

● **Communications and Legislation Committee**

January 10, 2000 Committee Meeting

C&L8c

Subject

Revisions to Existing Legislative Policy Principles

Description

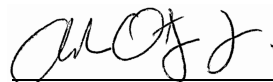
As part of this Committee's review of Board-adopted legislative policy principles, minor changes to several principles are submitted for the Committee's consideration in January. These changes include updating legislative policy principles with recently adopted Board policies. The revisions are [Attachment 1](#).

Policy

New policy.

Fiscal Impact

No fiscal impact.



Adán Ortega, Jr.
Acting Manager of the Outreach Group

12/27/99

Date



Ronald R. Jester
General Manager

12/28/99

Date

[Attachment 1 – Legislative Policy Principles](#)

LEGISLATIVE POLICY PRINCIPLE REVISIONS

ACCIDENTAL RELEASE OF HAZARDOUS MATERIALS

Issue: Coordination with Cal/OSHA Process Safety Management Standard (PSM) and Other Regulatory Requirements. Though the overall focus of the EPA Risk Management Program Rule (RMPP), the California Accidental Release Prevention (CalARP) Program and Public Safety Management (PSM) is different (PSM focuses on worker safety while the RMPP and CalARP Program looks at offsite consequences), these requirements entail comprehensive programs to identify and mitigate minimize risks associated with handling certain hazardous substances materials. Many of the detailed requirements of each program are substantially similar, such as the requirements for standard operating procedures, technical evaluation of process hazards, training and management of change. In addition, there are other regulatory requirements that parallel specific elements of the federal RMPP and the CalARP Program such as emergency response planning mandated by Occupational Safety and Health Administration's Hazardous Waste Operations and Emergency Response standard.

Policy Adopted: (1) Support language to minimize duplication, clarify overlapping requirements, and to delineate agency roles. (2) Support the concept of minimizing duplication, clarifying overlapping requirements, and delineating agency roles and promote this position through industry groups such as ACWA or CCEEB.

Issue: Consistency of State/Local Requirements and Implementation. Existing CalARP Program RMPP requirements are detailed in the Office of Emergency Services regulations codified in state law but direct implementation is on the local level, primarily through fire and health departments. Though this system works well in terms of responding to unique local issues, implementation may be inconsistent due to differences in interpretation or application of requirements at the local level. For any regional or statewide agency with facilities in multiple jurisdictions, clear and consistent implementation of requirements would facilitate compliance and thereby minimize costs.

Policy Adopted: Support language that follows existing precedent in terms of local implementation while mandating that statewide guidance be issued to eliminate the possibility of conflicting implementation by local agencies.

Issue: Secondary Containment. Public concern and awareness of issues surrounding management of hazardous materials has increased in recent years due mostly to accidents such as the General Chemical Corporation release of oleum in the San Francisco Bay Area. Though the issue of mandating secondary containment is not directly raised by comprehensive bills to implement the federal RMPP, one piece of legislation by Assemblyman Tom Bates during the 1994-95 legislative session would have required containment if specified findings are made by the administering agency. The findings address issues such as the risk posed by the facility and the severity and likelihood of offsite consequences. Existing bill language does not set levels of risk, criteria for evaluation of risk, and/or consideration technological alternatives. The federal proposed RMPP requires is a comprehensive, detailed technical analysis which takes into consideration a myriad of parameters. Mandating containment, even under specified conditions, frontloads the results of the analysis and as such runs counter to the intent and purpose of the federal RMPP program. In proposing the rule EPA states:

...the owner or operator [must] investigate and document a plan for (or rationale for not) installing systems to detect, contain, or mitigate accidental releases if such systems are not already in place. Because accidental releases can be mitigated by the use of detection, secondary containment, and mitigation systems, facilities should consider whether the hazards they have identified can be addressed through such systems. The decision on whether such systems are the best way to address the hazards must, however, rest, in the first instance with the facility's management.

In other words, EPA believes the decision to implement containment (or any other mitigation technique) rests ultimately with the facility. Furthermore, the existing CalARP Program regulation mirrors this approach ~~California RMPP law requires that "design, monitoring, or automatic control systems" be implemented as a part of the program and that "alarm, detection, monitoring, and automatic control devices" be considered to reduce the risk of an accident.~~ The regulation law does not specify that containment is required.

Policy Adopted: Oppose legislation to address the issue of containment separate from the comprehensive measures to implement the federal RMPR ~~program~~ and the CalARP Program. Support the concept of addressing containment through a comprehensive risk assessment and management program such as that mandated by the EPA RMPR requirement.

