

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 5, 1993

To: Board of Directors (Executive Committee--Action)  
 (Special Committee on Legislation--Action)  
 From: General Manager (Special Committee on Water Quality and  
 Environmental Compliance--Information)  
 Subject: Possible Policy Principles for Permit Streamlining

Report**ISSUE**

The economic climate in California and the nation, as well as the burgeoning number and complexity of environmental laws and regulations, has generated a significant amount of debate regarding regulatory reform/permit streamlining. Although controversial issues have surfaced, there is general agreement among the regulated community, regulatory agencies, and environmental advocates that improving the workability of environmental regulations can be achieved without sacrificing environmental protection. Metropolitan is subject to a broad range of environmental laws and regulations and must work with and respond to numerous regulatory agencies. This framework includes complex and duplicative administrative requirements with the potential to complicate planning and operation of water systems.

The policy principles recommended below outline potential positions for Metropolitan to adopt relative to regulatory reform. The overall issue of regulatory reform is controversial, for this reason policy principles are proposed in separate, though related, issue areas to facilitate adoption of principles aligned with Metropolitan's mission to meet objectives in an "environmentally and economically responsible way." Specific issue areas relevant to Metropolitan operations and/or facilities in which revisions, refinements, or improvements are achievable are overlapping reporting requirements, duplicative permit requirements, and permit and regulatory approval processes.

**PROPOSED POLICY PRINCIPLES:****#1 Overlapping Reporting Requirements****Specific Issue:**

Should Metropolitan support legislation to facilitate and simplify overlapping environmental planning, reporting, and/or notification requirements imposed by numerous federal, State, regional, and local agencies?

**Background:**

Metropolitan engages in activities that trigger requirements to prepare reports and/or plans to either be retained for agency inspection or submitted to the agencies directly. Examples of specific reporting and/or planning documents and the agencies that require their preparation include: Business Plans (local fire departments); Contingency Plans (CAL/EPA Office of Emergency Services, federal EPA Region IX, local fire and police departments, local hospitals, and local emergency response teams); Spill Prevention, Control, and Countermeasure Plan (federal Environmental Protection Agency); Air Emission Fee and Air Toxic "Hot Spots" Inventories (local air districts); and Storm Water Pollution Prevention Plans (Regional Water Control Boards). In addition, Metropolitan may be subject to additional plan preparation and reporting requirements in the near term pursuant to: accidental release of hazardous substances provisions in the Federal Clean Air Act; process safety management of acutely hazardous materials under federal and State Occupational Safety and Health law; Oil Spill Prevention and Response Plans for transportation of oil required by the federal Department of Transportation; Risk Management Prevention Plans (for hazardous materials) under the California Health and Safety Code; and Fugitive Dust Emission Control Plans required for large construction projects by the South Coast Air Quality Management District. In summary, similar information is often compiled for and/or reported to different agencies; all of which have their own unique schedule, format, and requirements.

In the 1992 session, legislation was enacted (SB 1524) to require the Office of Emergency Services within CAL/EPA, in cooperation with the administering agencies, to develop by January 1, 1994 a single comprehensive form for businesses to report hazardous material inventories. Thus far in the 1993 legislative session, bills have been introduced on either side of the issue: both to expand the scope of consolidation to other hazardous materials reporting requirements and to weaken the inroads made last session by eliminating the deadline and by

adding statutory reporting requirements to which Metropolitan is not now subject (Section 313 of the Emergency Planning and Community Right-to-Know Act). Additional legislation introduced during this legislative session would promote electronic data transfer to satisfy certain reporting requirements.

**Policy Options:**

1. Support legislation that promotes simplification, consolidation, and/or computerization of various environmental planning and reporting requirements. Such a position represents purely an administrative adjustment and would not impact environmental protection.
2. Participate in the regulatory development process to point out areas of planning and reporting overlap and to promote consolidation and consistency of requirements.
3. Maintain a neutral legislative position on the issue presuming that other interest groups will aggressively pursue a simplified planning and reporting format.

**Recommendation:**

Staff recommends that Metropolitan adopt policy options 1 and 2, since simplified planning and reporting would save time and money for Metropolitan. Further, these positions are consistent with the Metropolitan mission to "meet present and future needs in an environmentally and economically responsible way."

**#2 Duplicative Permit Requirements**

**Specific Issue:**

Should Metropolitan support legislation to reduce duplicative permit requirements where such proposals do not interfere with maintenance or attainment of environmental quality?

