



# California Regional Water Quality Control Board

## Los Angeles Region



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**TO:** Samuel Unger, P.E.  
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**FROM:**   
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**DATE:** October 22, 2008

**SUBJECT:** PEER REVIEW FOR RECONSIDERING UPPER SANTA CLARA RIVER  
CHLORIDE TOTAL MAXIMUM DAILY LOAD AND CONSIDERING  
CONDITIONAL SITE SPECIFIC OBJECTIVES FOR CHLORIDE AND  
CONSIDERING INTERIM WASTELOAD ALLOCATIONS FOR SULFATE  
AND TOTAL DISSOLVED SOLIDS

### Introduction

This memo discusses the peer review requirements for the Upper Santa Clara River (USCR) Chloride Total Maximum Daily Load (TMDL). On December 11, 2008, the Los Angeles Regional Water Quality Control Board (Regional Board) will consider and adopt amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to reconsider the USCR chloride TMDL and consider conditional site specific objectives (SSOs) for chloride and consider interim wasteload allocations (WLAs) for sulfate and total dissolved solids (TDS). As a Basin Plan amendment that will be incorporated into state water quality control policy, the proposed amendment is subject to the scientific peer review provisions of Health and Safety Code section 57004. However, the "scientific portions" of the proposed amendment have already undergone the scientific peer review required by the Health and Safety Code. As a result, the Regional Board has fulfilled the requirements of Health and Safety Code section 57004, and the proposed amendment does not require further peer review.

### Discussion

Certain water quality policies adopted pursuant to the Porter-Cologne Water Quality Control Act are subject to the peer review requirements of Health and Safety Code section 57004. (Health & Saf. Code, § 57004, subd. (a)(1)(B).) Historically, the State Water Resources Control Board (State Board), which must approve all revisions to water quality control plans, has construed Section 57004 to cover Basin Plan amendments. Health and Safety Code section 57004 requires

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the scientific portion of Basin Plan amendments to undergo external scientific peer review before the Regional Board takes final action on the amendment. (Id., § 57004, subd. (d).)

The scientific portion of a rule consists of “foundations of a rule that are premised upon, or derived from, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.” (Health & Saf. Code, § 57004, subd. (a)(2).) The California Environmental Protection Agency (Cal/EPA) has described this review as “an objective, critical review of a draft Agency scientific work product.” (Memorandum from Peter M. Rooney (Secretary of Cal/EPA) to John Caffrey (Chairman of State Board) (Jan. 22, 1998), emphasis added.) Taken together, it is clear that Health and Safety Code section 57004 is designed to ensure that the scientific assumptions of a rule are tested by external peer review.

The reconsideration of the USCR Chloride TMDL is based on special studies that determined the chloride threshold levels for salt-sensitive crops and endangered and threatened species, and the chloride loading from surface water to underlying groundwater basins. Independent technical advisory panels (TAPs) were selected for each study by stakeholders to review the studies. The members of TAPs are individuals with recognized expertise in the subject matter of the specific special study, who can offer recommendations and provide objective review of the technical adequacy of the study work being performed. The TAP members have conducted final peer review of the proposed study plans, as well as completed peer reviews for major documents and reports throughout the course of the studies. As a result, these special studies do not require further peer review.

Other scientific portions of the proposed amendment, such as deriving conditional SSOs and WLAs and chloride reduction, are drawn exclusively from the Calleguas Creek Watershed (CCW) Boron, Chloride, Sulfate, and TDS (Salts) TMDL. The CCW Salts TMDL addresses high salts concentrations in the CCW. The general approach of the CCW Salts TMDL is to construct models of in-stream salts concentrations and a watershed-wide salts mass balance, and then use those models to develop appropriate implementation measures. The CCW Salts TMDL articulated a scientific basis for deriving WLAs and for salt removal from the watershed. An external, scientific peer review of the CCW Salts TMDL was completed to evaluate the scientific bases of the TMDL. Subsequently, the Regional Board adopted the Basin Plan Amendment on October 4, 2007 (Regional Board Resolution No. 2007-016).

The USCR Chloride TMDL follows the same scientific approach as the CCW Salts TMDL to model in-stream chloride concentrations and a watershed-wide salts mass balance in order to determine SSOs, WLAs, and an implementation strategy. As a result, the scientific portions of the USCR Chloride TMDL have already undergone external, scientific peer review.

Mr. Samuel Unger  
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### **Conclusion**

The Regional Board has complied with the external peer review requirements of section 57004 by relying on previously peer-reviewed scientific bases of the CCW Salts TMDL and the special studies of the USCR Chloride TMDL. It is unnecessary for the proposed amendment to undergo further peer review.

cc: Rik Rasmussen, DWQ