M.I. 40877 - June 14, 1994; February 10, 1998: issues "Worst Case Scenario", "Generic RMPs/Model Programs" and "Management of Change" removed since they were resolved or are no longer in the legislative arena

Rationale for revisions: Clarification in federal program name and adoption of a California program.

COLORADO RIVER BASIN MANAGEMENT

Issue: Colorado River Basin Management.

Policies Adopted:

1. Metropolitan continues to protect the rights and interests in its contracts with the United States for delivery of Colorado River water.
2. Metropolitan continue to seek ways to increase the reliability of its Colorado River supplies in order to operate the Colorado River Aqueduct at capacity as much of the time as is feasible. ~~Technical committee d~~Discussions with the other Colorado River Basin states and the Department of the Interior are ongoing on California's use of its Colorado River apportionment regional water supply solution involving innovative strategies requiring interstate cooperation. As such, it would be premature to recommend specific methods for increasing water supply reliability through new interstate mechanisms at this time or whether federal legislation should be pursued.
3. Metropolitan's policy is to be able to fill its Colorado River Aqueduct (CRA) at the lowest possible cost to its Member Agencies. Metropolitan recognizes that the price of Colorado River water available to fill its aqueduct will differ depending upon several cost, market, legal and policy factors, including whether the water is from supplies subject to allocation by the Federal Government or from supplies secured under other water rights.
43. Metropolitan continues to support development of a Lower Colorado River multi-species management plan to address Endangered Species Act compliance and protect nearly 100 federal and state listed, and sensitive species in the region. To protect both the wildlife in the area and the federal projects' ability to operate with minimum restrictions, a regional partnership has been formed. Critical interim conservation measures have been implemented and the program is currently developing a plan for the next fifty years. A feasibility assessment of alternative management actions will be completed by mid-December by consultants for Arizona, California, and Nevada.
54. Metropolitan continues to participate with the Colorado River Board and the other Basin states in cooperative interstate efforts to control the salinity of Colorado River water.

M.I. 41222 - January 10, 1995

Rationale for revisions: The second policy adopted has been revised to refer to California's draft Colorado River water use plan, which was developed after the adoption of the policy principle and which is currently undergoing revisions to reflect provisions of the key terms for quantification settlement. The third policy has been added to reflect the policy adopted by the Board in January 1999 after consideration of the January 6, 1999 letter 8-16, Approaches to Implementing Metropolitan's Policy Regarding Required Volume of Colorado River Water Supplies. The fourth policy has been revised to indicate the current status of the Lower Colorado River multi-species conservation program.

COLORADO RIVER RESOURCES STRATEGY

Issue: Metropolitan will participate, through the Colorado River Board and other appropriate forums, in the development of a comprehensive Colorado River resources strategy plan for California which should: (1) provide flexibility and certainty through changes in reservoir operations; (2) require investments in conservation and transfers; and (3) limit California's Colorado River use to its basic apportionment of river water when required by the Secretary of the Interior. The plan will be accomplished through well defined, enforceable programs that avoid the undue risk of supply shortages to the other Colorado River Basin states.

Policies Adopted:

Metropolitan supports:

1. Establishing specific entitlements within the agricultural 3.85 million acre-feet of California's basic apportionment (quantification).
2. Reasonable and beneficial use of Colorado River water.
3. ~~Revised set of operating~~ Establishing interim surplus criteria for the Colorado River reservoir system that ~~increases the~~ makes more effective use of available ~~ity of~~ surplus water in the Lower Basin ~~on an interim basis~~.
4. Voluntary transfers of Colorado River water that result from conserved savings in baseline entitlements.
5. Addressing on a case by case basis the financial, operational, environmental, and community impacts resulting from water transfers, consistent with federal and State law.
6. Achieving water quality objectives and reducing Total Dissolved Solids (TDS) levels in order to maximize and facilitate the full complement of regional water management opportunities. Metropolitan's goal is to achieve salinity concentrations in blended imported water of 500 milligrams per liter.
7. Protecting Metropolitan's interests and increasing its dependable entitlements to Colorado River water, while collaborating with other California Colorado River agencies.
8. A process for communication and partnerships with other California Colorado River agencies to develop a comprehensive California plan for Colorado River water.