**Background:**

Many of Metropolitan's activities trigger requirements to obtain environmental permits. Duplication of these permits exists not only for similar types of equipment, but also between different statutes, regulations, and agencies. For example, Metropolitan must obtain two separate permits from the San Diego Regional Water Quality Control Board for the Skinner Plant sludge

disposal site and sewage leach fields. Such duplication of effort is redundant for the regulated community and for the agencies reviewing the permit applications. This in turn causes delays that affect the entire regulated community. Further, such duplication can involve doubling of fees for permit applicants.

In 1992, this issue was addressed through various legislative proposals, agency studies (Cal-EPA's Recommendations for Consolidating and Streamlining Permit Processes), and other reports (The Council on California Competitiveness Report, "California's Jobs and Future" and Assembly Democratic Economic Prosperity Team (ADEPT) Report, "Toward an ADEPT California".) Several strategies were introduced to reduce duplicative permit requirements; however, none were aggressively pushed and no new programs were instituted. During the current legislative session, similar proposals have been introduced. Some potential strategies to reduce duplicative permit requirements involve:

- o Eliminating multi-agency requirements by refining the roles of regulatory agencies and/or defining (perhaps narrowing to eliminate overlaps) their scope of jurisdiction;
- o Eliminating multi-layered compliance requirements by prohibiting State and/or local agencies from expanding federal statutory intent unless specific conditions warrant such action, or by creating uniform compliance standards for all agencies to use; and
- o Implementing pre-certification for similar equipment, developing uniform permit applications, and creating an electronic permit application process.

**Policy Options:**

1. Support legislation that deals directly with regulatory agencies by refining, defining, or limiting their regulatory roles. This strategy addresses the root cause of duplicative permitting problems; however, such bills will involve significant and/or high-profile controversy.
2. Support legislation that introduces specific programs of concern to Metropolitan that address and remedy symptoms of duplicative permitting. Such programs would include the establishment of pre-certification and uniform (state-wide) permit applications. These change administrative requirements only, and would reduce costs and staff-time spent on permitting without adversely impacting environmental protection.

3. Scrutinize and possibly support legislation to refine and/or define agency roles where consensus solutions are proposed. Maintain open dialogue with interested parties to ultimately attain that consensus.

**Recommendation:**

Staff recommends that Metropolitan adopt policy options 2 and 3, as this position is consistent with Metropolitan's water supply and reliability and environmental goals and objectives, and could achieve benefits for Metropolitan without placing the District in a controversial position.

**#3 Streamlining Permit and Regulatory Approval Processes  
Specific Issue:**

Should Metropolitan actively support legislation to streamline permit and regulatory approval processes where such proposals do not interfere with maintenance or attainment of environmental quality?

**Background:**

Environmental regulatory compliance is not only duplicative, but extremely complex. The processes to actually obtain permits and regulatory approval stem from an already complicated statutory and regulatory framework. For example, multiple agency jurisdiction with respect to remediation of contaminated sites (e.g. DTSC, Regional Water Quality Control Boards, County Health Departments, local fire departments) leads to inconsistent and even conflicting requirements. In addition, remedial requirements vary greatly for similar sites that fall under the jurisdiction of different agencies or organizational units within agencies.

Process streamlining was also addressed in 1992, through legislative proposals, agency studies (Cal-EPA's Recommendations for Consolidating and Streamlining Permit Processes), and other reports (The Council on California Competitiveness Report, "California's Jobs and Future" and Assembly Democratic Economic Prosperity Team (ADEPT) Report, "Toward an ADEPT California".) Various strategies were introduced to streamline permitting and regulatory approval processes that were neither adopted nor implemented. Potential proposals for this legislative session include the following strategies:

- o Instituting a lead agency permit process to trigger automatic inter-agency coordination in multi-media, multi-permit situations;
- o Creating new councils and/or "conflict resolution" programs charged with reviewing, coordinating and streamlining environmental proposals and programs;
- o Providing exemptions (particularly from CEQA) for certain types of projects -- namely permit renewals;
- o Limiting the amount of information required by an agency for a single permit application; and,
- o Extending minimum permit life, provided permit conditions do not change.

**Policy Options:**

1. Support legislation introducing programs to streamline the processes of obtaining environmental permits and/or regulatory approval for projects, facilities, equipment, etc., provided the program does not appear to detract from the goal of environmental protection.
2. Support legislation that introduces administrative improvements and/or programs with performance activities to provide streamlined processes. These programs would save Metropolitan time and money without introducing the controversy of (apparent) diminished environmental protection.
3. Scrutinize and possibly oppose legislation that appears to complicate permit and regulatory approval processes, i.e. those proposals that introduce new agencies, committees, or other layers of regulatory jurisdiction which could impact Metropolitan activities.

