

# ENVIRONMENT

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## Regulatory Gap Stifles Pollution Control

By [ROB DAVIS](#) Voice Staff Writer

**Monday, Jan. 8, 2007** | Tap your brakes, and the pads shed the slightest bit of copper. Peel out on the road, and your tires leave behind traces of zinc that hang in the air.

Those airborne metals don't pose a threat to human health -- they're too large to get breathed deeply into the lungs -- so they don't get regulated or controlled by the California Air Resources Board. Its primary focus is human health, not environmental health.

When those air pollutants eventually settle on the ground, along the shoulders of roads and interstates, rainfalls wash them into nearby creeks and streams. They end up as water pollution and affect the growth and reproduction of marine life such as sea urchins, mussels and oysters. And water regulators are powerless to regulate car tires and brakes, prohibiting them from controlling the pollution at its source.

"This is a huge issue," said Laura Hunter, Clean Bay Campaign director at the National City-based Environmental Health Coalition. "It's slithering through the regulatory gap."

Regulators think airborne metals could be a significant source of pollution in Chollas Creek, a littered waterway that meanders from Lemon Grove through La Mesa, ultimately dumping into San Diego Bay. And as the city of San Diego faces an order to undertake a potential \$1 billion cleanup of the impaired creek, city officials protest that they have no way to prevent the pollution's root cause: copper brake dust and zinc tire wear.

"It's ubiquitous. How could any government agency really address that?" asked Deborah Castillo, a spokeswoman for the city's storm water pollution prevention division. "There are different ways to make brakes, but we don't have the ability to effect that change. That's one of the frustrations we have."

Air regulators haven't tackled the pollution, because it's not a threat to human health. Water regulators say they don't have the ability to prevent the pollution, either, because it comes from the air. They say it's the city's responsibility to clean up the water.

"We can't regulate the emission from a smokestack, even though we know that source ends

### Through the Cracks

- **The Issue:** Scientists are beginning to better understand the role air pollutants play in contaminating watersheds. But no regulations govern the sources: car tires and brakes.
- **What it Means:** No one is sure whose responsibility the pollution prevention should be. Air regulators say it is a water problem. Water regulators say it is a local government problem. Local governments say it is a federal government problem.
- **The Bigger Picture:** The state isn't regulating the sources, but is requiring local governments such as the city of San Diego to reduce the pollution. State officials acknowledge the issue has fallen into a regulatory gap, but haven't yet fixed it.

up in water," said Julie Chan, senior engineering geologist at the San Diego Regional Water Quality Control Board, which regulates local waterways. "Once it washes off the streets into the storm drains, the cities become responsible for the pollution."

The regulatory gap is acknowledged by regulators at all levels of government. It is increasingly earning attention as research shows that atmospheric deposition -- the technical term for air pollution that settles on the ground -- is a larger problem than once believed.

"It's an issue that is pretty new in terms of us working together (with air regulators)," said Chris Davis, a spokesman for the State Water Resources Control Board. "We're kind of at the early stages. It's one of the emerging issues that we're dealing with in terms of water quality."

The regional water board is currently considering forcing the city of San Diego to clean up Chollas Creek. A preliminary price estimate is between \$700 million and \$1 billion for the 10-year cleanup.

The water board estimates 34 percent of the copper pollution that impacts Chollas Creek comes from roadways. The creek, which runs along Highway 94, is also crossed by Interstates 5, 15 and 805. Nearly half of the lead found in its water comes from freeways, the board estimates. Though lead began being phased out of gasoline in 1973, it still lingers in unpaved roadway shoulders.

"It's very difficult to intercept this copper or other metals once they're out there," said Keith Stolzenbach, a professor of civil and environmental engineering at University of California, Los Angeles, who is researching atmospheric deposition. "It's hard to imagine a practical solution once it gets out. The real practical solution is to identify the sources and deal with them."

Marco Gonzalez, an Encinitas-based environmental lawyer, said the runoff can be controlled at points where it runs into streams. The city of San Diego could sue to force CalTrans to address the pollution, he said, by using more frequent street sweeping and retention basins to allow metals to settle out.

"The reality is, it is dealt with as a water quality problem, squarely," Gonzalez said. "Whether it comes from a brake pad or out of the air, it's absolutely a water quality issue."

But Gonzalez and local water regulators both acknowledged retention basins would be reactive, not preventative. It could reduce the creek's copper levels, but wouldn't prevent similar pollution problems elsewhere.

Local officials have not solely been concerned about atmospheric deposition in Chollas Creek. A multi-year U.S. Geological Survey study is underway examining whether airborne particles pollute the Sweetwater Reservoir. Nearby state Route 125, the South Bay Expressway toll road, is scheduled to open this year. The reservoir is a drinking water source for 177,000 people in National City and Chula Vista. Residents have expressed concern that increased traffic and urbanization around the reservoir will endanger their drinking water.

"It's a very interesting topic right now that's right on the cutting edge of understanding how we manage an array of pollutants that appear to come from air and are related to regulatory responsibilities of the California Air Resources Board, but end up in areas that are the responsibility of the state water board," said Dennis Bostad, the Sweetwater Authority's general manager. "The solution is still a bit problematic."

The California Air Resources Board and State Water Resources Control Board both point to

a joint February meeting as evidence they are acting to close the gap.

"This is kind of a new subject," said Dimitri Stanich, an air board spokesman. "Both the air board and water board are committed to finding ways to clean this mess up."

But critics say results are not yet evident. The lack of regulation of atmospheric deposition illustrates an institutionalized disconnect between the state's environmental regulators, they say.

It is emblematic, they say, of the gaps in understanding the relationship among subjects as broad as energy policy, public health, water supply policy and air and water quality. While state agencies and regulators each have a proprietary expertise, they must tackle the problems of an interconnected ecosystem.

"There is a lot of operating in silos," said Bruce Reznik, executive director of San Diego Coastkeeper, an environmental group focused on water quality. "We need to recognize how interconnected [the issues] are. Every action you do, it has a ripple effect. We tend to look at these things in boxes, and they're not."

Stolzenbach, the UCLA professor, said he is hopeful that state regulators will address the regulatory gap.

"There has been a big increase in their talking about this cross-media problem," he said. "It's too soon to have produced results. It's more recognized than it was. It's a regulatory issue so it has hoops to jump through."

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