M.I. 42820 - February 10, 1998

Rationale for revisions: The title has been revised to distinguish this policy principle from the Colorado River Basin Management policy principle. The description of the issue has been revised to more accurately reflect the commitment made by Metropolitan and California to limit use of the Colorado River. The third policy principle has been revised to reflect the Bureau of Reclamation's ongoing process for establishing interim surplus criteria announced in the Federal Register. The sixth policy adopted has been revised to state Metropolitan's blend policy with respect to salinity

concentration adopted by the Board in April 1999 after consideration of the March 26, 1999 letter 9-1, Salinity Management Policy and Action Plan.

PERMIT STREAMLINING

Issue: Overlapping Reporting Requirements. Should Metropolitan support legislation to facilitate or simplify overlapping environmental planning, reporting, and/or notification requirements imposed by numerous federal, state, regional, and local agencies?

Policies Adopted: (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.

Issue: Duplicative Permit Requirements. Should Metropolitan support legislation to reduce duplicative permit requirements where such proposals do not interfere with maintenance or attainment of environmental quality?

Policies Adopted: (1) 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 (statewide) permit applications. These change administrative requirements only, and would reduce costs and staff-time spent on permitting without adversely impacting environmental protection. (2) 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.

Issue: Streamlining Permit and Regulatory Approval Processes. 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?

Policy Adopted: 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.

Issue: General Regulatory Reform. 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?

Policy Adopted: 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.

~~SPECIAL DISTRICT CONSOLIDATION~~

~~Issue:~~ ~~Special District Consolidation.~~

~~————~~ **~~Policy adopted:~~** ~~Monitor legislation on special district consolidation but take no "official" position on the issue at this time. (Will re-examine this issue again in future)~~

M.I. 40291 - June 15, 1993

Rationale for revisions: Delete until such time as specific legislation regarding consolidation of special district(s) is introduced. The legislation and/or related policy principle will be submitted to the Board for review and potential action.

State Budget

Issues: Principles to guide staff efforts concerning State budget issues impacting Metropolitan.

Policies Adopted:

1. Support efforts to allocate CALFED Bay-Delta Program planning costs in an equitable manner, taking into account the intended beneficiaries of the CALFED program.
2. Support development of a CALFED funding plan in a timely manner, and support the appropriation of non-SWP revenues, such as a State General Fund appropriation, for CALFED Bay-Delta Program planning costs.
3. Oppose options for funding the CALFED Bay-Delta Program that would interrupt SWP cash flow and potentially interfere with the rate management provisions of the Monterey Amendment.
4. Users and beneficiaries of State Water Project (SWP) facilities should pay their share of the costs for the construction, operation and maintenance of the facilities. When the SWP contractors pay for the revenue bond funded capital costs of multi-purpose SWP facilities, they should be expediently reimbursed for non-water supply related costs. Support legislation that allocates State General Funds for those programs which are the obligation of the general public.
5. Oppose legislative efforts of the Legislature to establish new state program requirements for the Department of Water Resources or the SWP without appropriate allocation of State General Funds or some other non-SWP source of funds.
6. Support efforts to resume and maintain the State's funding commitment for SWP recreational costs. Continuing failure to provide funding for State Water Project recreational activities results in financial impacts to SWP contractors, including Metropolitan.
7. Oppose efforts to transfer any proposed State Water Project revenues to the State General Fund as such action impairs existing contracts by the State and the State Water Contractors and between the State and its bondholders. Coordinate advocacy through local government coalitions and associations.
8. Directly oppose efforts to eliminate the State's contribution to fund activities of the Colorado River Board in light of the Colorado River Board's importance in facilitating discussions among California interests, as well as the critical role the Board plays in interstate, federal, and international discussions. Coordinate advocacy efforts through local government coalitions and associations to promote Metropolitan's position.

M.I. 40303 – June 15, 1993

M.I. 42820 – February 10, 1998

Rationale for revisions: Two sets of policy principles have been combined as they both address State Budget issues that could impact Metropolitan's water supply reliability. The sixth policy principle has been added consistent with Metropolitan's long-standing position to ensure that payments for the State Water Project are in accordance with the terms of the contract. In this case, annual bill reductions to the

Contractors, including Metropolitan, would be maximized by ensuring that SWP recreational costs are addressed through State appropriations.

