

# Appendix D

## Response to Comments

## **STAFF RESPONSE TO WRITTEN COMMENTS ON THE STAFF REPORT AND PROPOSED BASIN PLAN AMENDMENT**

We received two comment letters during the public comment period, which closed on October 2, 2020. The commenters are the U.S. Environmental Protection Agency and the Bay Area Clean Water Agencies. Comments are summarized below, followed by staff responses. Comments cited verbatim are italicized. Changes we propose show as underline for additions, and ~~strike-through~~ for deletions to the August 18, 2020 draft Staff Report and proposed Basin Plan amendment that was circulated for public review. Staff initiated edits are shown following responses to comments.

### **U.S. Environmental Protection Agency (U.S. EPA) Comments**

U.S. EPA points out that the mercury water quality objectives in Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California – Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (Statewide Mercury Provisions) apply to all inland surface waters and enclosed bays and estuaries with applicable beneficial uses that do not already have protective site-specific objectives. U.S. EPA suggests the Water Board to:

- 1) *“[C]onsider adding a clarifying footnote to Table 3-3 that explains the Statewide Mercury Provisions are applicable to all enclosed bays and estuaries that do not have site-specific water quality objectives for mercury in Table 3-3B, i.e., they do not apply to San Francisco Bay, but do apply to other enclosed bays and estuaries in Regional Board 2.”*
- 2) *“[C]onsider clarifying footnote k in Table 3-4 to be more specific about where the Statewide Mercury Provisions apply to freshwaters. For example, the Statewide Mercury Provisions apply to all freshwaters that do not have site-specific water quality objectives for mercury, i.e., they apply to all freshwaters except those freshwaters covered in Table 3-4A.”*

**Response to U.S. EPA Comments:** We agree that both Tables 3-3 and 3-4 should reference the Statewide Mercury Provisions,<sup>1</sup> so the reader can refer to this document for additional information. We agree to clarify the reference to Table 3-4 in the proposed Basin Plan

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<sup>1</sup> The Statewide Mercury Provisions, adopted on May 2, 2017 can be found here: [https://www.waterboards.ca.gov/water\\_issues/programs/mercury/docs/hg\\_prov\\_final.pdf](https://www.waterboards.ca.gov/water_issues/programs/mercury/docs/hg_prov_final.pdf). The staff report for the Mercury Provisions and other supporting documentation can be found at: [https://www.waterboards.ca.gov/water\\_issues/programs/mercury/](https://www.waterboards.ca.gov/water_issues/programs/mercury/).

amendment, and to add the reference to Table 3-3 as U.S. EPA suggests. Beyond these references, we decline to provide further clarification in the Basin Plan.

Determining which water quality objectives in the Statewide Mercury Provisions apply to a water body depends on the water body's beneficial uses and on patterns of fish consumption. Placing this information in a footnote would not be appropriate and could lead to errors. Accordingly, permit writers and dischargers are advised to refer to the Statewide Mercury Provisions themselves when determining the applicable mercury water quality objectives.

In response to this comment we propose the following edits to the proposed Basin Plan amendment and make corresponding edits in draft Staff Report Sections 2.1.2 and 3.7, and in Appendix B, page B-1:

Add the following sentence to the end of Footnote (h) to Table 3-3: “For enclosed bays and estuaries other than San Francisco Bay, which has site-specific objectives in Table 3-3B, refer to Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (Statewide Mercury Provisions).”

Modify Footnote (k) to Table 3-4 to read: “For inland surface waters other than those covered under Table 3-4A, refer to Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (Statewide Mercury Provisions).”

### **Bay Area Clean Water Agencies (BACWA) Comments**

**BACWA General Comment:** BACWA strongly supports adoption of the Basin Plan amendment. The new total residual chlorine (TRC) water quality-based effluent limitations would allow a \$1.2 million annually savings on sodium bisulfite purchases and reduce the discharge of sodium bisulfite into San Francisco Bay and its tributaries. BACWA also appreciates that oil and grease effluent limitations will no longer be needed for facilities that provide secondary or advanced-secondary treatment, as this will reduce the monitoring and reporting needed. BACWA further encourages the Water Board to move swiftly to implement the Basin Plan amendment by doing a regional permit amendment, rather than on a permit-by-permit basis, as some facilities just had their permits reissued recently.

