Key for Reading the Comments and Responses Table

Column 1	**Comment Number:** Each comment has been assigned a comment number consisting of two parts which are separated by a period. Starting from the left, the comment number begins with a number representing the interested party that submitted the comment. The list of commenters, with their assigned codes, is provided in the previous sub-section. Following the comment number is a number that represents the individual comment presented in the submittal or testimony. Comment numbers less than 100 are comments for the period March 5, 1998 through May 15, 1998. Comment numbers greater than 100 are comments received between June 5, 1998 and June 29, 1998 on the draft final version of the FED (DWQ/SWRCB, 1998b). During the development of the response to comments it became necessary to further split comments so they could be responded to better. In these cases individual comments that were split received a letter of the alphabet in addition to the numeric code (e.g., 35.1a (Commenter 35, Comment 1, part a)).
Column 2	**Summary of Comment:** The column provides a summary of each individual comment the SWRCB received on the March 1998 draft Water Quality Control Policy for Guidance on the Development of Regional Toxic Hot Spot Cleanup Plans.
Column 3	**Response:** The column contains the SWRCB response to each comment.
Column 4	**Revision:** This column states whether the proposed Policy was revised based on the comment.

Column 5	**Section/Area:** This column provides the section addressed in (1) the draft FED (DWQ/SWRCB, 1998a) for comment numbers below 100 and (2) the draft final FED (DWQ/SWRCB, 1998b) for comment numbers above 100. If the comment was not focused on any specific section or area, no section is listed.

Summary of Comments and Responses

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
1.1	FED correctly describes and applies the sediment quality guidelines produced by E. Long and D. MacDonald.	Comment acknowledged.	No	FED Issue 2. THS definition, alternative 2
2.1	BPTCP Advisory Committee list of issues discussed on March 31, 1998. Many issues were brought up in the meeting without reaching consensus. Comments enclosed in letter.	Comments acknowledged.	No	FED, various issues
3.1	It is erroneous to label a site or water body a candidate THS automatically when fish tissue levels are found to exceed FDA or NAS levels, or a health advisory against the consumption of edible non-migratory fish has been issued by OEHHA or DHS.	The statutory definition of a THS (Water Code Section 13395.5(e) includes locations where, ...hazardous substances have accumulated in water or sediment to levels which (1) may pose a substantial present or potential hazard to aquatic life, wildlife fisheries or human health.... in developing the specific definition of a THS we were required to include a condition that would address the intent of the law. The focus of the criterion to address human health concerns centers around the issuance of consumption advisories. Clearly the beneficial use is lost if an advisory is issued. No viable alternative has been proposed to address human health other than not using the advisories. The SWRCB cannot use the measures of the sediment quality triad because these measures do not address human health concerns. The SWRCB would be remiss if they did not address human health in the BPTCP. Please refer to the response for Comment 13.29 related to our use of the FDA and NAS levels.	No	Policy, pages xviii-xx
3.2	The prioritization of a site for cleanup based on the identification of "pollutant source" is not appropriate for determining cleanup rank.	Accept. Pollutant source information is valuable information to assess which sources are understood and is best used in the planning section of the	Yes	Policy, page xxii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		cleanup plans (as described in Water Code Section 13394). The pollutant source criterion has been deleted from the proposed Policy and Ranking Criteria, Alternative 4 in the FED.		
3.3	Many of the National Academy of Science (NAS) cleanup strategies have not been demonstrated to be viable in the real world and none of the strategies consider the economics of application.	The remediation actions listed in the FED and Policy are meant to give the RWQCBs considerable latitude in determining which action would be most appropriate for a specific site. The lists of alternatives presented by the NRC are inclusive and set up as examples of methods that could conceivably be used. The list may include methods that are currently experimental or have not been used extensively, but it gives the RWQCBs a wide range of cleanup options that should be considered when the RWQCBs are faced with planning for the site cleanup.	No	Policy, Sediment Cleanup Methods, page xxiv
3.4	Table 13 is likely to provide inaccurate guidance on remedial options since there are a number of variables which influence cleanup cost	Clean up costs presented are estimates that will be significantly influenced by site-specific considerations. Table 13 recognizes the cost will depend on many factors. The estimates of costs of the various remedial technologies will be used by the RWQCBs as a starting point, to obtain new project-specific estimates of cleanup costs when the cleanup plans are implemented.	No	Policy, Table 13 Sediment Cleanup Costs page xli
3.5	Since government funding is limited it is important to minimize or eliminate redundant efforts and expense. The prevention of THS section lacks any definitive statements of what programs exist and how they will be coordinated with the BPTCP.	Part of the intent of developing regional cleanup plans is to provide a proactive planning tool for the RWQCBs to use in addressing sites in waters of the State where the beneficial uses are impacted or threatened. There are many existing State and Federal programs that are presently capable of addressing the prevention of THS. Some of these programs may have the resources and mandates to implement prevention. It may be that some THS can only be addressed through a multi-disciplinary, integrated effort and the RWQCBs will only be part of that coordinated effort to achieve improvement in	No	Policy. Prevention of THS, page xliii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		water and sediment quality. The FED identified a number of existing programs that may or may not be usable when the time comes to implement prevention efforts. In the final analysis, it will be up to the RWQCBs to determine how to best achieve effective remediation of toxic hot spots, be it as part of a multi-disciplinary approach (watershed management) or as the lead agency in implementing the mandates of the Porter-Cologne Water Quality Control Act. The prevention section of the FED provides general guidance with great flexibility afforded to the RWQCBs for addressing their region-specific needs.		
3.6	The draft policy does not provide a mechanism for de-listing THS that have been either remediated or addressed under another State or Federal program.	Partially accept. It is not necessary for the regional plans to have a mechanism for delisting sites because these plans are not considered final or implementable until they have been approved and included in the consolidated toxic hot spot cleanup plan. The SWRCB's consolidated plan needs a mechanism for delisting sites. A new section has been added to the Policy addressing issues that will be addressed by the SWRCB in adopting the Statewide Cleanup Plan. One of the issues that must be addressed in this new section is the mechanism to be used by the State and Regional Board for delisting a THS.	Yes	
4.1	Looking forward to the development of responsible Cleanup Plans and giving immediate attention to the cleanup and future avoidance of toxic materials pollution in California	Comment acknowledged.	No	
4.2	Please adopt, commit, start to do and continue the cleanup.	Comment acknowledged.	No	
5.1	There may be more THS in a region than currently identified because each region uses a different standard to determine THS. The proposed Policy should include language implementing consistent and equitable standards to determine THS in all regions.	The specific definition of a THS addresses the mandates of the Water Code (Section 13391.5(e)) and gives guidance on the various conditions that need to be met to designate a candidate THS. The specific definition both addresses water and sediment problems as well as aquatic life and human health	No	Policy, definition

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		protection. This definition strikes a balance between consistency in approach for identifying toxic hot spots and the need for flexibility to allow for Regional differences in environmental conditions and policy. The approach taken allows the RWQCBs to determine the conditions met in each site to designate it as a candidate THS. The determination will not only be influenced by the RWQCBs assessment of the impacts on the beneficial uses but also by the social, political, and economic factors associated with the designation of sites within the Region.		
5.2	The proposed Policy should include a complete description of the sediment quality triad.	The specific definition contains all the measures of the sediment quality triad. The description of the definition is oriented toward the Water Code definition of toxic hot spots (Section 13391.5(e)) and as such presents approaches for assessing aquatic life impacts and human heath impacts. The sediment quality triad approach only addresses measurements of aquatic life impacts and a complete description may turn attention away from the Water Code mandates. The measures considered in the sediment quality triad approach are sediment chemistry, toxicity and benthic community analysis. The THS definition encompasses other factors including effects on human health, effects of tissue residues in aquatic organisms, and exceedances of water quality objectives or criteria. These effects are not measured with the sediment quality triad approach.	No	Policy, definition
5.3	Each region should be required to describe the monitoring approach including how the sediment quality triad was applied to the candidate sites and a catalogue of any historical data that was used to develop the monitoring approach.	The contents of the Regional Toxic Hot Spot Cleanup Plans (page, xiv. Item No. 4) requires the RWQCBs to include a section on the monitoring approach used in each Regional Cleanup Plan. In the case were a RWQCB has used a region specific approach the modifications shall be described.	No	Policy, page xiv