~~STATE/LOCAL GOVERNMENT FINANCING~~

~~Issue:~~ ~~State and local government financing.~~

~~Policy Adopted:~~ ~~Metropolitan shall continue to monitor activities associated with the reform of state/local fiscal policies to ensure financial stability for Metropolitan and its member agencies. Staff will submit proposals as they mature to the Committee on Legislation for consideration. Staff will participate in the consensus effort coordinated by the California Council of Environmental and Economic Balance (CCEEB) to develop proposals for fiscal reform. Periodic progress reports will be made by staff on this effort to the Committee on Legislation.~~

M.I. 41222 - January 10, 1995

Rationale for revisions: Delete until such time as the General Manager has re-evaluated Metropolitan's participation in Project CPR - - a consensus effort coordinated by the California Council of Environmental and Economic Balance (CCEEB). Staff will continue to monitor all legislation proposing reform of state and local fiscal policies. Any legislation having a direct impact on Metropolitan and/or its Member Agencies will be submitted to the Board for review and potential action.

TRANSFER OF THE CENTRAL VALLEY PROJECT (CVP)

Principles Adopted:

~~PROCESS: Provide for the proper legislative process of fully acknowledging and addressing the legitimate concerns and issues of all Californians including urban, environmental and other agricultural water users.~~

~~FINANCIAL: Ensure that any transfer of CVP assets is financed in a manner that is equitable to all users affected by CVP actions. Operations of the CVP must not have a negative effect on non-CVP users.~~

~~ENVIRONMENTAL OBLIGATIONS: Maintain the environmental obligations of the CVP, including the financial obligation through the Restoration Fund.~~

~~WATER TRANSFERS: Protect, maintain and facilitate the transfer provisions provided in existing law.~~

~~OPERATIONS: Protect the interests of SWP users regarding operational issues between the CVP and SWP such as the Coordinated Operations Agreement and protection of shared infrastructure and quality of water conveyed through shared facilities.~~

~~GOVERNANCE: Provide for an effective and proper governing entity which acknowledges and addresses the legitimate interests of all water users and the State affected by CVP actions.~~

~~SWP INTERESTS: Assure that any potential transfer of federal CVP assets is completed in a manner that does not preclude future alternatives for management of the SWP that may better protect the interests of its contractors.~~

~~STATE LAW: Assure that any action to purchase and manage the project is consistent with State law.~~

~~CALFED PROCESS: Assure that transfer and management of CVP assets is provided in a manner that allows for continuation and successful completion of the CALFED process to resolve water supply and environmental issues in the Bay/Delta.~~

M.I. 41775 - February 13, 1996

Rationale for revisions: This is no longer an issue before Metropolitan or Congress.

WATER CONSERVATION

~~**Issue:** Integrated Resource Planning. What should Metropolitan's position be with respect to draft federal legislation on integrated resource planning that has been drafted by the NWF?~~

~~**Policy Adopted:** Monitor the developments of the integrated resource planning initiative and respond to any draft legislation with suggested amendments. This will allow Metropolitan to take a constructive role in the drafting of any bill before it is actually introduced.~~

Issue: Plumbing Fixtures. The mandated replacement of inefficient plumbing fixtures, specifically toilets, at the point of sale or transfer of real property can have a significant effect on helping water agencies meet their obligations under the BMP Memorandum of Understanding (MOU).

Policy Adopted: Support the eventual passage of a bill that would mandate the replacement of all non-low-flow plumbing fixtures upon the transfer or resale of any real property.

Issue: Water Efficient Appliances. Should Metropolitan pursue and support standards for water-using appliances such as dishwashers and washing machines?

Policy Adopted: That Metropolitan take a passive role in the development of these types of standards and reserve its active support until such time as a bill is introduced with these standards.

Issue: Repeal of Federal Water Efficiency Standards

Policy Adopted: Oppose the repeal or modification of any of the water efficiency standards for toilets, showerheads, faucets, and urinals contained in the Federal Energy Policy and Conservation Act of 1992. Oppose any repeal or modification of state water efficiency standards for the same fixtures. Work with appropriate coalitions to protect Metropolitan's interests and that of its member agencies to ensure that the standards are retained.

M.I. 39936 - November 10, 1992; "Landscaping" issue removed and "Repeal of Federal Water Efficiency Standards" added by M.I. 42820 - February 10, 1998. [Best Management Practices (BMP) replaced by CALFED Water Use Efficiency policy principle]

Rationale for revisions: This policy principle dates from 1992. There are no current federal legislative efforts by the National Wildlife Federation regarding urban water best management practices and integrated resource planning. Should this debate re-emerge, staff would propose an updated legislative policy principle.