**Response to BACWA General Comment.** We appreciate BACWA's support of this proposed Basin Plan amendment and acknowledge BACWA's desire to move quickly to implement this Basin Plan amendment in their members' wastewater discharge permits. The decision on when to implement the proposed changes in wastewater permits will be made as a separate action.

**BACWA Comment No. 1. “Clarify that continuous monitoring is not required for discharge facilities that are seasonal or use natural dechlorination.”**

BACWA comments that the exception to continuous monitoring requirements should also be granted to facilities that dechlorinate without the use of chemicals. For example, the City of

Petaluma's Ellis Creek Water Recycling Facility uses a constructed polishing wetland to dechlorinate during its discharge season from October – April; City staff monitor for chlorine using grab samples. In the future, more dischargers may install constructed wetlands for effluent polishing. Grab sampling may be appropriate for other future systems that rely on ponds or constructed wetlands for natural dechlorination. Therefore, BACWA recommends adding the word "seasonal" and the phrase "facilities not using chemical addition for dechlorination" to proposed Footnote (f) to Table 4-2 of the Basin Plan.

Footnote (f) to Table 4-2 will read as:

*"f. These effluent limitations apply to all treatment facilities with potential to discharge chlorine.*

*These effluent limitations may be adjusted to account for a mixing zone in a manner consistent with procedures in the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. Total residual chlorine should be monitored with a frequency of not less than one sample every five minutes. Less frequent sampling may be appropriate for smaller, seasonal, or intermittent discharge facilities, or for facilities not using chemical addition for dechlorination."*

And in the draft Staff Report (Section 4.2, second paragraph), to add the suggested text below.

*"We propose that TRC compliance monitoring samples be collected not less than once every five minutes; less frequent monitoring may be allowed for smaller facilities or intermittent discharges, such as seasonal or wet weather discharges, or for facilities that rely on natural dechlorination in ponds or wetlands rather than chemical addition. For compliance determination, the TRC effluent limitations in Basin Plan Table 4-2 would be compared to the arithmetic mean of all TRC measurements collected during each hour. When computing the 1-hour arithmetic means, measured values below the ML (minimum level) would be treated as zero."*

**Response to BACWA Comment No.1.** We agree and proposed the following change to Table 4-2 Footnote (f), which reads: "less frequent sampling may be appropriate for smaller, seasonal, or intermittent discharge facilities, or for facilities that rely on natural dechlorination in ponds or wetlands rather than using chemical addition for dechlorination."

We revised the draft Staff Report, Section 4.2, as suggested.

**BACWA Comment No. 2.** *"The electronic reporting requirement should be simplified from 24/day to 1/day."*

BACWA makes several points related to reducing reporting requirements, which we respond to separately.

**BACWA Comment No. 2A.** Regarding effluent monitoring reporting, the draft Staff Report Section 5.1.4 states *"Those 24 discrete 60-minute average values will be reported and compared to the 1-hour average water quality-based effluent limitation for compliance*

*determination purposes” (emphasis added).* Conversely, the proposed Basin Plan amendment in Table 4-2 Footnote (f) does not specify how to report the average hourly concentrations.

**Response to BACWA Comment No. 2A.** To correct this inconsistency, we deleted the words “*reported and*” from the last sentence in Section 5.1.4 of the draft Staff Report to be consistent with the Proposed Basin Plan Table 4-2 Footnote (f), which does not specify how to report TRC concentrations. Therefore, this sentence is changed as follows: “Those 24 discrete 60-minute average values will be ~~reported and~~ compared to the 1-hour average water quality-based effluent limitation (WQBEL) for compliance determination purposes.”

**BACWA Comment No. 2B.** *“BACWA proposes that the Regional Water Board implement the new WQBELs by requiring reporting of just one value per day (the daily maximum of the 24hourly calculations), rather than 24 values per day. Any other hourly values exceeding the 1-hour average effluent limitation would also be reported.”*

**Response to BACWA Comment No. 2B.** We do not agree that specific reporting requirements should be stated in the Basin Plan; rather, we leave reporting requirements to be determined at the time of National Pollutant Discharge Elimination System (NPDES) permit issuance.