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
5.4	A more specific criterion be included in the Policy in defining "Insufficient information" when listing "Areas of Concern."	The Specific definition specifies the factors that must be met by a site in order to quality as a candidate THS. Those sites that meet one of the conditions necessary should be identified as a candidate THS. Those sites that do not meet the definition, or where there is not enough information to make the designation the RWQCB may opt to list the site as an "Area of Concern".	No	Priority ranking page xiv
5.5	It is recommended that the Regional THS Cleanup Plans include a rationale for determining the areal extent of a THS.	The information to determine areal extent will generally not be available when the cleanup plans are developed. But that does not mean the plan development should be delayed. One of the first steps in implementing the plans has to be better characterization of the sites. The proposed Policy states this. The proposed Policy requires that the RWQCB in characterizing THS estimate the boundary, size and/or volume of the site. In doing so, the RWQCB should consider the historical aspects of the site, the current status and the mix of chemicals present. The RWQCBs will determine the amount of pertinent information needed to characterize a THS in the Regional Cleanup Plan.	No	Policy, page Xvi
5.6	The assessment of areal extent described on Page xvi is inconsistent with the assessment of areal extent in the ranking criteria on page xxii. Areal extent assessment by volume is not addressed in the ranking criteria section of the proposed Policy.	The ranking criterion for areal extent is an estimate of the size of the toxic hot spot. RWQCBs have experience estimating the size of impaired locations in water bodies from the Water Quality Assessment process. Area and volume are critical in the development of the planning portion of the document (Page xvi) but would not assist in the ranking process. Modifying the ranking criterion to include volume considerations to be consistent with the item no. 6A of the contents of the Regional Cleanup Plans section of the proposed Policy would not add any additional information to the ranking process.	No	Policy, page xxii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
5.7	For the assessment of pollutant sources, the Regional THS Cleanup Plans should include a description of the process used to determine that the pollutant source cannot be identified.	Please refer to response for Comment 3.2.	Yes	
5.8	It is recommended that the introductory paragraph of the Specific definition of a THS be re-written to reflect that the mechanisms described to identify and distinguish between candidate and known THS are criteria and not a mechanism.	The word "mechanism" can be defined as the means by which an effect is produced or a purpose is accomplished. The specific definition helps establish the means to distinguish between a candidate THS and a known THS. The word "criteria" on the other hand, caries regulatory meanings that do not apply to this definition. "Mechanism" conveys the meaning that was intended and is the appropriate word to use in this context.	No	Policy, page xviii
5.9	The Policy should specify the sediment quality objectives to be used to determine THS candidacy. Are the sediment objectives ERLs and ERMs?	Currently there are no sediment quality objectives in place specifically for enclosed bays and estuaries (beyond the narrative objectives for protection of estuarine beneficial uses and, for ocean waters, water quality objectives that apply to sediments in the Ocean Plan). ERLs and ERMs are not sediment quality objectives. They are sediment quality guidelines used as tools to evaluate the quality of marine and estuarine sediments for chemicals of concern. The specific definition of THS requires a focus on the effects of toxic pollutants. For a site to be designated as a THS, an association must be made between the observed biological effects and sediment chemistry. Because of the varied environmental and pollution-related conditions throughout the State, the Specific Definition recommends four approaches as a way to compile the information needed (weight-of-evidence) to indicate the effects produced by specific pollutants. The use of sediment quality guidelines (such as ERMs and PELs) is used only to support the observed impacts on beneficial uses and to determine	No	Policy, page xviii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		if chemical measures can contribute to the observed effects.		
5.10	Toxicity determinations using recurrent measurements is (1) very costly ; (2) if multiple sites exhibit toxicity why is this necessary; and (3) second measurements must use some sampling locations and methods, and analytical methods as the first sample.	Repeated toxicity measurements are costly but necessary to establish that beneficial uses are impacted. Even though repeated toxicity is not needed to say a site is toxic (SPARC, 1997), the SWRCB is using this requirement to make sure that RWQCBs identify the worst of the worst sites. Indicator tests should be used independently and, therefore, the definition does not prevent RWQCBs from using separate tests to assess repeated toxicity. The BPTCP sampling design is based on a directed point sampling approach in order to identify specific THS. Directed point sampling, as implemented, requires a two step process where areas of interest are selected for sampling. At this initial stage (the screening phase) a broad assessment of toxicity is carried out throughout the study area. Stations exhibiting toxicity during the screening phase are then selected for a second round of sampling (confirmation phase). In this confirmation phase sampling is replicated and chemical analysis of samples is more extensive. In addition benthic community analysis is performed. Evidence from this two step process is used to identify THS with a higher level of certainty.	No	Policy, page xviii-xix
5.11	The application of the ranking criteria is based on the judgment of the regional board staff. The policy should include very specific guidelines for using the ranking criteria in order to promote consistency and ensure some degree of thoroughness in reviewing the information available for a given site.	The ranking criteria addresses the mandates of the Water Code (Section 13393.5) and gives general guidance on the various conditions that need to be met to rank candidate toxic hot spots. The ranking criteria addresses aquatic life and human health protection, whether water quality objectives are exceeded, remediation potential and areal extent. These criteria strike a balance between consistency in approach for ranking THS and the need for flexibility	No	Policy, page xxi-xxii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		to allow for Regional differences in environmental conditions and policy. The approach taken allows the RWQCB to determine the conditions met in each site to rank its importance. The determination will not only be influenced by the RWQCBs assessment of the impacts on the beneficial uses but also by the social, political, and economic factors associated with the designation of sites within the Region.		
5.12	The proposed policy should reiterate the information presented in page xix No.3 (Human Health Impacts) in the ranking criteria as well as other non-federal and state published fish tissue contamination studies for the affected area.	The relevant information is presented in the specific definition of a toxic hot spot. It would be confusing to repeat the information in the ranking criteria section. Nothing appears to be gained by duplicating the information.	No	Policy, page xxi-xxii
5.13	The ranking criteria for aquatic life impacts should include an age limit on the data used and some specificity regarding the type of analyses performed.	Aquatic life impact determinations are based on an analysis of the substantial information available. The data used to gather evidence was, for the most part, generated from the sampling sites during the BPTCP (i.e., over the last six years). We have no technical reason to exclude biological data that could be used to support a RWQCBs designation of a toxic hot spot.	No	Policy, page xxi
5.14	The water quality objective criteria for ranking is too broad. The term "appropriate analytical methods" must be defined.	This is a region-specific consideration that should be addressed by the RWQCBs. While this term could be described clearly for each chemical, the SWRCB by doing so, may prevent the RWQCBs from using information that are of good quality but inadvertently excluded from the assessment. For data collected as part of the BPTCP, the analytical methods and the quality assurance have been established and endorsed by SPARC.	No	Policy, page xxii
5.15	Water quality objectives or water quality criteria exceedance categories; regularly, occasionally, and infrequently should be defined.	This judgment should be left to the RWQCBs because the information available will have to be evaluated on a case-by-case basis. The SWRCB could define this criterion more specifically (as in Alternative 3) but this may make it difficult or	No	Policy, page xxii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		impossible for RWQCBs to fit the data to these more specific categories.		
5.16	A catalogue of the reviewed monitoring data used be presented and made available to the public for each sites classified.	In characterizing toxic hot spots, the RWQCB are required in the Policy to provide a list of all references supporting the designation of a THS. All the BPTCP final quality assured data have been made available to the public on the SWRCB web page.	No	Policy, page xv
5.17	The criteria for assigning the rank for aerial extent should reflect both acreage and volume.	Please refer to the response for Comment 5.6.	No	Policy, page xxii
5.18	The source of pollution information should be part of the information included in the description of a candidate THS. However, pollutant source should not be used as a ranking criteria.	Agree. Please refer to the response for Comment 3.2.	Yes	Policy, page xxii
5.19	The natural remediation potential ranking criteria is objectionable because it does not require the regional boards staff to substantiate any determination made in this ranking and the State does not provide any criteria to determine how to apply the ranks.	This criterion requires the RWQCBs to make estimates of the potential for natural remediation. It is necessary for the RWQCBs to use their best judgment of what is known about the possibility for natural remediation at the site. No specific guidance can be given because it relies on the RWQCB staff experience with the site or water body.	No	Policy, page xxii
5.20	The first paragraph of the Sediment Cleanup Methods refers to Known THS. If the proposed policy is intended for the development of Regional Cleanup plans, there will be no "known" THS until the regional plans are approved by their respective regional boards.	Agree. The first sentence of the Sediment Cleanup Methods has been changed to delete the term "known and."	Yes	Policy, page xxiv
5.21	The "Treatment of the site sediments only" section does not address the problem of mixed pollutants in - situ or ex-situ.	This remediation alternative is pollutant specific and will be dependent on the chemical characteristics of the pollutant as well as the physical and chemical characteristics of the sediment at the impacted site. At this point we do not have the information to address this condition fully.	No	Policy, page xxiv
5.22	Selection of the dredging methods to be used should depend on the concentration of the pollutant in the sediment and the amount of re-suspension caused by the dredging operations. The second sentence of the	Agree. The sentence will be changed as indicated.	Yes	Policy, page xxiv+

