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 The Metropolitan Water District
 of Southern California
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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Karen E. Duff 9-16
 EXECUTIVE SECRETARY

June 15, 1995

To: Board of Directors (Special Committee on Water Quality and Environmental Compliance - Information)
 (Committee on Legislation - Information)
 (Finance and Insurance - Information)

From: General Manager

Subject: Impact of Rulemaking Moratorium and Regulatory Reform Legislation on the Oxidation Retrofit Program

RECOMMENDATION:

For information only.

John R. Wodraska
 General Manager

Submitted by:

Mark Beuhler

Mark D. Beuhler
 Director of Water Quality

Concur:

Walter Horne
 John R. Wodraska
 General Manager

MT/sdf
 o/board/rulmkg

Attachments

DETAILED REPORT:

The House and Senate are each considering legislation which may affect the Federal rulemaking process. Certain bills would delay or establish a temporary moratorium on the promulgation and/or effective dates of Federal rules. Other legislation is aimed at regulatory reform and would require a cost-benefit analysis and/or a risk assessment to be performed for certain "major" rules.

The question has been raised as to whether the enactment of any of these bills could enable a delay in the proposed Oxidation Retrofit Program (ORP) for the Jensen and Mills Filtration Plants. Your Board previously committed to fund the design for ozone/PEROXONE facilities at these plants in order to meet the proposed June, 1998 effective date for Stage 1 of the Disinfectants/Disinfection By-Products (D/DBP) Rule. (See Attachment 1 for a history of Metropolitan's decision to build ozone/PEROXONE facilities.)

The moratorium and regulatory reform bills potentially affect the D/DBP Rule and two related rules proposed by the EPA: the Information Collection Rule (ICR) and Enhanced Surface Water Treatment Rule (ESWTR). Only a significant delay in the June, 1998 effective date of Stage 1 of the D/DBP Rule could provide an opportunity to delay the ORP.

The House and Senate have passed different versions of a moratorium bill (see Table 1). The House version would establish a temporary moratorium through December, 1995 on new Federal regulatory actions. The Senate version would provide a 45-day delay in regulatory effective dates while giving Congress the opportunity to disapprove any Federal rules. Conferees have been unable to reconcile their differences, and a Presidential veto has been discussed even if there is an agreement.

The House has passed its version of regulatory reform, and three other versions have been introduced and passed out of committee in the Senate (see Table 2). The element common to all of the bills is a requirement to perform a cost-benefit analysis and/or risk assessment. The details of the bills differ, however.

Senate majority leader Robert Dole (R-KS), who introduced one of the regulatory reform bills, has reached an agreement on a discussion draft with Senator Bennett Johnston (D-LA). The draft is believed to enjoy broad support, but is expected to be amended further before it is brought to the Senate floor. The Administration and some Democrats oppose the draft's decisional criteria, provisions for judicial review, threshold for determining rules covered by the bill, and other provisions. The draft regulatory reform bill may come to the Senate floor as early as June 27. Even if the bill passes, it would need to be reconciled with the House version, and enactment is not assured.

If moratorium and/or regulatory reform legislation is enacted, delays in the effective date for Stage 1 may only be minimal.¹ Moreover, Metropolitan's tentative schedule for completion of the ORP at Mills Filtration Plant is six months beyond the currently proposed June, 1998 effective date for Stage 1 compliance. **Any postponement in the Stage 1 effective date which**

¹ The impact of moratorium and regulatory reform legislation is based on the current texts of the various bills and their potential effect on Stage 1 of the D/DBP Rule. Final legislation may be different and could lead to different conclusions.

does result from moratorium or regulatory reform legislation may simply allow Metropolitan to be in compliance on a timely basis.

Other Factors which may Delay the Stage 1 Deadline

It is more likely that delays in the ICR will cause a delay in the effective date of Stage 1 of the D/DBP Rule than will congressional legislation. Information collected under the ICR is needed before the final Stage 1 D/DBP Rule can be promulgated. Promulgation of the ICR has already been delayed one year, and it is not expected to become a final rule until the end of 1995. As a result, the EPA plans to develop a revised schedule for the D/DBP Rule. Since the proposed effective date for Stage 1 is also a court-ordered deadline, any revisions will have to be negotiated. If there is an opportunity to delay the ORP due to delays in the ICR (or due to moratorium or regulatory reform legislation), staff will present the options to the Board at that time.

Reasons for Not Delaying the ORP

Even if the Stage 1 D/DBP Rule deadline is extended, Metropolitan may still not want to postpone the ORP beyond its current schedule. While the ORP was primarily undertaken to meet the Stage 1 D/DBP Rule requirements, ozonation also reduces taste-and-odor problems and may facilitate Metropolitan's ability to meet the requirements of the ESWTR. The ESWTR will define treatment technologies for the control of Cryptosporidium and other pathogens. **Ozone is presently the only known disinfectant that is effective against both taste-and-odor problems and Cryptosporidium.** However, additional ozone capacity may be needed in the future to meet the requirements of the ESWTR.

Ozonation is currently the process used by 105 treatment plants in the United States, including 15 in California. An additional 10 ozonation plants are in design or under construction in California (see Table 3). In light of the recent Cryptosporidium problems in Las Vegas (which uses Colorado River water) and in the Bay Area, it appears to be prudent to maintain the current ORP schedule.