**BACWA Comment No. 2C.** *“Virtually all TRC values will be zeros, so the proposed approach will reduce the reporting burden and result in more manageable data sets. With hourly reporting, there would be 43,800 TRC values per 5-year permit cycle – yet the current version of CIWQS (California Integrated Water Quality System) can only export 30,000 values at a time. The proposed change is shown below (underlined) as a markup to page 21 (Section 5.1.4) of the draft Staff Report:*

*Continuous on-line TRC effluent monitoring data is typically collected and stored by SCADA systems. TRC continuous monitoring data stored in the SCADA (Supervisory Control and Data Acquisition) system at 5-minute intervals would be compiled and used to calculate the arithmetic averages over 60-minute periods. Those 24 discrete 60-minute average values will be ~~reported and~~ compared to the 1-hour average water quality-based effluent limitation for compliance determination purposes. The daily maximum of the 24 discrete values, and any other hourly averages that exceed the 1-hour effluent limitation, will be reported to CIWQS.”*

**Response to BACWA Comment No. 2C.** As stated in Response to Comment 2B, we disagree that specific reporting requirements should be stated in the Basin Plan and maintain that reporting requirements are best determined at the time of NPDES permit issuance.

In addition, we do not agree that “*Virtually all TRC values will be zeros,*” because WQBELs for deep water dischargers would be much higher than zero when actual dilution is considered in the WQBELs calculation. As stated in the draft Staff Report and Footnote (f) of Table 4-2, all TRC readings below the ML would be treated as zero. However, with a minimum 10:1 dilution credit, the 1-hour WQBELs for deep water discharges to marine/estuarine waters would be 0.13 mg/L; and since deep water dischargers will likely cease to overdose effluent to remove TRC, remaining TRC in the discharges may be above the ML of 0.05 mg/L. Thus, actual TRC

readings, that is, TRC readings above the ML, will be used in the calculation and will result in non-zero hourly averages. These non-zero data could be useful for future studies of TRC discharges and ambient conditions.

Finally, we disagree that the CIWQS datum export limitation of 30,000 values at a time would prevent reporting 24-hourly readings, which yield 43,800 TRC values per 5-year permit cycle. If needed, CIWQOs users can choose a shorter window to export data and combine the data later for analysis.

**BACWA Comment No. 3. “The Staff Report should note that dilution ratios will be based on minimum initial dilution, and not limited to 10:1.”**

BACWA suggests adding the following language at the end of Section 4.1 of the draft Staff Report:

*“Dilution factors (D) used to calculate water quality-based effluent limitations using the formulas above would be based on the minimum initial dilution available at each outfall and would not be limited to D=9. This is similar to the approach currently used for ammonia in NPDES permits throughout the region. Like ammonia, chlorine is a nonpersistent, non-bioaccumulative pollutant.”*

**Response to BACWA Comment No.3.** We disagree with the proposed changes. Dilution credits may be considered at the time of NPDES permit issuance. As we state in the draft Staff Report Section 4.1 and Footnote (f) to Table 4-2 “water quality-based effluent limitations may be adjusted to account for a mixing zone in a manner consistent with procedures in the State Implementation Policy.” The State Implementation Policy has procedures to determine and apply appropriate dilution credits for water quality-based effluent limitation calculation. This is a discharge-specific analysis that is undertaken at the time of permit issuance.

**BACWA Comment No. 4. “The Minimum Level for Total Residual Chlorine should be listed in Attachment G, not in the Basin Plan.”**

For background, the State Implementation Policy includes a definition for minimum level (ML), which is the concentration at which the entire analytical system gives a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed. BACWA made two points related to Attachment G, which we respond to separately.

**BACWA Comment No. 4A.** BACWA comments that the ML for total residual chlorine would more appropriately be included in Attachment G, “*Regional Standard Provisions and Monitoring and Reporting Requirements (Supplement to Attachment D)*,” instead of in the Basin Plan. Analytical methods change over time, making Attachment G more appropriate. Tables A and B of Attachment G contain MLs for numerous pollutants, demonstrating that Attachment G is the repository for MLs used in the region.

**Response to BACWA Comment No. 4A.** We disagree that including the ML in Attachment G, “*Regional Standard Provisions and Monitoring and Reporting Requirements (Supplement to Attachment D)*” is preferable to placing it in the Basin Plan. Attachment G is not simple to amend and this task would divert limited resources that can be addressed by this Basin Plan amendment.