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
	Dredging section, page. xxv should be revised to read, " Selection of the method depends upon the concentration of pollutants and the amount of .....".			
5.23	The no remediation alternative must be strongly substantiated by the regional board staff and should not involve cost considerations as a priority issue.	Water Code Section 13394(c) requires an estimate of the total cost to implement the cleanup plan be made. As presented in the proposed Policy cost is one of the considerations but by no means the only consideration.	No	Policy, page xxxv
5.24	Add the following language to Prevention of THS Section: "When issuing WDRs, do not allow the discharge of an identified pollutant that contributes to a candidate/known THS, or further contributes to the degradation of an existing THS."	The proposed language creates a prohibition of pollutant discharge. Prohibitions are certainly one way to stop or remove discharge of pollutants. If needed, the RWQCBs should be allowed to use prohibitions and to use any other reasonable approach to prevent or control the pollutant discharge. A general prohibition for all pollutant discharges that contribute to toxic hot spots is not appropriate.	No	Policy, page xliii
6.1	There is the need for consistent and objective implementation of the policy among the regional boards, including a baseline level of protection for all state bays and estuaries.	Please refer to the response for Comments 5.1 and 5.11.	No	Policy, ranking criteria
6.2	There is a need for mandatory prevention strategies to ensure the cycle of pollution stops and THSs are no longer created.	The Porter-Cologne Water Quality Act and the Clean Water Act creates a mandatory set of rules to prevent and control pollution discharge. The prevention strategies section is intended to go one step beyond and encourage the watershed management when appropriate.	No	Policy, prevention
6.3	The policy allows the regional boards too much discretion in the application of the Specific Definition of a THS to determine candidate sites. There are great discrepancies in how toxic hot spots are identified for toxicity.	The RWQCBs are allowed flexibility in establishing the "p" values to be used in the reference envelope. The factors that should be considered by the RWQCBs are presented in the FED. The SWRCB could pick a specific "p" value but that would not allow RWQCBs to incorporate their region-specific considerations into the assessment. While RWQCBs may pick different values, these values are and should be based on regional needs.	No	Policy, definition

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
6.4	The ranking criteria is too broad and allows the regional boards staff too much discretion on assigning values and establishing the priority of a site.	Please refer to the response for Comment 5.11.	No	Policy, ranking criteria
6.5	The ranking criteria should not be given equal weight, as they do not have equal importance or significance for protection of human health and the environment (Specifically, areal extent, pollutant source or natural remedial potential).	Numerical scores could be given to the various ranking criteria as in Alternative 3. The categorical criteria are general in nature and can only be given different weights if the RWQCB judgment puts more weight on an individual criterion. RWQCB were given this flexibility because of huge differences in environmental conditions throughout the State. There is no straightforward way to give weightings unless numerical scores are given.	No	Policy, ranking criteria
6.6	Divide ranking criteria into two separate sets of ranking. Use "double scores."	This proposal would divide the ranking criteria into six categories. The option would provide greater discrimination of sites. However, such greater discrimination is not needed. RWQCBs can identify high priority sites using the proposed ranking criteria. No benefit of this alternative is apparent.	No	Policy, page xxi-xxii
6.7	A ranking criterion should not be given a "no action" when information on that ranking criteria does not exist. The ranking criteria should be given a default score of "Moderate" until the information needed is obtained.	It does not make sense to assign a site with no information available a moderate priority. If no data or reason exists to set the rank, the site should not be ranked for the specific criterion.	No	Policy, page xxii
6.7a	Sites missing information should be integrated into future work plans.	These sites can be, at the option of the RWQCBs, identified as Areas of Concern. These sites may be better characterized to determine their hot spot status.	No	Policy, page xiv
6.8	Watershed management planning is supported but request that all identified pollutant sources at known THS be required to conduct a pollution prevention audit to provide a menu of options and to make recommendations for action.	This is a site- and problem-specific decision that should be made by each RWQCB as circumstances dictate. It is impossible to give specific guidance on this point because circumstances will vary from region to region.	No	Policy, prevention
6.8a	For THS without known pollutant source, sources should be identified and pollution prevention audits should be carried out.	Please refer to the response for Comment 6.8.	No	Policy, prevention

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
7.1	The specific definition of THS should not include any reference to sites that exceed sediment quality objectives since sediment quality objectives do not exist.	Water Code Section 13391.5 (e) includes sediment impacts in the definition of a toxic hot spot. Please refer to the response for Comment 5.9.	No	Policy, page xviii
7.2	The policy should include the same discussion of the sediment assessment approaches as outlined in the FED.	The discussion in the FED presents the reasons for the approaches taken. The proposed Policy would not benefit from the expanded discussion.	No	Policy, page xviii-xxi
7.3	It is inappropriate to consider pollutant source as a ranking criteria.	Please refer to the response for Comment 3.2.	Yes	Policy, page xxi
7.4	The policy section Sediment Cleanup Methods should be entitled "Toxic Hot Spot Remediation Methods" and should contain detailed information regarding how to address THS that are the result of water quality objective exceedances or fish consumption advisories.	Partially agree. The title will be changed. For the remainder of the comment, please refer to the response for Comment 30.10.	Yes	Policy, page xxiv
7.5	Cleanup costs are not adequately addressed in the proposed policy. Many THS will have to be addressed through broad integrated watershed management programs whose costs have to be projected and included in the cost assumptions for the policy implementation.	Watershed management programs are pollutant- and problem-specific. It is impossible to give specific guidance on the typical watershed management program. RWQCBs need to make their best judgment on the costs of these efforts.	No	Policy, page xliii
7.5a	If the cleanup plans ultimately result in revised discharge requirements, the cost of new treatment systems must be estimated and included.	Please refer to the response for Comment 30.10.	Yes	Policy, cleanup cost
7.5b	The policy must contain an economic assessment providing the projected mitigation costs and the value of the expected environmental benefit associated with the proposed cleanup and prevention actions.	Partially agree. The benefits should be presented but for many of these benefits cost estimates are not available or applicable. The benefits of remediation should be presented but the costs cannot be because they are generally not available. Also, please refer to the response for Comment 12.3 for additional discussion.	Yes	Policy, cleanup and prevention
7.6	Replace existing language in the opening statement of the Prevention of THS section with language referring to preventing THS in lieu of "clean up".	Partially agree. The term "remediate" would be the clearest choice because it includes "cleanup" and "prevent".	Yes	Policy, page xliii
7.7	Revise last sentence of introductory paragraph of The Prevention of THS section, "In revising Waste	Agree. Please refer to the response for Comment 28.1.	Yes	Policy, page xliii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
	Discharge Requirements...".since the discussion that follows describes multi-faceted approaches to prevent THS. Replace sentence with, In the process of developing strategies to prevent toxic hot spots, the RWQCB shall..."			
7.8	Delete last sentence of WDR and NPDES program section referring to "Stricter effluent limits ..." since the statement is not true.	Partially agree. Add phrase at end of sentence: "...in some cases."	Yes	FED, page 99
7.9	The proposed Policy is not clear as to whether BPTCP is a sediment or a water quality program.	The THS definition Water Code Section 13391.5(e) stipulates "hazardous substances accumulated in water or sediment". The proposed Policy states that it applies to all surface waters of enclosed bays, estuaries and coastal waters.	No	
7.10	The Clean Water Strategy should be incorporated into the proposed Policy as a means to address non-localized, non-sediment THS.	Comment acknowledged.	No	Policy, ranking criteria
7.11	Many of the sites listed in the proposed THS Cleanup Plans can and should be addressed through existing regulatory programs.	The policy will act as a planning tool to be used by the RWQCBs to marshal existing regulatory programs. The comment is consistent with the intent of the proposed Policy.	No	Policy, page xliii
7.12	The proposed Policy should require RWQCBs to identify more than just the actions taken at the site, but also include the regulatory program under which the site is being or will be addressed. These sites should be moved to the bottom of the list or exempted from the program.	Sites should not be removed from the cleanup plans if they meet the definition of a toxic hot spot. Please refer to the response for Comment 30.3.	No	Policy, page xliii
7.12a	Sites that will be addressed under existing programs should require no additional action under the BPTCP. These sites should be moved to the bottom of the list of ranked sites or be exempt from ranking and placed on a separate list of sites being remediated through other programs.	Please refer to the response for Comment 7.11.	No	Policy, page xliii
7.13	The proposed Policy does not contain a definition of "unpolluted condition" nor a recommendation for follow-up monitoring that should be used to make the assessment. Cleanup Plans should explicitly state	Please refer to the response for Comment 30.23.	Yes	Policy, page xvii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
	to what level a site should be remediated to allow de-listing from the THS list.			
7.14	Re-evaluate the FED, Environmental Checklist note XII.c., d., e., and g. on the effects on water utility and service systems...The checklist indicates that no impact will result from the proposal, but the Water Code Section 13395 and the Policy focus initial remediation and prevention actions on revision of WDRs.	At this point in the adoption of the cleanup plans no WDRs have been revised as a result of the cleanup planning efforts. In fact the RWQCBs have yet to complete their final regional cleanup plans. It is impossible to consider these impacts now. These potential impacts will be considered in the consolidated plan, if appropriate.	No	FED, page 127
8.1	We agree with the recommendation of the SWRCB staff in the draft FED that the SWRCB adopt guidance for the development of BPTCP cleanup plans that will allow for consistent interpretation and application of the Guidance Policy provisions.	No response is necessary.	No	FED, Issue 1
8.2	Explicit language should be incorporated into the final Guidance Policy that all relevant BPTCP data must be made available for public review in a timely fashion, to allow for evaluation and comment on the data prior to a site being designated as a "known" THS.	Data are being reported by DFG and will be available before the consolidated cleanup plan is adopted. There is no reason to give guidance on this point.	No	
8.3	The guidance document should provide explicit mechanisms for identified responsible parties to comment on and participate in key decisions, such as in evaluation of the efficiency and cost of remedial alternatives.	Responsible parties will be included in the implementation of the plans. They will most likely be responsible for developing detailed assessment of cost-effective ways to remediate the impacted areas.	No	Policy, prevention
8.4	The Regional Boards should conform to the provisions outlined in the Guidance Policy, however, if they deviate there should be an opportunity for public comment.	Please refer to the Response for Comment 13.8.	No	
8.5	The words "associated with" in the FED should be replaced with words "caused by" in identification of a THS.	Please refer to the Response for Comment 13.2, 13.7 and 13.13.	No	Policy, definition
8.6	The Guidance Policy should require evaluation of test results relative to an appropriate reference envelope data set as part of determining whether or not significant toxicity is present.	The proposed Policy does this but allows for an alternate evaluation if reference envelope information is not available.	No	Policy, definition

