

**Response to Comments on May 11, 2015 Tentative Order
Provision C.13. – Copper**

Commenter	Comment No.	Provision No.	Key Word(s)	Comment	Response	Proposed MRP Revision
Baykeeper	46	C.13	Control Measure Sufficiency	Neither the Draft MRP, nor the Fact Sheet, makes any showing that the control measures included in Section C.13 are sufficient to meet copper SSOs. EPA Guidance states that, when adopting measures to maintain or re-attain water quality standards, the agency should have “reasonable assurances” that the measures it adopts will effectively meet its goals. Reasonable assurance requires analyzing the effectiveness of management measures. The Draft MRP simply requires the same measures it required in the 2009 Permit without any analysis of whether these measures are sufficient to meet the copper SSOs.	Copper water quality in the Bay continues to exceed the goals of the copper site-specific objective implementation program. The copper concentration in all Bay segments is not only well below the site-specific objectives, but also below the trigger levels set forth in the implementation program (http://www.sfei.org/content/copper-site-specific-objective-3-year-rolling-averages). This data demonstrates that current management measures are sufficient in maintaining water quality standards relative to copper.	none
Baykeeper	47	C.13	Updated assessment of copper control measures	The Basin Plan requires that the MRP include “implementation of best management practices and copper control measures to prevent urban runoff discharges from causing or contributing to exceedances of copper water quality objectives.” The Basin Plan specifically requires that “[r]equirements in each permit issued or reissued and applicable for the term of the permit shall be based on an updated assessment of control measures to reduce copper in stormwater runoff to the maximum extent practicable.” The Draft MRP does not include an “updated assessment of control measures” for	As stated in response to Baykeeper comment #46, copper concentrations in the Bay are below the trigger levels (and generally 50% below the site-specific objectives). Therefore, there are no exceedances of copper water quality objectives in San Francisco Bay to which urban runoff could be causing or contributing to. The MRP requires the control measures identified in the implementation program for the site-specific copper objectives that have not already been satisfied or that still apply. Because the ambient	none

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				any of the three sources targeted in Section C.13: copper architectural features, copper algacides, and industrial sites. Rather, it simply merely repeats the same requirements that were included in the 2009 Permit.	concentrations of copper are well below water quality objectives, it can be reasonably assumed that the currently required control measures for urban runoff are adequate and effective and thus no changes are necessary at this time. The current MRP requirements do, in fact, reflect an assessment of the control measures to reduce copper in stormwater runoff to the MEP.	
Baykeeper	48	C.13	Removal of control measures from last permit	Moreover, the 2009 Permit included additional Copper Controls that have been removed in the Draft MRP. Specifically, the 2009 Permit required Permittees to “engage in efforts to reduce the copper discharged from automobile brake pads” by participating in the Brake Pad Partnership. (2009 Permit at 103.) Although Senate Bill 346 was passed as a result of the Brake Pad Partnership, the law does not require the phase out of copper in brake pads until 2025. Substantial copper loads will enter the Bay and its tributaries in the meantime. It is unclear whether the Regional Board has considered this timeframe in determining whether the Copper Controls are sufficient. In the 2009	The legislation to remove copper from brake pads is the single most effective measure that could be taken to reduce copper from brake pads and address this major source of copper. The commenter is correct that the phase-out will be accomplished over the next decade. However, copper loads from brake pads can be expected to begin decreasing even during this time period as brake pad manufacturers begin introducing products that comply with the legislation. Further, this time period is appropriate for accomplishing a large-scale change in a product and is an	none

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				<p>Permit, Permittees were also required to “conduct or cause to be conducted technical studies to investigate possible copper sediment toxicity and technical studies to investigate sub-lethal effects on salmonids.” It is unclear how, or whether, the Draft MRP incorporates the information gathered from the studies over the last permit cycle, although presumably such studies were initiated to inform future copper measures.</p>	<p>acceptable pace of reduction for San Francisco Bay given that copper concentration in the Bay are less than 50% of the water quality objective. Therefore, it is not necessary to require additional actions relative to brake pads given that this legislation is in place and will begin yielding benefits over the next decade. The Fact Sheet explains the outcomes of the studies conducted to investigate the possible sublethal toxicity of copper to salmonids and how this effect was not found for San Francisco Bay.</p> <p>Therefore, the Basin Plan requirement for the study has been satisfied via MRP 1.0 and the technical information is now available so such studies no longer need to be included as requirements in subsequent permits.</p> <p>The Fact Sheet has also been updated to include a finding related to the decision not to continue to include a requirement to investigate possible sediment toxicity in the Bay. There has</p>	

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					<p>been no recent data indicating that copper is causing toxicity in San Francisco Bay sediments, and sediment copper concentrations have been decreasing.</p>	
Baykeeper	49	C.13	Require sampling at outfalls	<p>Moreover, the Draft MRP fails to include an accounting system whereby the Regional Board or Permittees can measure whether the Copper Controls are, in fact, regulating copper discharges so that they do not cause or contribute to violations of SSOs. It is illogical that sampling for copper, as for most constituents, need not occur during storm events when the most significant loading occurs. Moreover, since the sampling will likely not monitor the actual copper loads entering receiving waters through stormwater, the monitoring will be insufficient to determine whether the Copper Controls are effectively regulating copper loading.</p>	<p>Provision C.13 establishes requirements associated with the implementation plan established in the Basin Plan for copper site-specific water quality objectives for San Francisco Bay. These copper water quality objectives are not exceeded and ambient copper concentrations are well below the objectives. Because there are no violations of the SSOs, there is no cause or contribution to such violations from stormwater loading that must be determined or monitored.</p> <p>There is copper monitoring required by Provision C.8. The permit requires copper monitoring within watersheds that can provide useful information on the adequacy of control measures and where some problem areas could be.</p>	none

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					<p>However, we fully expect the good water quality in the Bay relative to copper to continue.</p> <p>Moreover, many sources of copper may not be most apparent during storm events – copper runoff from treatment of architectural features or discharge from pools, spas and fountains would likely be more pronounced during the dry season so it would make little sense to try to assess the adequacy of such control measures with wet season sampling at stormwater outfalls.</p>	
SCVURPPP	76	C.13.b	Pools, spas, and fountains	<p>This provision contains new reporting requirements that require duplicative reporting of enforcement activities reported under Provision C.4 and C.5. Permittees are now required to report annually on any enforcement activities associated with this provision.</p> <p>Requested Revision: Reference other provisions where Permittees may more efficiently report permitting and enforcement activities.</p>	<p>Permittees were required during the last permit term to certify that they had the regulatory authority to address the discharges from this type of source. They all have done so. It is very reasonable to now require that Permittees report on enforcement activities generated through application of this new regulatory authority.</p> <p>Provision C.4 and C.5 do not explicitly identify pools spas and</p>	none

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					<p>fountains as a source to be reported on, so the explicit requirement under C.13 ensures that there is no misunderstanding as to what the Water Board intends. Further, this is consistent with other parts of the permit in that pollutant-specific provisions are grouped under a certain provision, as is the case for pesticides, mercury, and PCBs. Because this provision originated from a site-specific objective project for copper, the Water Board declines to distribute the required elements throughout the permit but to keep them in C.13.</p>	