Bay Area Clean Water Agencies

A Joint Powers Public Agency

P.O. Box 24055, MS 702
Oakland, California 94623

Public Comment
SF Bay PCB TMDL's
Deadline: 6/4/09 by 12 noon

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Ms. Dorothy Rice
Executive Officer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Attention: Jeannie Townsend, Clerk to the Board

Via Electronic Mail: commentletters@waterboards.ca.gov

SUBJECT: Comments on Proposed Basin Plan Amendment for San Francisco Bay PCB TMDL

Dear Ms. Rice:

The Bay Area Clean Water Agencies ("BACWA") appreciate the opportunity to provide comments to the State Water Resources Control Board regarding the proposed polychlorinated-biphenyls ("PCBs") TMDL and related Basin Plan amendment for the San Francisco Bay. BACWA is a joint powers authority whose members own and operate publicly-owned treatment works ("POTWs") that discharge treated effluent to San Francisco Bay and its tributaries. Collectively, BACWA's members serve nearly 7 million people in the nine-county Bay Area, treating all domestic, commercial and a significant amount of industrial wastewater. BACWA was formed to develop a region-wide understanding of the watershed protection and enhancement needs through reliance on sound technical, scientific, environmental and economic information and to ensure that this understanding leads to long-term stewardship of the San Francisco Bay Estuary. BACWA member agencies are public agencies, governed by elected officials and managed by professionals, who are dedicated to protecting our water environment and the public health.

Our comments pertain to the proposed requirements for municipal wastewater dischargers. Specifically, BACWA has significant concerns about the PCB TMDL as described below. We appreciate your serious consideration of these concerns as we believe that the TMDL is not statistically valid or scientifically accurate. Moreover, this TMDL was based on very specific assumptions (e.g., half life of PCBs, laboratory methods to be used, number of congeners being regulated, fish species being consumed, applicable risk factors, etc.) that if demonstrated to be inaccurate or modified during the implementation phase, will place municipal wastewater agencies in potential compliance jeopardy when NPDES permit effluent limitations are developed to implement this TMDL.

THE MUNICIPAL WASTEWATER WASTE LOAD ALLOCATION AND INDIVIDUAL DISCHARGER WASTE LOAD ALLOCATIONS ARE NOT PERFORMANCE-BASED

The February 2008 Basin Plan Amendment for the PCB TMDL states that the group and individual waste load allocations for municipal wastewater discharges are "performance based." However, this statement is factually incorrect.

Table A-1 of the PCB TMDL estimates the annual aggregate loading from municipal wastewater dischargers throughout the Bay at 2.3 kg/yr. Table A-2 then reduces that estimated waste load allocation ("WLA") for municipal wastewater dischargers to 2 kg/yr. Table A-3 of the TMDL further divides the aggregate municipal loading into separate, smaller waste load allocations for individual dischargers.

All of the proposed waste load allocations are based on a very limited effluent data set collected from only nine municipal wastewater dischargers between 1999-2001, and calculated using 2003 flow data, as acknowledged by the San Francisco Bay Regional Water Quality Control Board staff on page 78 of the December 2007 Staff report. BACWA believes that the analytical data set is inadequate to establish either the proposed total waste load allocation to San Francisco Bay for municipal discharges or individual waste load allocations to specific municipal dischargers due to the great uncertainty associated with the limited concentration data available, which is certainly not representative of current flows or performance by all Bay Area municipal wastewater dischargers.

Group Municipal Wastewater Dischargers Waste Load Allocation

BACWA does not believe that the TMDL adequately substantiates and explains the derivation of the aggregate loading of 2.3 kg/yr for all municipal wastewater. This WLA was based on just 23 data points from a limited number of municipal wastewater dischargers and were determined using an unapproved analytical method. BACWA also does not believe that a reduction from the estimated 2.3 kg/yr to 2 kg/yr is necessary or will result in meaningful water quality benefits for the San Francisco Bay. The PCB TMDL appears to arbitrarily round the municipal wastewater WLA to a whole number and just one significant figure: "which reflects the current estimated aggregate load of 2.3 kg/year rounded down to one figure." In contrast, the industrial discharger WLA was calculated to 2 significant figures (0.035 kg/yr), "which reflects estimated current loads." *See* Page 71 of the SFBRWQCB Staff Report.

This seemingly harmless and benign reduction is neither and will only add to the potential for compliance jeopardy when permit effluent limitations for PCBs are developed because, in fact, this total WLA was not developed from effluent data collected at all municipal discharger facilities and does not represent current performance.

Individual Municipal Wastewater Discharger Waste Load Allocations

As a consequence of the limited effluent data set, the individual wasteload allocations for municipal wastewater dischargers are based solely on an estimated performance by a limited number of secondary and advanced secondary treatment facilities and calculated using individual facility flow design. The result is that secondary treatment facilities have disproportionately lower waste load allocations, which cannot accurately be called "performance-based."

Facility Type	Average PCB Concentration 1999-2001 pg/L	Number of Agencies
Secondary (2°) POTWs	**3460**	**5**
Advanced 2° POTWs	**208**	**4**

The proposed individual allocations were developed based on PCB effluent concentration data for select dischargers as presented in the PCB TMDL Project Report (December, 2003). Data were collected from just four (4) dischargers with advanced secondary treatment and five (5) dischargers with secondary treatment. Two to four samples were analyzed for each of the selected dischargers. A total of fourteen (14) samples were collected over a nine (9) month period to characterize PCB effluent levels for advanced secondary treatment in 1999-2000 and a total of nine (9) samples were collected over a three (3) month period in 2000-2001 to characterize PCB effluent levels for secondary treatment. No data are available to characterize the remaining 30 wastewater treatment facilities listed in Table A-3 of the proposed Basin Plan amendment.

The PCB allocations are not representative of municipal discharger performance, and should not be used as a basis for compliance determinations.

Thank you again for the opportunity to comment on the proposed PCB Basin Plan amendment. BACWA hopes that its comments will be considered by the State Water Board in its consideration of whether to approve of this TMDL.

Respectfully submitted,

Michele Pla, Executive Director

cc: BACWA Principals
Melissa Thorme, Downey Brand, LLP