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
8.7	The Guidance Policy should require evaluation of alternatives for technical feasibility, cost-effectiveness, and the need for remedial action based on current impacts and future risks.	It seems that this comment is related to balancing costs with benefits. Please refer to the Response for Comment 12.3.	No	Policy, cleanup and prevention
8.8	The Guidance Policy should include a mechanism for "de-listing".	Please refer to the Response for Comment 3.6.	Yes	
8.9	The Guidance Policy needs to distinguish and define "discharger" and "source", as these terms are used loosely and confusingly throughout the draft document. A need to reflect the fact that a discharger may not be a source, and a source may have no causal connection with particular dischargers	The identification of point sources and nonpoint sources is a task that should be completed by the RWQCBs. It should be left up to them whether parties can be assigned to the likely sources.	No	Policy, prevention
8.10	The Guidance Policy should provide that such 'source identification' not be limited strictly to current geographical proximity or effluent discharges.	This is a region- and problem-specific consideration that should be decided by the RWQCBs. The SWRCB should not provide any specific guidance on this topic.	No	Policy, prevention and cleanup
8.11	The data being used to support the designation of a site as a THS must meet some level of QA/QC compliance.	Much of the data being used to identify toxic hot spots was developed by the BPTCP using the BPTCP Quality Assurance Project Plan (Stephenson et al., 1994). Additional data should be assessed by the RWQCBs for inclusion in the lists.	No	Policy, page xviii-xxi
8.12	A causal relationship between apparent contamination and adverse biological effects (not merely "associated with") should be demonstrated.	Please refer to the Response for Comment 13.2, 13.7 and 13.13.	No	Policy, page xviii-xxi
8.13	The site should be fully characterized. More work should be done before a site is called a known toxic hot spot.	Sites will only be called toxic hot spots if the data from the sites meet the definition requirements. No additional data would be needed to satisfy the definition. Probably the first step in any remediation activity will be to better characterize the site. If more are needed it would delay the development of the consolidated plan and the June 30, 1999 deadline would definitely not be met.	No	Policy, page xviii-xxi
8.14	The concentration of sediment contaminants actually available to aquatic organisms should be determined.	Please refer to the Response for Comment 13.10.	No	Policy, page xviii-xxi

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8.15	The ecological relevance of test species should be evaluated.	The tests used in the BPTCP are the best available measure of organism response and, coupled with benthic community analysis, give very good indications of possible impact. These test methods have been discussed with SPARC and no concerns were raised about their "ecological relevance."	No	Policy, page xviii-xxi
8.16	Artifactual toxicity in the toxicity tests must be ruled out.	Please refer to the response for Comment 12.18.	No	Policy, page xviii-xxi
8.17	Explicit provisions for the performance and interpretation of sediment bioaccumulation tests, which should be subject to public comment, should be incorporated into the Guidance Policy.	"Standard" methods have not been proposed in the Policy because of the need for region- and problem-specific flexibility in performing these studies. The results of bioaccumulation tests can be compared to values suggested in Item 3 of the specific definition of a toxic hot spot.	No	Policy, page xviii-xxi
8.18	In prioritization of sites, again the causal relationships between the contaminants present and the toxicity observed, as well as the potential for contaminant migration and the vitality of the ecosystem that has been established at the site must be considered.	Please refer to the Response for Comment 8.5.	No	Policy, page xxi-xxii
8.19	Any treatment options not on the treatment list in the Guidance Document should be considered if proved to be a viable alternative.	This is true and the proposed Policy allows the RWQCBs to consider other options and alternatives.	No	Policy, page xxiv-xlii
8.20	The Guidance Policy language should be changed to allow for the consideration of the "no action alternative" to be made in parallel with the others.	The proposed Policy puts more weight on the "action" alternatives rather than the "no action" alternative. The intent of the Policy is to come up with ways to address problems not explain why they should not be addressed.	No	Policy, page xxiv-xlii
8.21	Responsible parties for identified sites should have the opportunity to comment on the costs listed.	This is true and the proposed Policy allows for this to happen as part of development of the regional cleanup plans and implementation of the plans.	No	Policy, page xxiv-xlii
9.1	Strongly protest that the notice of public hearing was not provided through the mail.	The notice was made public 60 days in advance of the first public hearing.	No	FED, Ranking

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		This included printing a copy of the notice in several newspapers throughout the coastal areas of the State.		Criteria, Alternatives 3 and 4
9.2	Each criterion in the categorical ranking criteria "high", "moderate", and "low" is too subjective and gives too much flexibility to the regional boards in establishing the priority of a site. Each criterion should be given a numerical value.	Assignment of numerical values is presented in Alternative 3. Comment acknowledged.	No	FED, Alternatives 3 and 4
9.3	Without numeric ranking the human health impacts are exaggerated. It is assumed that the human health advisory is an indication of severely contaminated aquatic habitat.	Human health impacts are not exaggerated using the categorical criteria. The assumption stated is not correct. If there are impacts on human health beneficial uses it is not assumed that aquatic life habitat or beneficial uses are impacted.	No	FED, Alternatives 3 and 4
9.4	Aquatic life impacts appear to use the preponderance of available information (weight-of-evidence) to determine ranking. However, a quantitative statistical analysis of studies performed on aquatic life would further support the significance of the assumption.	No response is necessary.	No	FED, Alternatives 3 and 4
9.5	The water quality objective criterion is not clearly specified. The terms "regularly", "occasionally", and "infrequently" are not measurable in terms of objectives.	Please refer to the response for Comment 5.15.	No	FED, Alternatives 3 and 4
9.6	The interpretation of the areal extent of a site is left to the discretion of the RWQCB staff. No qualitative measures are therefore required.	No response is necessary.	No	FED, Alternatives 3 and 4
9.7	Alternative No. 4 of the FED (page 62) regarding areal extent of a THS does not clearly support the statement of goals in that uniformity and practicality would be considered in the determination areal extent. "If areal extent cannot be estimated this criterion should be assigned a value of no action".	This alternative addresses the mandates of the Water Code for general criteria and has components that addresses each necessary consideration. In this respect, the proposed ranking criteria meet the SWRCB's goals for the program.	No	FED, Alternatives 3 and 4
9.8	Pollutant source and remediation potential alternatives rely on the judgment and experience of the State and Regional staff. FED alternative No. 3 offers a scoring feature which enables staff to apply	Both alternatives allow the RWQCBs to use their judgment in establishing the values for ranking based on natural remediation potential and areal extent. Please refer to the responses for Comments 5.1 and	No	FED, Alternatives 3 and 4