In addition, although Attachment G contains MLs, MLs are not established within Attachment G. All MLs for priority pollutants in Attachment G were established in the State Implementation Policy, a regulatory document for implementing water quality objectives. We are using the same approach to establish a ML in the Basin Plan before it can be implemented via NPDES permits.

**BACWA Comment No. 4B.** *BACWA requests that narrative language be added to Attachment G to allow for dischargers to develop alternative MLs based on EPA approved MDL protocols (EPA 821-R-16-006, December 2016) and the 1994 EPA guidance.”*

**Response to BACWA Comment No. 4B.** This comment does not pertain to the proposed Basin Plan amendment; it asks for changes to Attachment G of NPDES permits. Nonetheless, we disagree that dischargers should have both the option to discontinue overdosing to remove TRC, which the WQBEL provides, and the option to develop alternative MLs. We maintain that the ML of 0.05 mg/L is necessary to protect aquatic resources from excess chlorine in the absence of the 0.0 mg/L technology-based effluent limitation, which the WQBEL replaces. In our response to BACWA Comment No. 5 below we provide further justification for the proposed ML of 0.05 mg/L.

**BACWA Comment No. 5.** *“BACWA suggests a technically achievable ML of 0.1 mg/L in lieu of the draft ML of 0.05 mg/L. The draft Basin Plan Amendment ML of 0.05 mg/L is not consistent with laboratory accreditation procedures.”*

BACWA gives several reasons for increasing the ML, which we respond to separately below.

**BACWA Comment No. 5A.** *“The proposed ML of 0.05 mg/L is not consistent with the procedures for determining an appropriate Level of Quantitation (LOQ) as required by the TNI laboratory accreditation standards that were adopted by the State Water Board in May 2020 and are scheduled to go into effect January 2021. The TNI standard requires the LOQ to be higher than the detection limit by a wide enough margin that quantified sample results have a very low probability of actually being non-detects, and vice versa. If a verification sample fails this test, then the laboratory must raise the LOQ to a higher value. Normally, the ML, LOQ and lowest calibration point are the same. However, in this case an ML of 0.05 mg/L is below most laboratories’ achievable LOQ, indicating that the proposed ML does not have a sound technical basis and could have adverse unintended consequences on laboratories.”*

**Response to BACWA Comment No. 5A.** We disagree with the conclusion that, because most laboratories cannot currently achieve the proposed ML of 0.05 mg/L, the ML “does not have a sound technical basis and could have adverse unintended consequences on laboratories.” For total chlorine residual analysis, the ML is limited largely by lab personnel’s experience and

method selection (Final Functional Equivalent Document for State Implementation Policy, p. V-104).<sup>2</sup> The most sensitive methods, 4500-G, E, and F, which involve titration or spectrometry, can be improved with additional lab personnel training, or an investment in better instruments, test agents, or materials. We expect that dischargers' potential cost savings from using less dechlorination chemicals would push labs that currently cannot achieve the ML to improve their analytical equipment and performance using the most sensitive methods (see Response to 5B below). When test sensitivity improves, we expect the ML of 0.05 mg/L will become feasible to achieve.

**BACWA Comment No. 5B.** *“The underlying problem is that the laboratories of BACWA’s member agencies cannot meet the “ideal conditions” MDL of 0.01 mg/L proposed in the draft Staff Report. As previously communicated to Regional Water Board Staff (cited as Fono 2020a in the draft Staff Report), a review of nine of the largest BACWA laboratories in December 2019 revealed the only MDLs as low as 0.01 mg/L used laboratory water, not effluent. Of the nine laboratories, the lowest MDL in effluent was 0.02 mg/L, and the median value was 0.07 mg/L.*

*As an example, one POTW following the December 2016 USEPA MDL protocol cited above (Definition and Procedure for the determination of the Method Detection Limit, Revision 2) developed an MDL of 0.04 mg/L in their laboratory for TRC in a deionized water matrix using EPA Method 4500-CI G. That POTW determined its TRC LOQ to be 0.1 mg/L. Its judgment was that an LOQ of 0.05 mg/L would eventually fail verification.”*

**Response to BACWA Comment No. 5B.** We disagree that the proposed ML does not have a sound technical basis. As state in the draft Staff Report, Section 4.2 and Response to Comment 5D below, we maintain that 0.05 mg/L is appropriate and can be achieved with some reasonable efforts by the dischargers.