ATTACHMENT 1**METROPOLITAN'S PARTICIPATION IN THE DEVELOPMENT OF THE DISINFECTANTS/DISINFECTION BY-PRODUCTS (D/DBP) RULE**

1. Water utilities across the U.S., including Metropolitan, are facing a number of new drinking water quality regulations, such as the Disinfectants/Disinfection By-Products (D/DBP) Rule. In October 1989, the USEPA released a draft of the disinfection by-product (DBP) regulation, indicating that it would set standards for 25 DBPs, including reducing the existing THM standard from 100 µg/L to 25 or 50 µg/L. Several of these proposed standards would have mandated Metropolitan to retrofit its filtration plants with granular activated carbon (GAC), at an estimated cost of \$2 to \$3 billion, with significant environmental and siting problems associated with its use.

2. In 1992, the USEPA decided to negotiate the D/DBP Rule with members of the drinking water industry, the environmental community, consumer groups, and other regulatory agencies. This decision was based on the realization that a significantly reduced THM standard could push some utilities into reducing its disinfectant dosages, resulting in increased microbial risks. In addition, other utilities would be forced to implement costly new technologies, such as GAC or membranes.

3. The USEPA published the proposed D/DBP Rule in the Federal Register on June 29, 1994. Based upon an agreement reached by the negotiators in mid-1993, Stage 1 of the D/DBP Rule will include maximum contaminant levels (MCLs) for three DBPs (THMs--80 µg/L, haloacetic acids--60 µg/L, and bromate--10 µg/L) and four disinfectants, compared to the 25 MCLs proposed in the 1989 regulation. Stage 1 will also require DBP precursor removal through enhanced coagulation. Promulgation of Stage 1 of the D/DBP Rule is expected in 1996, with compliance for large surface-water systems required in June 1998.

4. Metropolitan was a key participant in the regulatory negotiations, which directly resulted in a substantially more reasonable regulation. If Metropolitan had not been involved in the negotiations, the regulation would likely have required the implementation of GAC or membranes at Metropolitan's filtration plants.

5. While Metropolitan would be able to comply with the THM MCL of 80 µg/L, several Metropolitan member agencies that receive treated State project water (SPW) from either the Mills or Jensen filtration plants would not; higher levels of THMs are formed in SPW as compared to Colorado River water (CRW). In order to ensure that these member agencies comply with the

proposed D/DBP Rule, THM concentrations entering the distribution system from Metropolitan's plant would have to be substantially less than 80 µg/L.

6. Metropolitan staff, working closely with affected member agencies, has thoroughly evaluated all possible treatment options that would allow Metropolitan and member agency compliance with future regulations, including ozone/PEROXONE (hydrogen peroxide combined with ozone), enhanced coagulation, GAC, membranes, and a water exchange between LADWP and Metropolitan. Based on these detailed analyses, the ozone/PEROXONE process was identified as the least cost alternative.

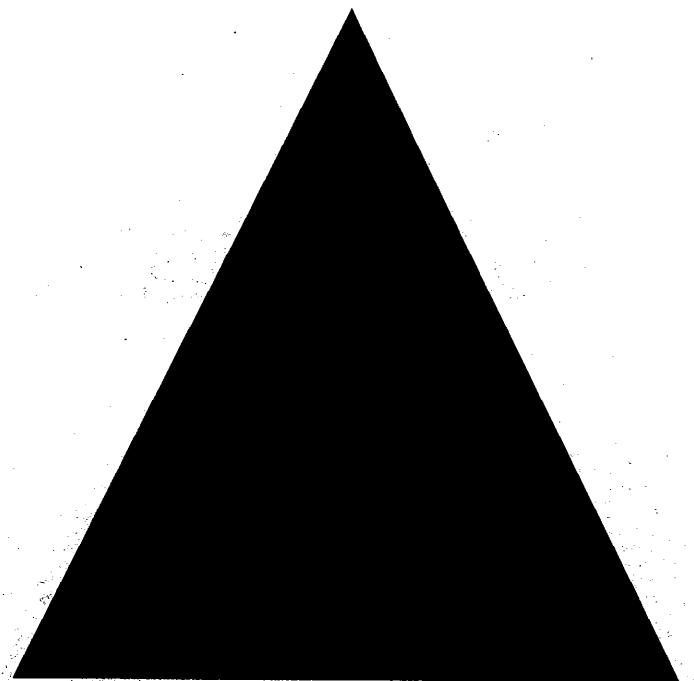
7. The implementation of ozone/PEROXONE facilities at the Jensen and Mills filtration plants represents a long-term treatment strategy that will permit Metropolitan and its member agencies to comply with Stage 1 of the D/DBP Rule. In addition, Metropolitan will achieve the more stringent disinfection requirements of the proposed Enhanced Surface Water Treatment Rule--ESWTR (i.e., Cryptosporidium inactivation) and control T&O problems in Metropolitan's source waters at those plants.

8. In August 1994, Metropolitan's Board of Directors approved staff's recommendation to implement ozone/PEROXONE facilities at Metropolitan's two SPW plants, Jensen and Mills. This strategy will enable Metropolitan and its member agencies to comply with Stage 1 of the D/DBP Rule by June 1998. Recommendations regarding ozone/PEROXONE at the three plants that treat primarily CRW (Skinner, Weymouth, and Diemer) will be depend on the development of Stage 2 of the D/DBP Rule and the ESWTR.

9. These new ozone/PEROXONE facilities represent the first major process modifications to Metropolitan's filtration plants since Metropolitan began treating drinking water more than fifty years ago. Furthermore, ozone/PEROXONE facilities are essential components of Metropolitan's commitment to public health and safe drinking water.

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