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	the remediation potential criterion to the site's remediation potential.	5.11.		
9.9	SWRCB should consider the adoption of alternative No.3 of the ranking criteria alternatives described in the FED.	Comment acknowledged.	No	FED, Alternatives 3 and 4
10.1	There is a lack of consistency in THS ranking criteria from region to region.	Please refer to the response for Comment 5.11.	No	Policy, page xxi-xxii
10.2	The section on Assessment of areal extent, page xvi; 6A is unclear.	The statement in Item 6A clearly states the SWRCB's intent.	No	Policy, page xvi, 6.A
10.3	Assessment of the most likely sources of pollutants. For sites without sources of pollutants identified, an explanation should be provided as to how this was determined.	The RWQCBs will describe what they do know about sources of pollutants. This may be difficult to describe when information is lacking.	No	Policy, page xvi; 6B
10.4	The statutory requirement that cleanup plans include findings and recommendations concerning the need for establishing a THS cleanup program is missing from the section on the specific definition, of a THS.	This is a SWRCB requirement and the RWQCBs are not mandated to make this finding. It will be included in the consolidated cleanup plan. A section is being added to the guidance on the factors that the SWRCB will consider in the consolidated plan.	Yes.	Policy, page xviii
10.5	It unclear how sites will be ranked using the proposed criteria. Do not use the last three criteria.	Some of these criteria are needed to satisfy the Water Code requirements for the ranking criteria. Please refer to the response for Comment 3.2 for the exception.	Yes (related to "pollutant source") and No for the remainder of comment.	Policy, page xxi
10.6	More specific guidance is needed to ensure that "weight of evidence" criteria are consistent from region to region. The minimum guidance for toxicity should be a P of 10% statewide.	Please refer to the response for Comment 6.3.	No	Policy, page xvii-xviv
10.7	More specificity is needed in defining appropriate analytical methods, and the terms "regularly", "occasionally", and infrequently" in regards to exceedances of the criteria. (Water Quality Objectives).	Please refer to the response for Comment 5.15.	No	Policy, page xxii
10.8	The criterion for areal extent of a hot spot should be eliminated.	Please refer to the response for Comment 10.5.	No	Policy, page xxii

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10.9	The criterion for pollutant source should be eliminated.	Agree. Please refer to the response for Comment 3.2.	Yes.	Policy, page xxii
10.10	The criterion for natural remediation potential should be eliminated.	Please refer to the response for Comment 10.5.	No	Policy, Page xxii
10.11	Tables 2-12 of the proposed policy should include a description of the cleanup methods.	The text and the associated tables adequately described the cleanup methods for the purposes of the proposed Policy.	No	
10.12	The no remediation alternative of the Sediment Cleanup Methods of the proposed policy should be eliminated.	This alternative is needed if cleanup is not feasible. To be complete the SWRCB and the RWQCBs should always consider a "no action" alternative.	No	Policy, page xxv
10.13	The proposed policy is inadequate in the prevention of THS section because it does not require any specific actions, rather it uses language such as "consider", "promote", "encourage", which will result in little or no action.	Please refer to the response for Comment 3.5.	No	Policy, page xliii
10.13	Prevention section items for consideration No. 1 should be modified to say "require use of..." Prevention section items for consideration No. 2 should be changed to say "develop and implement..." Prevention section items for consideration No. 3 should be made more specific as to what actions should be undertaken.	These sections could be made very specific and control-oriented. They are not written in that manner because the RWQCBs need considerable flexibility in applying these conditions to the problems they identify. For example, implementing all of the NPS management strategy may not be what is needed to address the problems identified. Implementation of watershed management approaches are region- and problem-specific. It is impossible for the SWRCB to give the RWQCB specific guidance that will apply to all situations.	No	Policy, page xliii
10.14	A new section should be added saying that the issuance of WDRs should be based on the discharger not contributing an identified pollutant to an existing THS or which may result in the formation of a new THS and regular pollution prevention audits will be conducted and a pollution prevention hierarchy will be instituted.	Please refer to the response for Comment 10.13 and 5.24.	No	
11.1	We commend you and your staff on the work done to prepare this policy. We are in support of a single,	Comment acknowledged.	No	FED, Issue 1

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	statewide policy establishing consistent and objective planning statewide for each of the RWQCBs.			
11.2	A stronger link between the BPTCP and other State and Regional monitoring and enforcement programs would be advocated to promote a more efficient program operation and eliminate unnecessary duplication of efforts.	The links to existing State programs exists (please refer to Issue 6 and the Environmental Impacts section of the FED).	No	FED, prevention, Environ-mental impacts
11.3	Would like a mechanism in place to periodically reevaluate the THS list.	Please refer to the response for Comment 3.6 for our plans to address some issues in the consolidated plan.	Yes	
11.4	We do not feel that the presence of a health advisory should result in an automatic classification of a site or a water body as a candidate THS	Please refer to the response for Comment 3.1.	No	Policy, page xviv
11.5	Ranking should be based on the level of impact of the THS. Identification of a pollutant source does not reflect the toxicity of the THS and should not be taken into account when ranking a THS.	Agree. Please refer to the response for Comment 3.2.	Yes.	Policy, page xxii
11.6	Many of the methods described in the Sediment Cleanup Methods were taken from a single report (National Academy of Science Report). Many of these methods have never been tried on dredge sediments or beyond bench or pilot scale tests or are purely theoretical. This section should focus on true and tried methods which would result in guidance grounded in reality. Addition of a provision to periodically update the list of methods would allow inclusion of more advanced technologies as they become available.	Please refer to the response for Comment 3.3 and 3.4.	No	Policy, page xxiv+
12.1	We support the goals of the BPTCP and appreciate the efforts in preparing the policy and supporting documents.	Comment acknowledged.	No	
12.2	Incorporate a reasonably thorough sediment toxicity survey to ensure the BPTCP is addressing the major sites.	The BPTCP has performed extensive monitoring throughout the State's enclosed bays and estuaries. Measurements have been made on a variety of parameters including toxicity testing, benthic community analysis and chemical measurements. Please refer to Stephenson et al. (1994) and SPARC	No	

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		(1997) for further discussion of the monitoring efforts.		
12.3	Incorporate cost/benefit assessment into the decision making process.	This comment raises a question of whether it is reasonable to cleanup or remediate a site or water body if the benefit received does not roughly equal or exceed the cost. While specific guidance would be difficult, it is possible to provide general qualitative guidance to the RWQCBs on providing not only costs of cleanup but also presenting generally the benefits expected. Even though it is not required by the Water Code, an assessment of the benefits would provide a better characterization of what to expect if the cleanup plans are implemented.	Yes	Policy, Cleanup Costs
12.4	The FED should include a description of how it will be implemented using reference to typical sites and proposed actions.	The RWQCBs developed proposed regional toxic hot spot cleanup plans in December 1997. These proposed plans lay out how the RWQCB will implement the proposed Policy (please note: the proposed Policy was issued as suggested guidance for development of the proposed cleanup plans). The RWQCBs proposed which sites are candidate toxic hot spots, ranked the sites, and planned for the cleanup of high priority sites. The Environmental Impacts section discusses how many sites were identified and their ranks.	No	FED
12.5	It is unclear how the policy will control toxics currently outside the regulatory framework (e.g., diazinon).	In the section of the proposed Policy related to prevention of toxic hot spots it is recommended that the RWQCB consider using a watershed management approach to bring in parties who may cause or contribute to the identified toxic hot spot. The Region 5 cleanup plan provides their preliminary approach to addressing pesticide-related toxic hot spots.	No	Policy, prevention
12.6	The policy should present separate and independent approaches for sediment and water. Each should	The Water Code integrates water and sediment under the definition of toxic hot spots and make provisions	No	Policy, definition,