It is useful to compare our approach to determining the ML for TRC with the State Water Board’s approach to developing the MLs for priority pollutants included in the State Implementation Policy. Those MLs were not set at a level for all labs to meet at their current performance. The State Implementation Policy’s Final Equivalent Document explains how the MLs for the priority pollutants were determined. Statewide MLs for toxic pollutants were based on the 20<sup>th</sup> percentile of all the MLs submitted by participating laboratories. “Setting the statewide ML at the 20th percentile means that 20% of the responding laboratories can detect the pollutant at the ML using their current equipment and practices.” However, the verification stage found that “some laboratory personnel indicated that their lowest calibration point is often set based on personal preference, client or regulatory demands, or historical needs.” In other words, the higher MLs submitted by the remaining 80% of laboratories did not necessarily reflect the infeasibility of achieving lower MLs. Instead, “[t]he results of the verification interviews

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<sup>2</sup> The Final Functional Equivalent Document for State Implementation Policy, is available at: [https://www.waterboards.ca.gov/water\\_issues/programs/state\\_implementation\\_policy/docs/ffed2000/ffed-pol.pdf](https://www.waterboards.ca.gov/water_issues/programs/state_implementation_policy/docs/ffed2000/ffed-pol.pdf)



indicate[d] that many laboratories could set their lowest calibration point toward a lower chemical concentration without a major change in analytical equipment.” Here, we think the lower ML can be achieved without major changes to current equipment. Setting the ML at the lower 20<sup>th</sup> percentile would not result in attainability issue but would encourage labs to improve their test sensitivity and achieve the ML of 0.05 mg/L for TRC analysis.

In addition, Federal Standard Provisions for all NPDES wastewater permits require that samples be analyzed using sufficiently sensitive test methods<sup>3</sup>, which requires MLs to be below both effluent limitations and water quality objectives, or as low as possible. Based on the lab survey information provided by BACWA, many of the participating labs are either not using the most sensitive methods (currently C-4500 E, F, and G) or not using them for effluent monitoring.

Therefore, dischargers are required to use the most sensitive methods, and work on improving their laboratory performance to reach the lowest ML for those methods. The ML of 0.05 mg/L has been achieved by other states or dischargers since the late 1990s (see Response to 5D below). Therefore, it is reasonable to expect that the dischargers in our region to be able to achieve the same ML.

**BACWA Comment No. 5C.** *“It is also worth noting that the MDLs discussed above were developed in the laboratory, using laboratory-maintained and calibrated instruments, and by trained laboratory technicians. The continuous monitoring on-line analyzer systems are typically calibrated by operators out in the plant near the dechlorination facility given the short hold time for TRC analyses. Grab samples are collected of the dechlorinated effluent stream going to the on-line analyzer and measured for TRC in a benchtop instrument; then the value is compared to the reading being shown by the on-line analyzer. These are considerably different conditions than “ideal” laboratory conditions cited in the draft Staff Report, with many more variables—including the wastewater matrix itself.”*

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<sup>3</sup> Monitoring must use sufficiently sensitive test methods approved under 40 C.F.R. part 136 for analyses required under 40 C.F.R. chapter 1, subchapter N. For the purposes of this paragraph, a method is sufficiently sensitive when:

“(1) The method ML is at or below the level of the effluent limitation established in the permit ... and either (a) the method ML is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter, or (b) the method ML is above the applicable water quality criterion but the amount of the pollutant or pollutant parameter in a facility’s discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or

(2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. part 136 or required under 40 C.F.R. chapter 1, subchapter N, for the measured pollutant or pollutant parameter.”

**Response to BACWA Comment No. 5C.** As we stated in Response to Comment 5A above, the cost savings from this Basin Plan amendment is expected to incentivize improved TRC analysis, whether the tests are conducted by the lab personnel or by plant operators outside the lab. We also state in the draft Staff Report, Section 4.2, our Response to Comments 5B and 5D that the ML has been achieved by some dischargers nationwide. Dischargers that have achieved this ML would have faced similar challenges as what BACWA points out here, i.e., calibration is done where the continuous analyzer is located remotely, instead of in the lab. Therefore, we have confidence that dischargers in our region would be able to achieve the same ML.

