



B A S M A A

Alameda Countywide
Clean Water Program

Contra Costa
Clean Water Program

Fairfield-Suisun
Urban Runoff
Management Program

Marin County
Stormwater Pollution
Prevention Program

Napa County
Stormwater Pollution
Prevention Program

San Mateo Countywide
Water Pollution
Prevention Program

Santa Clara Valley
Urban Runoff Pollution
Prevention Program

Sonoma County
Water Agency

Vallejo Sanitation
and Flood
Control District

October 29, 2012

Mr. Bruce Wolfe, Executive Officer
San Francisco Bay Regional Water Board

Subject: Tentative Order for Wastewater Discharges of Mercury and PCBs to San Francisco Bay

Dear Mr. Wolfe:

Thank you for this opportunity to comment on the subject Tentative Order (TO). It is our understanding the Regional Water Board plans to adopt the TO reissuing an NPDES permit for 2013 through 2017 for all sewage treatment plants and industrial facilities that discharge mercury and PCBs directly to San Francisco Bay. The draft Tentative Order includes the following provision:

3. Risk Reduction Programs

Dischargers shall continue to implement and participate in programs to reduce mercury and PCB-related risks to humans from consumption of San Francisco Bay/Delta fish. This requirement may be satisfied by a combination of related efforts through the Regional Monitoring Program or other similar collaborative efforts. Dischargers shall describe the progress of their efforts in the Annual Self-Monitoring Report. Alternatively, the Bay Area Clean Water Agencies (BACWA) may fulfill the annual reporting requirement by providing a summary of annual risk reduction program efforts for agencies that choose to participate through BACWA.

As you know, the MRP includes a similar provision for stormwater agencies, nominally for 2010 through 2014. MRP permittees have complied with the provision through a task in BASMAA's Clean Watersheds for a Clean Bay project designed to match the MRP provision requirements as well as with additional BASMAA resources to participate in and help guide the effort. Likewise, wastewater permittees have complied with the related provision in their permit through the provision of public agency resources via BACWA.

We recognize this provision is included in permits because it is named as an implementation action in the mercury and PCBs Total Maximum Daily Load Implementation Plans. Having met the requirement in the MRP and implemented this aspect of the TMDL Implementation Plans, we are concerned with the proposed continuation of this requirement for another 5 years and recommend it be removed before the Tentative Order is adopted. Our concern is based on the following facts:

- Many of our members believe it is neither the mission nor the expertise of wastewater and stormwater agencies to fund and manage public health programs. Funds provided to our public agencies by taxpayers are intended to be spent directly on environmental protection. To address this, we have and will continue to support efforts to provide funding from appropriate sources to public health agencies for risk communication and exposure reduction work.

Bay Area

Stormwater Management

Agencies Association

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BASMAA comments on Tentative Order for Wastewater Discharges of Mercury and PCBs to San Francisco Bay

- Reducing risks to humans is a worthy endeavor but it is a post-discharge activity. So any reduction in risks to human health from our efforts cannot be counted towards reducing our loads to the Bay or meeting our TMDL waste load allocations (WLAs). As a result, there is a lost opportunity cost to us as well. Any effort we put towards funding and managing public health programs reduces the effort we can put towards meeting our WLAs.
- Despite these significant concerns, we agreed to a provision in the MRP adopted in 2009 requiring stormwater agencies to "...develop and implement or participate in effective programs to reduce mercury-related risks to humans...". With the help of a portion of a grant from EPA, our agencies have done so. One of our member agencies, the Contra Costa Clean Water Program, has a duplicate requirement to contribute resources towards this type of effort in the Central Valley as a result of the Delta Methylmercury TMDL.
- One of the key findings of the risk communication and exposure reduction task in the Clean Watersheds for a Clean Bay project was the recognition by the agencies overseeing the project (EPA, BASMAA, BACWA, California DPH, Regional Water Board) that agencies and community groups whose mission is public health were the most qualified and ideally positioned to effect real risk reduction to consumers of contaminated Bay fish.

Therefore, based on these facts and findings, we strongly recommend the following revision to the Risk Reduction Programs provision in the Tentative Order for Wastewater Discharges of Mercury and PCBs to San Francisco Bay:

3. Risk Reduction Programs

Dischargers shall continue to implement and participate in programs to reduce mercury and PCB-related risks to humans from consumption of San Francisco Bay/Delta fish. This requirement may be satisfied by use of the products of the San Francisco Bay Fish Project in the dischargers' public education efforts a combination of related efforts through the Regional Monitoring Program or other similar collaborative efforts. Dischargers shall describe the progress of their efforts in the Annual Self-Monitoring Report. Alternatively, the Bay Area Clean Water Agencies (BACWA) may fulfill the annual reporting requirement by providing a summary of annual risk reduction program efforts for agencies that choose to participate through BACWA.

We also recommend the Regional Water Board encourage its sister State public health agencies to incorporate the lessons learned from the Clean Watersheds for a Clean Bay project and the San Francisco Bay Fish Project into efforts led by public health agencies, public health professionals, and public health community groups.

Thank you again for the opportunity to comment. If you have any questions, please contact me, or our Executive Director, Geoff Brosseau at 650-365-8620.

Sincerely yours,



James Scanlin, Chair – Bay Area Stormwater Management Agencies Association

cc: Jim Kelly, Executive Director – Bay Area Clean Water Agencies