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	have different classification methods and cleanup approaches.	for revising WDRs and addressing water quality certifications related to dredging activities. While it would be possible to separate the two aspects, water and sediment are not separated in the environment. The cleanup planning efforts provide better integration of the water quality functions and the potential exists to address problems more comprehensively in the BPTCP. A section has been added to the Policy and FED on water remediation methods and costs.		prevention, cleanup
12.7	The toxic hot spot definition ignores the mandate that pollution and contamination affects the "interests of the state". The program should take a problem-based approach and should not rely on criteria-based approaches.	The BPTCP has taken a problem-based approach (please refer to the response for comment 12.2). Water Code Section 13391.5(e) requires that a toxic hot spot be identified if water or sediment quality objectives are exceeded. The specific definition addresses "the interests of the state."	No	Policy, definition
12.8	The Policy sets up proxies for water quality objectives. Therefore the SWRCB should follow the procedures for adoption of water quality objectives in water quality control plans.	The proposed Policy establishes guidelines and principles for implementing the requirements of Water Code Section 13390 et seq. Section 13391.5(e) provides a definition of toxic hot spots but does not establish any procedures for adoption of a more specific definition of a toxic hot spot as is proposed for the Policy. There are significant differences between water quality objectives and toxic hot spots. Water quality objectives are levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water. Water quality objectives apply to water bodies. Toxic hot spots are locations in bays and estuaries where beneficial uses are impacted and chemicals may pose a threat to human health and aquatic life. Water bodies or portions of water bodies can be designated as toxic hot spots. In addition, water quality objectives are one of the factors used to designate a toxic hot spot.	No	Policy, definition

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12.9	The policy and FED do not explain the expected and typical results of the implementation of the Policy in specific waterways of the State.	Please refer to the response for comment 12.4.	No	FED
12.10	The alternatives discussed in the FED are not discussed in adequate detail and do not show the effects of using the differing approaches.	To the extent possible, the FED discussed many of the expected effects of the alternatives presented in the FED. Please refer to the Environmental Impact section. We are only required to show the effects of the selected alternative.	No	FED, Environ-mental Effects of the Proposed Policy
12.11	The Policy and FED should describe a procedure for delisting a site after remediation.	Please refer to the response for Comment 3.6.	Yes	
12.12	Mandatory requirements of cleanup plans are missing implementation plan (Water Code Section 13050(j)) and cost/benefit analysis.	Water Code Section 13394 establishes several requirements for the plan to address the problems identified at toxic hot spots. Since cleanup plans are not Water Quality Control Plans as described in the Water Code (Section 13050) they do not need to contain a program of implementation as described in Section 13050(j). Please refer to Comment 12.3 for response on the cost/benefit analysis.	No	Policy, page xiii-xviii
12.13	The policy should require that all sites be included in the cleanup plans (e.g., former military bases).	If the conditions for a toxic hot spot are satisfied at former military bases or any other site, they should be included in the regional toxic hot spot cleanup plan. Nothing in the guidance says these sites should be excluded.	No	Policy, definition
12.14	Chemical characteristics should not be used alone to identify toxic hot spots. The toxic hot spot definition should be made more precise and limit the identification of water column toxic hot spots to locations where anthropogenic sources cause chemical concentrations to become elevated above criteria or water quality objectives.	Chemical measures can only be used alone if the RWQCB determines it has the data necessary to compare to water quality objectives or, if available, sediment quality objectives (Water Code Section 13391.5(e)(3)). In other portions of the definition of a toxic hot spot, chemical measurements are subordinate to measures of beneficial use impacts such as benthic community impacts or toxicity (i.e., chemical measurements are used to show that the pollutant could have contributed or caused the observed effects).	No	Policy, definition

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12.15	The Policy must specify the criteria for determining an appropriate reference site for evaluation of toxicity data.	This is a Region-specific determination that should be based on information collected in the Region and the policy of the RWQCB. The proposed policy sets up a consistent approach for establishing reference sites and conditions but allows the RWQCBs flexibility in establishing the precise critical values for toxicity.	No	Policy, page xviii
12.16	Very minor sites with pollution that does not affect the interests of the State should be classified as de minimus sites.	The State's bays and estuaries are so variable and are affected by so many different circumstances it is difficult to develop a condition that would be considered a toxic hot spot but be so small that it should not be addressed by a RWQCB. The closest the proposed Policy comes to making these kinds of determinations is in ranking sites based on estimated areal extent of the toxic hot spot. The RWQCBs will make determinations on what is appropriate for addressing very small sites.	No	Policy, mandatory requirement
12.17	Identify how to address situations when chemical contamination comes from multiple sources.	This comment is impossible to address as part of the definition of a toxic hot spot. This issue is addressed when RWQCBs begin the process of identifying sources (possibly through watershed management) as discussed in the prevention section of the proposed Policy.	No	Policy, page xix, candidate toxic hot spot, 3
12.18	The FED needs to explain how the impacts of ammonia, sulfides, metals, "simple" organics and refractory organics will be separated.	The definition of a toxic hot spot is based primarily on impacts on beneficial uses (either aquatic life or human health). Chemical measurements are used to satisfy the Water Code definition that requires the SWRCB and RWQCBs to assess if hazardous substances may pose a threat to beneficial uses. Generally, high ammonia or sulfides will rule out a site being a toxic hot spot unless these parameters are discharged from an anthropogenic source. RWQCBs are given flexibility is determining whether pollutants are contributing or could contribute to the impact on beneficial uses.	No	Policy, page xx, candidate toxic hot spot, 4

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12.19	A site should not be considered a candidate toxic hot spot until a significant end-point impact has been developed. Exceeding a numerical water quality objective should not be cause to identify a candidate toxic hot spot.	Please refer to Comment 12.14.	No	Policy, page xxi, candidate toxic hot spot, 1
12.20	Actual examples of the application of the ranking criteria should be provided as required by Water Code Section 13241(b).	The ranking criteria are not water quality objectives and therefore the SWRCB is not required to comply with Water Code Section 13241(b) in this circumstance. Each of the RWQCBs have used the ranking criteria in their proposed toxic hot spot cleanup plans. These plans are referred to in the FED to show how the ranking criteria will be used. Final ranking will be made in compliance with the guidance policy.	No	Policy, page xxi, ranking criteria
12.21	The policy needs to distinguish between general water quality problems (widespread impacts) and local sediment problems.	It is unclear why this distinction needs to be made. Some problems are widespread and others localized depending on the circumstances. Overlapping toxic hot spots will most likely be addressed separately by the RWQCBs. If there is a widespread problem then the RWQCB will very likely use different management approaches than on a small localized site. These circumstances should be addressed by the RWQCBs in the context of all the toxic hot spots identified in the Region.	No	Policy, page xxi, Human Health Impacts
12.22	The intended and appropriate use of Table 1 should be clarified. The relationship between NAS and EPA human health values should be clarified.	Table 1 has two uses: (1) to be used by RWQCBs to address bioaccumulation of pollutants in fish and shellfish, and (2) to assist in the ranking of sites after the toxic hot spots are identified. NAS values are for aquatic life and human health protection and the EPA values are focused on human health protection.	No	Policy, page xxi, Human Health Impacts
12.23	When using the measures of the sediment quality triad, the biological impact measures should have more importance than chemistry. There is a confusing reference to ranking when only chemistry data is available.	Hits in all three of the triad measures is considered higher priority than hits in any two (specifically toxicity or benthic community plus chemistry). The low classification for chemistry alone would be for sites or water bodies that are toxic hot spots that made the candidate list because the site exceeded	No	Policy, page xxi, Aquatic Life Impacts

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		water quality objectives or for human health reasons. In most cases, biological impact measures are more important.		
12.24	The text refers to "water quality criterion"; presumably this is referring to EPA's 304(a) criteria. Stormwater regularly exceeds EPA criteria.	This is not referring to EPA 304(a) criteria. The reference is referring to the water quality criterion in Federal regulation that is equivalent to water quality objectives described in the Water Code.	No	Policy, page xxii, Water Quality Objectives
12.25	Including chemistry threshold numbers in the ranking criteria inappropriately turns them into regulatory criteria.	This statement is not correct. The ranking criteria are designed to be used only to set priorities on toxic hot spots as described in Water Code Section 13394.	No	Policy, definition
12.26	Sediment quality objectives should be included in the ranking criteria so they can be used when they are eventually developed.	While this could be done it would have no effect on the ranking criteria because there are no numerical sediment quality objectives currently available. Sediment quality objectives should only be mentioned if is required by law (as in the toxic hot spot definition). Please refer to the response for Comment 5.9.	No	Policy, ranking criteria
12.27	RWQCB staff should be allowed to use chemistry data older than 10 years if data are judged to be of high quality.	This is true but it does not seem appropriate to require dischargers to modify WDRs if they have already addressed a past practice (that caused a problem 10 or more years ago). The data used should relate closely to current practices and discharges. The methods used should also be acceptable.	No	Policy, ranking criteria
12.28	Include a "de minimus" value.	Please refer to the response for Comment 12.16.	No	Policy, Page xxii, areal extent of hot spot
12.29	The acreage groupings are too small. Scale up the ranks by two orders of magnitude.	This proposal would provide more discrimination in the use of this criterion. The RWQCB staff suggested this split because the information on areal extent is generally not available.	No	Policy, Page xxii, areal extent
12.30	Group sediment sites and water sites separately.	Please refer to the response to Comment 12.6.	No	Policy, page xxii, areal extent.