**BACWA Comment No. 5D.** *“The draft Staff Report’s suggestion of 0.05 mg/L as an appropriate ML is based on a misreading of the 1998 U.S EPA response letter guidance (cited as U.S. EPA 1998 in the draft Staff Report). The letter does not recommend 0.05 mg/L as an appropriate ML for wastewater discharges. In fact, this document emphasizes that effluent conditions are typically not “ideal,” “ideal” conditions being the basis for the stated 0.01 mg/L published detection limit for Standard Methods 4500 Cl E and G. The 1998 letter states that “[i]n the absence of studies to establish effluent specific detection limits, EPA normally relies on the published test detection limits.” However, EPA has regulations that specify the methodology for developing an effluent-specific detection limit. This is the appropriate approach to follow for developing MDLs and MLs for POTWs given as stated in that letter that:*

*The method detection limit in any one wastewater matrix could differ from the published detection limit established under ideal conditions,” and “for any given wastewater matrix, the level of quantitation may be higher. It is acceptable for a Region or state permitting authority to establish a default level of quantitation for a given method. The permitting authority may adjust the level of quantitation for an individual discharger based upon a demonstration by the discharger of a higher or lower method detection limit or level of quantitation for its effluent.”*

**Response to BACWA Comment No. 5D.** We disagree that the ML of 0.05 mg/L reflects a misreading of U.S. EPA guidance. In fact, using the approach provided in a 1994 U.S. EPA document, under “ideal” conditions, the ML would be 0.03 mg/L. The higher ML of 0.05 mg/L does not reflect “ideal” conditions, but already incorporates some matrix interference in wastewater. The 1998 U.S. EPA document cited the ML of 0.05 mg/L for wastewater monitoring in some states, including South Carolina and Tennessee, and all the New England states. Also, wastewater discharge permits in Ohio (2015) and in Massachusetts (2006) contain a ML of 0.05 mg/L or lower. A TRC ML of 0.05 mg/L has been in permits for over 20 years, thus demonstrating its achievability.

**BACWA Comment No. 5E.** *The 1998 guidance also states that “Many [States and Regions] establish a minimum level of 0.1 mg/L when TRC limits are set at or below 0.1 mg/L.”*

**Response to BACWA Comment No. 5E:** This statement was based on information collected before 1998. Technology has improved and test sensitivity has increased over time; as mentioned above, multiple states now use an ML of 0.05 mg/L.

**BACWA Comment No. 5F** *BACWA proposes an ML of 0.1 mg/L in lieu of an ML of 0.05 mg/L. As noted above, if laboratory methods for chlorine detection dramatically improve in the future, or if different MLs are appropriate for different analytical methods, then it could be appropriate to modify the ML by revising Attachment G. No Basin Plan Amendment would be required for this approach.*

**Response to BACWA Comment No. 5F.** We do not agree with this proposal. As described in Responses to Comments 5A through 5E, an ML of 0.05 mg/L is technically achievable. Allowing a higher ML to accommodate dischargers with current analytical limitations is not appropriate. Raising the ML would effectively allow shallow water dischargers to discharge chlorine at concentrations between 5 and 10 times the proposed WQBELs. For shallow water discharges with no mixing zones, raising the ML to BACWA's proposed 0.1 mg/L could result in impacts to aquatic life, such as fish kills.

## **Water Board Staff Initiated Change**

**Staff Initiated Change #1:** In the draft Staff Report and Basin Plan for public comment, we proposed to revise Footnote (a) to Tables 3-3 and 3-4 to remove the text (in strike-through): "Unless a site-specific objective has been adopted, these objectives shall apply to all marine waters" (Table 3-3) or "...to all freshwaters" (Table 3-4) "~~except for the South Bay south of Dumbarton Bridge, where the California Toxics Rule (CTR) applies.~~" We proposed removal of the footnote because it appeared erroneous; however, the footnote does retain applicability. The footnote was adopted into the Basin Plan in 2003 when Tables 3-3 and 3-4 were revised to include the CTR criteria for eight pollutants: arsenic, cadmium, hexavalent chromium, copper, lead, nickel, silver and zinc. However, some objectives in Table 3-3 and 3-4, such as mercury and PAH, are not from the CTR and do not apply in the South Bay south of Dumbarton Bridge. Thus, the footnote remains applicable.

Therefore, we revert to the original text for Footnote (a) to Tables 3-3 and 3-4.