**Recommendation:**

Staff recommends that Metropolitan adopt policy option 2, as this position is consistent with Metropolitan's water supply and reliability and environmental goals and objectives, to provide a reliable supply of water to its member agencies and consider the environmental effects of its actions.

**#4 General Regulatory Reform**  
**Specific Issue:**

Should Metropolitan support legislation to generally overhaul the regulatory process to make it more efficient/less burdensome, more sensitive to the needs of the regulated community, and more responsive to the concerns of the regulated community?

**Background:**

In many areas of environmental, safety, and health law the State of California is at the forefront of environmental regulation. California often chooses to implement more stringent requirements than those that are federally mandated. The regulated community has expressed concern that where this option is exercised, costs may be imposed that are not necessarily commensurate with the environmental, safety, or health benefit derived. For example, Section 402(p) of the Clean Water Act mandates identification and regulation of sources of storm water runoff. The federal program regulates facilities strictly by Standard Industrial Code Classification. Nevertheless, after a lengthy process which caused significant uncertainty among the potentially regulated community, the State chose different criteria; effectively broadening the scope of the regulation and making the determination of applicability extremely time consuming and costly.

This legislative session has seen the introduction of numerous proposals to address general regulatory reform. These bills would do everything from placing a moratorium on all new regulations to completely revamping the government process to require legislative approval of all administrative actions. Many of these proposals illustrate, more than anything, the level of frustration among the regulated community with what they perceive to be duplicative, cumbersome, and expensive regulations. Furthermore, the practicality of some proposals is questionable since they could significantly slow the regulatory process. This, in turn, would jeopardize California's current authority to implement many federal programs (air, water, safety and health, hazardous materials and waste). Potential general legislative strategies which have been proposed involve:

- o Placing a moratorium on all new regulations and requiring state agencies to examine the effect of existing regulations on the economy including holding public hearings on the issue;

- o Requiring State agencies to identify all regulations that are more stringent than their federal counterpart and to provide scientific evidence to justify the additional requirements;
- o Requiring that, in order for a State agency to adopt a standard that is more stringent than its federal counterpart, a clear finding must be made that there is a distinct benefit to human health and the environment;
- o Requiring agencies to prepare socioeconomic impact analyses for all new regulations to determine the potential adverse economic impact on the regulated community and individuals;
- o Placing a sunset date on all new regulations, at which time a review would be conducted to determine the effectiveness of the regulation in achieving its stated purpose; and
- o Requiring statutory approval by the Legislature of all new regulations.

**Policy Options:**

1. Support all legislative proposals that reform regulatory processes to make them more responsive to the regulated community.
2. Support regulatory reform in concept; scrutinize all legislative proposals as they become better defined to identify and support those that provide a true cost savings to Metropolitan while maintaining a balanced approach to environmental regulation and without compromising safety and health .
3. Maintain a neutral position on general regulatory reform. Continue to monitor legislative proposals to identify and bring to your Board's attention consensus solutions that have a positive impact on Metropolitan.

**Recommendation:**

Staff recommends that Metropolitan adopt policy option 2, as this position is consistent with Metropolitan's water supply and reliability goals and objectives, to provide a reliable supply of water to its member agencies in a fiscally responsible manner while considering the environmental effects of its actions.

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This action is exempt from provisions of the California Environmental Quality Act (CEQA) in that there is no possibility that it may have a significant effect on the environment.

Board Committee Assignments

This letter is referred for action to:

The Executive Committee because of its authority with regard to legislation sponsored by the District and with regard to legislation affecting the District, pursuant to Administrative Code Section 2417 (a); and

The Special Committee on Legislation because of its authority to review proposals for state and federal legislation that may affect the District, pursuant to Administrative Code Section 2581(a).

This letter is referred for information to:

The Special Committee on Water Quality and Environmental Compliance because of its authority regarding Federal and State environmental regulations pursuant to Administrative Code Section 2551(a) and (b).

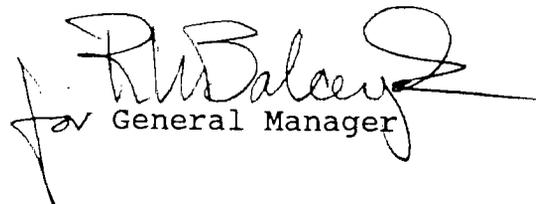
Recommendation

**EXECUTIVE COMMITTEE AND SPECIAL COMMITTEE ON LEGISLATION FOR ACTION.**

Adopt policy principles as recommended by staff.

**SPECIAL COMMITTEE ON WATER QUALITY AND ENVIRONMENTAL COMPLIANCE.**

For information only.

  
for General Manager

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