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12.31	Guidance on the size and volume of the toxic hot spot should be provided.	This type of information and guidance is not appropriate for the ranking of toxic hot spots.	No	Policy, page xxii, areal extent
12.32	The pollutant source should not be a ranking criterion. The FED should describe more clearly when stormwater systems receive inputs from many contributing sources.	Please refer to the response for Comment 3.2.	Yes	Policy, page xxii, pollutant Source
12.33	It appears that the proposed policy is silent on implementation of the cleanups based on the rankings.	Implementation of the regional cleanup plans will be addressed in the Statewide consolidated toxic hot spot cleanup plan. The regional plans will not be considered final until they are included in the consolidated plan, the SWRCB has made its findings on implementation and all CEQA and APA requirements are completed. A section will be added to the proposed Policy to discuss issues that may be addressed in the consolidated plan.	Yes	Policy, page xxiv, assigning priorities for cleanup
12.34	The policy functions as a water quality control plan and therefore must contain a "program of implementation for achieving water quality objectives" (Water Code 13050(j)).	Please refer to the response to Comment 12.12.	No	
12.35	Both cost effectiveness and cost/benefit should be evaluated.	Please refer to the response for Comment 12.3.	Yes	Policy, cleanup
12.36	The tables should clearly indicate whether they are referring to soils or marine sediments.	The text has been modified to clarify this point.	Yes	Policy, page xxiv, Sediment Cleanup Methods
12.37	Define the source of this classification.	The source of this information is NRC (1997).	No	Policy, page xxvii, Table 3, soil washing
12.38	Explain how this option differs from "contained aquatic disposal" or from "landfills".	The methods are separate in the NRC document and we have maintained the separation so as not to misinterpret the report findings. Confined disposal	No	Policy, page xxxi, Table 8,

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		involves the placement of dredged material within diked near-shore or land-based facilities. Contained aquatic disposal is a form of sub-aqueous capping. Landfill disposal and the containment of polluted sediments are similar but sediments typically need to be dewatered before disposal in landfills. A description of these cleanup methods are more fully discussed and contrasted in NRC (1997).		confined disposal facility
12.39	The FED and policy should assess realistic alternatives only. In-bay or ocean disposal is not likely.	The largest possible array of alternatives are suggested to the RWQCBs. There may be circumstances in the State's enclosed bays, estuaries, or ocean where each of the approaches may be useful. The SWRCB has no reason to exclude any approach in the proposed Policy.	No	Policy, page xxxii, Item 2.D., disposal of dredged material
12.40	This option is not feasible given non-RCRA wastes or special wastes.	If alternatives are not feasible they will not be used by RWQCBs.	No	Policy, page xxxiii, Table 9, contained aquatic disposal facility
12.41	A cost/benefit requirement should be included in evaluation of the "no remediation" alternative.	Please refer to the response to Comment 12.3.	Yes	page xxxv, to xxxvii, no remediation alternative
12.42	The findings required for this alternative will mean that very few sites will meet the requirements. Cost/benefit or secondary impacts may make this the preferred alternative.	The "no remediation" alternative was intentionally made difficult to attain without significant findings in order to prevent no action being taken where remediation is necessary. Natural recovery is of limited effectiveness in preventing pollutants release into the environment because the approach depends on natural processes to bury pollutants (NRC, 1997). Please refer to response to Comment 12.3 related to cost/benefit.	No	page xxxvii, no remediation alternative
12.43	Selection of the alternative for sediment cleanup is critical and not explained in the proposed policy.	The RWQCBs are permitted to select any or all of the alternatives. This is an important point because the	No	Policy, page xxxvii,

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		RWQCBs are required to list preliminary actions that could take place (Water Code Section 13394) but are not permitted to select which alternative will be selected and implemented by dischargers (Water Code Section 13360). Selection of the alternative that will be implemented will have to be made in concert with responsible parties.		alternative discussion
12.44	The costs presented in the table do not reflect the actual costs of disposing sediments. Comparisons should be made to other program costs for waste disposal.	These values are estimates of the costs and do not (and cannot) reflect precise actual costs in each and every case. It is impossible to develop costs for each specific case without actually costing of the specific project. These costs are therefore estimates that will be used by the RWQCBs to plan for cleanup. In all cases the RWQCBs can only suggest how sites should be addressed; it is up to responsible parties to find the most cost effective way to address the identified problems (refer to Water Code Section 13360). For orphan sites, the SWRCB will address this class of site in the consolidated cleanup plan.	No	page xli, Table 13, Sediment Cleanup Costs
12.45	"Interim controls" are not discussed in the proposed Policy.	In the NRC report (1997), two types of controls are discussed: (1) Interim controls and (2) long-term controls. Interim controls are temporary measures that can be implemented quickly before a long-term solution to the problems is selected. The text has been revised to clarify this point.	Yes	page xlii, Table 14
12.46	This section appears to focus exclusively on water column hot spots. No guidance is given on how to address problems with no water quality objectives (e.g., diazinon, chlorpyrifos) .	The section will be modified to clearly state that it applies to sediments as well. Watershed management could be used at the discretion of the RWQCBs to address sites where water quality objectives are not available.	Yes	page xliii, Prevention of toxic hot spots
12.47	The plans should contain a section on the application of the regional plans.	This cannot be included until the consolidated cleanup plan in completed. A section will be included in the proposed Policy that recommends issues to consider in the consolidated cleanup plan.	Yes	page xlv, Template for Regional Plans
12.48	Reevaluation of WDRs. The policy should present how these Water Code-mandated reevaluations will	This is an implementation issue that will be addressed in the consolidated toxic hot spot cleanup	Yes	Policy, prevention

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	take place and the SWRCB's expectations on the WDR modifications.	plan. It is premature to address this issue now. A new section will be added to the Policy on issues that could be addressed in the consolidated plan.		
12.49	Focus the discussion on sediment toxic hot spots and rely on existing programs to address water-related toxic hot spots.	Please refer to the response for Comment 12.21.	No	FED, prevention
12.50	Indicate current status of development of sediment quality objectives.	This work has been delayed because funding is not adequate to complete the development of sediment quality objectives as described in the sediment quality objectives workplan adopted by the SWRCB in 1991.	No	FED, page 7
12.51	Include more information on sediment quality and known impairment in California waterways.	This information is contained in the RWQCB's proposed toxic hot spot cleanup plans and status reports of the BPTCP. A reference is made to these reports and the information they contain. A sentence will be added to each description to make it more clear that the information is contained in the proposed cleanup plans.	Yes	FED, page 17
12.52	Enclosed Bays and Estuaries Plans and 303(d)/TMDL efforts provide much or all of the regulatory framework for addressing toxic hot spots in water.	Comment acknowledged.	No	FED, page 25
12.53	Include cost benefits when considering the interests of the State.	The cost/benefit seems to be best considered in assessing the actions that may be needed at a site or water body and not in identifying toxic hot spots. Please refer to the response for Comment 12.3.	Yes	FED, page 29
12.54	Explain the difference between loss of beneficial use, impact on beneficial use and impacts on "interests of the State".	Beneficial use impacts include toxicity and benthic community alteration. Beneficial use loss means generally that the use is so impacted that it is not recommended that it be used (e.g., health advisory on a site or water body) or aquatic life communities are not existing at a site. If beneficial uses are impacted the "interests of the State" are impacted.	No	FED, page 29
12.55	Explain relationship of human health advisory issued for the water column to sediment site.	The advisory usually applies to a water body or a portion of the water body. The definition of a toxic	No	FED, page 31,

