States must adopt binding anti degradation requirements and minimum implementation methods</li> <li>Attainable uses- when use is not attainable, State must specify next highest attainable use</li> <li>Triennial review- current criteria should be examined</li> <li>Variance- requirements will be specified</li> </ul> </li> </ul>	•		Shannon Bishop	<ul style="list-style-type: none"> <li>Track and provide comments when necessary</li> <li>Work with NACWA on comments</li> </ul>	
13	<p><b>EPA Integrated Permitting</b></p> <ul style="list-style-type: none"> <li>EPA effort to integrate municipal stormwater and wastewater plans in relation to the CWA. The integrated planning process will potentially identify efficiencies in implementing overlapping and competing requirements that arise from separate wastewater and stormwater projects, including capital investments and operation and maintenance requirements.</li> </ul>	<ul style="list-style-type: none"> <li>The integrated permitting approach could be beneficial for POTWs because it is intended to help municipalities meet their CWA obligations by optimizing their infrastructure improvement investments through the appropriate sequencing of work.</li> <li>Is there a way to harmonize with Porter Cologne in California?</li> <li>EPA integrated permitting document came out as a draft. This is driven by urban mayors. There wasn't a lot of substance, although one issue raised was removing 5-yr permit cycle</li> </ul>			Ben Horenstein/ Jackie Kepke	<ul style="list-style-type: none"> <li>Continue tracking this effort along with NACWA</li> <li>Review draft framework document when released</li> </ul>	
14	<p><b>Electronic Reporting</b></p> <ul style="list-style-type: none"> <li>Agencies are now required to electronically report compliance data to their regional boards via CIWQS</li> <li>State Board is working on eSMR 2.5 that will allow for electronic submittal of EPA required self-monitoring data</li> </ul>	<ul style="list-style-type: none"> <li>Errors are often propagated when the data are made public, and they are also often presented out of context (e.g. presenting exceedences as violations)</li> <li>Errors are difficult to correct</li> <li>Finalization of eSMR 2.5 will require a different data file type to be submitted electronically</li> </ul>	•		Shannon Bishop	<ul style="list-style-type: none"> <li>Submit comment letter to EPA regarding the proposed electronic reporting rule.</li> <li>Work with the State Board to ensure that California's electronic reporting databases are CROMMER certified.</li> </ul>	
15	<p><b>EPA Dental Amalgam</b></p> <ul style="list-style-type: none"> <li>October 26, 2011 - EPA released its 2010 Effluent Guidelines Program Plan announcing its intent to adopt guidelines on the use of dental amalgam by dentists</li> </ul>	<ul style="list-style-type: none"> <li>Agencies are concerned that dentists' offices will be regulated as part of POTWs' pretreatment program</li> <li>EPA will likely create a new category so that dentists will not be categorized as SIUs</li> <li>They may also grandfather in existing regional dental amalgam programs</li> </ul>	•		Tim Potter	<ul style="list-style-type: none"> <li>Comment on draft guidelines when they are released</li> </ul>	
16	<p><b>Pesticides</b></p> <ul style="list-style-type: none"> <li>Cross-media issue</li> <li>Some pesticides are toxic to sensitive organisms at extremely low concentrations.</li> <li>Nanoparticles and some biocides have potential to interfere with biological treatment processes</li> </ul>	<ul style="list-style-type: none"> <li>In the future, POTWs could be regulated for pyrethroids, which they can't control and are toxic to sensitive organisms at very low levels. Engagement at this stage could steer regulators to adopt strategies favoring source control</li> <li>POTWs are participating in a long-term joint program with stormwater and the water boards to work cooperatively with pesticide</li> </ul>	•		Pesticide Work Group: Greg Kester, Linda Dorn, Preeti Ghuman, Phil Markle, Dave Snyder, Melody LaBella, Karin North,	•	

**Tri-TAC Water Committee Key Issue Summary**  
(cont'd)

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Item No.	Description	Issues for POTWs	Links	Lead(s)	Next Steps	Due Date
	<ul style="list-style-type: none"> <li>Some pesticides like triclosan, fipronil, and nanosilver are considered CECs</li> </ul>	regulators to use their pesticide regulatory authorities prevent pesticide-related POTW compliance and operational problems.				
17	<p><b>DTSC Safer Consumer Products Regulation</b></p> <ul style="list-style-type: none"> <li>The Department of Toxic Substances control is developing new regulations that will allow chemicals to be controlled without recourse to the legislature.</li> </ul>	<ul style="list-style-type: none"> <li>This could be an important tool for POTWs to prevent the discharge of toxic substances to their influent.</li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Draft DTSC Regulations</a></li> </ul>	Karin North, Melody LaBella, Kelly Moran	<ul style="list-style-type: none"> <li>Comment on Green Chemistry regulations due on October 11<sup>th</sup>. BACWA will write letter and Tri-TAC may sign on the letter if warranted.</li> </ul>	
18	<p><b>State Water Board Resource Alignment</b></p> <ul style="list-style-type: none"> <li>This project was initiated by the State Water Board. The Board directed staff to assess and align State Water Board priorities, resources, and performance targets.</li> </ul>	<ul style="list-style-type: none"> <li>This effort is an opportunity for POTWs to State Water Board's priorities, recommend ways to improve efficiencies in regulatory requirements, and hopefully improve cost-effectiveness of regulatory compliance.</li> </ul>		Adam Link	<ul style="list-style-type: none"> <li>Working group will brainstorm implementation ideas for the State Board.</li> </ul>	
19	<p><b>Statewide Cadmium and Hardness Policy</b></p> <ul style="list-style-type: none"> <li>The State Water Board staff is evaluating the cadmium criteria. As part of this policy, hardness selection criteria may be defined.</li> <li>CEQA scoping began in fall 2008 but was stalled. State Water Board staff are continuing work on the project.</li> </ul>	<ul style="list-style-type: none"> <li>The new policy will likely result in more stringent cadmium criteria.</li> </ul>		Mitchell Mysliwec	<ul style="list-style-type: none"> <li>Work with State Water Board staff to get update on the project to determine next steps.</li> </ul>	