



DEPARTMENT OF THE NAVY  
COMMANDER NAVY REGION SOUTHWEST  
937 N. HARBOR DR.  
SAN DIEGO, CA 92132-0068

IN REPLY REFER TO:

5090  
Ser N40/1013  
December 18, 2018

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board (SWRCB)  
P.O. Box 100  
Sacramento CA 95812-2000



Dear Ms. Townsend:

**SUBJECT: COMMENT LETTER ON TOXICITY PROVISIONS**

On behalf of the Military Services in California, we appreciate this opportunity to provide the comment below on the State Water Board's proposed Establishment of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California; and Toxicity Provisions (hereafter Toxicity Provisions).

The draft Toxicity Provisions currently direct significant implementation requirements for dischargers covered by the state aquatic pesticide NPDES permits. It is our position that the state aquatic pesticide NPDES permits should be addressed under section IV.B.4 of the proposal rather than IV.B.2 in order to avoid any future confusion or unintended over inclusive application of the toxicity provisions.

The state aquatic pesticide permits regulate discharges that do not fit under section IV.B.4 of the Toxicity Provisions because, as currently written, this section excludes NPDES dischargers. Aquatic pesticide discharges are not suited to meeting the Toxicity Provisions effluent sampling requirements in section IV.B.2.

The proposed toxicity provisions as drafted could be construed as inconsistent with the state's preexisting permitting strategy. The General NPDES permit for Residual Aquatic Pesticide Discharges from Algae and Aquatic Weed Control Applications Fact Sheet (Appendix D of Order 2013-0002-DWQ) states that effluent monitoring and toxicity testing requirements are not appropriate for this type of discharge (Section VII.C). The General NPDES Permit for Biological and Residual Pesticide Discharges from Vector Control Applications (Order 2016-0039-DWQ) also indicates that effluent monitoring is infeasible for that permit (Section III.G) and that toxicity monitoring is unnecessary (Sections III.A.5 and III.K). Including these permits in the section IV.B.2 implementation requirements for NPDES permits thus contradicts the State Water Board's previous conclusions regarding the appropriateness of effluent and toxicity testing for them.

During the Toxicity Provisions Workshop on Oct. 31, 2018, Deputy Director Karen Mogus acknowledged the inconsistency issue during the Toxicity Provisions Workshop on October 31, 2018, and requested we submit this comment because she did not believe the State Water Board intended these requirements to apply to the aquatic pesticide NPDES permits.

In order to avoid unintended inclusion of the aquatic pesticide NPDES permits, we recommend modifying the Toxicity Provisions to address the aquatic pesticide NPDES permits under section IV.B.4 of the proposal rather than IV.B.2.

Please direct any questions or concerns you may have regarding this letter to Mr. Michael Huber at (619) 532-2303, or to Ms. Lauren Dempsey at (707) 424-8628.

Sincerely,



C. L. STATHOS  
Deputy Regional Environmental Coordinator  
By direction  
of the Commander