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		hot spot says "When a health advisory against the consumption of edible resident non-migratory organisms has been issued ... on a site or water body is automatically classified a 'candidate' toxic hot spot if the chemical contaminant is associated with sediment or water at the site or water body." (emphasis added). If there are water quality or sediment quality data that show that the site could contribute to the health advisory then the site is a candidate toxic hot spot.		human health
12.56	There may be "de minimus" discharges that exceed water quality objectives that do not affect the interests of the State.	Please refer to the response for Comment 12.16.	No	FED, page 38, Chemical measures
12.57	The proposed Policy needs a more thorough discussion of the use and application of the sediment values. There may be many site-specific considerations for use of the values.	The proposed Policy provides the RWQCBs with significant latitude in considering sediment values because of the greatly differing conditions in the State's enclosed bays and estuaries. It is appropriate for these issues to be fully discussed when the RWQCBs develop their final regional toxic hot spot cleanup plans.	No	FED, page 39, chemical measures
12.58	The FED should assess approaches for addressing pollutants, such as PCBs, which are ubiquitous and from diffuse sources.	Watershed management is an ideal approach for addressing pollutants like PCBs. The FED contains proposals for general guidance on watershed management.	No	FED, page 39, chemical measures
12.59	The FED should address inorganic chemicals that are within the concentrations found in nature.	Please refer to the response for Comment 12.57.	No	FED, Page 39, chemical measures
12.60	Clarify the FED and Policy on which EPA criteria are to be used.	In Alternative 3 for the ranking criteria it is suggested that the Clean Water Act Section 304(a) criteria be used in ranking toxic hot spots. This alternative is not the preferred alternative for ranking criteria. No where in the proposed Policy is it suggested or required that Section 304(a) criteria be used for any purpose.	No	FED, page 55, EPA 304(a) criteria

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12.61	Explain why the State of Washington sediment standards were not used.	State of Washington sediment standards were not used because they were developed using only State of Washington data and did not encompass the conditions encountered in California. Conceivably we could calculate similar values (i.e., Apparent Effects Thresholds) using the California data set developed by the BPTCP. The SPARC advised us to use all available approaches such as ERMs, PELs and summary quotients.	No	FED, page 57, Table 3
12.62	Support the use of the general ranking approach. Using pollutant source is not particularly relevant.	Please refer to the response for Comment 3.2.	Yes	FED, page 58, general ranking approach
12.63	Limit discussion to dredging and land disposal, capping, and no action alternative. Other methods are not realistic for California.	Please refer to the response for Comment 12.39 and 12.40.	No	FED, page 66, remediation actions and costs
12.64	Given that proposed regional cleanup plans are available, the FED should discuss character, costs and quantity ranges of total sediment needing disposal.	It is likely that the cleanup plans will change as the proposed Policy is finalized and if new information become available to the RWQCBs and are included in the plans. It is appropriate for this kind of assessment to be completed during the development and adoption of the consolidated cleanup plan.	No	FED, page 83, sediment cleanup costs
12.65	The discussion is too general. Discuss specific examples.	The discussion on watershed management is general and was intended to be that way to provide the RWQCBs with flexibility to develop their plans considering their regional needs. It is not necessary to provide detailed guidance on watershed management because each case will be different and there does not appear to be any reason to limit the RWQCBs in this respect.	No	FED, Page 93, Watershed management planning
12.66	This program has land use planning powers that should be used as part of the regulatory component	CZARA should be included in the watershed efforts to the extent it is needed and required. This decision	No	FED, page 99,

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	of the watershed management alternative.	should be made by the RWQCBs as circumstances dictate.		CZARA
12.67	More discussion is needed on how this is a realistic approach for toxic hot spot prevention.	Stormwater management should be included in the watershed efforts to the extent it is needed and required. This decision should be made by the RWQCBs as circumstances dictate.	No	FED, page 100, stormwater program
12.68	The statewide cumulative impacts are not addressed. The SWRCB should consider the impacts of sediment disposal, secondary impacts of dredging, disposal, etc.	When the final regional toxic hot spot cleanup plans are submitted and compiled into the consolidated plans the SWRCB will be able to assess the cumulative impacts of sediment disposal and other impacts that may exist. It is premature to make this assessment now. These types of issues will be contained in the regional cleanup plans. The proposed Policy has been modified to require this information be addressed by the RWQCBs to the extent possible.	Yes	FED, page 102, Environ-mental effects
12.69	Some categories (e.g., IV.c., VI.a., XII.f, XVI.a., and XVI.c.) should be judged to be "less than significant" rather than no impact.	As compared to baseline conditions (the existing process for identifying problems, setting priorities and planning for remediation), we cannot identify any discernible impacts.	No	FED, page 120, environ-mental checklist
13.1	The proposed Policy could readily cause misdesignation and ranking of toxic hot spots and unnecessary economic burden to California.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	Policy, definition and ranking criteria
13.2	The SWRCB needs to adopt a policy that focuses on assessing "real significant" water quality use impairments caused by chemicals that lead to aquatic life toxicity or excessive bioaccumulation of chemicals that represent public health threats.	The BPTCP has used an effects-based approach for identifying toxic hot spots. The approach involves identifying impacts on beneficial uses using measures on the sediment quality triad (benthic community, toxicity and measures of chemical concentrations) for aquatic life assessment and bioaccumulation of contaminants in organism tissues. In designing the BPTCP monitoring efforts we have incorporated the requirements of Water Code Section 13390 et seq. The BPTCP monitoring efforts have focused on measurable endpoints that are considered	No	Policy, definition

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		relevant ecologically and from a human health perspective. This approach measures impairments and meets the requirements of the statutory definition of a toxic hot spot.		
13.3	The Policy can result in increased costs to public and private wastewater and stormwater permit holders and will have little or no impact on the designated beneficial uses. There is a need for a toxic hot spot management program, but the policy falls short.	The proposed Policy will result is a clearer way to set priorities on polluted locations (toxic hot spots) and will result in more consistent planning to address these problems. If there are impacts on permit holders they will be identified when the regional cleanup plans are developed in final form and when the SWRCB develops the consolidated toxic hot spot cleanup plan.	No	Policy, ranking criteria
13.4	There is an inadequate, unreliable database upon which to properly designate and rank toxic hot spots.	The database that has been developed to support the identification of toxic hot spots can be used to meet the requirements of the BPTCP. The data collected are focused on toxic hot spot assessment, have been collected using scientifically defensible procedures, and have passed rigorous quality assurance and quality control. The approaches used have been reviewed by scientists familiar with sediment and water assessments (SPARC, 1997).	No	Policy, definition
13.5	The SWRCB should conduct a detailed economic analysis on the use of the unreliable approaches used by the BPTCP.	There is no requirement for a detailed economic analysis on the BPTCP approaches. The cost of remediation of the sites identified as toxic hot spots will be included in each regional toxic hot spot cleanup plan (Water Code Section 13394) to the extent possible.	No	
13.6	The SWRCB should adopt a Policy that will enable the appointment of an independent expert panel that will develop toxic hot spot designation and ranking criteria.	If the SWRCB took this approach it would not be able to meet the June 30, 1999 deadline for submittal of the consolidated toxic hot spot cleanup plan. It is conceivable that such a panel would take one or more years to redevelop or revise the existing approaches. The suggested approach would make it much more difficult to complete the plans. Also it seems that this proposal would delegate development of the	No	

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		proposal to an expert panel but it is unclear how policy considerations would be included in the effort.		
13.7	The co-occurrence-based approaches for incorporating chemical information in assessing the water quality significance of chemicals as they may impact beneficial uses are technically invalid.	The use of "co-occurrence-based approaches" is only used when there is a need to show that pollutants or hazardous substances are caused by or contributing to the observed impact on beneficial uses. The Water Code definition of a toxic hot spot requires the focus on assessing beneficial use impact and requires that there be a showing that pollution or contamination are related to the impacted use. Section 13391.5(e) does not require a cause-and-effect relationship to be available to determine if a site is a toxic hot spot. The definition states, in part: "Toxic hot spots means locations ...where hazardous substances have accumulated in water or sediment to levels which (1) may pose a substantial present or potential hazard to aquatic life..., or (2) may adversely affect beneficial uses...." The BPTCP has met the requirements of law, focused on beneficial use impairment and used sediment chemical guidelines correctly (SPARC, 1997; Long et al., 1998). The approaches used to show the significance of chemical concentration have been published in the peer reviewed literature and have been reviewed by the SPARC.	No	Policy, definition
13.8	The public should have the opportunity to critically review any proposed change in the Policy before adoption by the SWRCB Executive Director.	This variance provision is provided so the RWQCBs can use an alternate approach not listed in the Policy. The variance does not allow the RWQCBs or the Executive Director to change the Policy. Any provision that is granted a variance will be presented to the RWQCB in a public forum and also to the SWRCB during the consolidated cleanup plan approval process.	No	Page xiii, Introduction

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13.9	The database falls short of providing adequate and reliable information for designating and ranking toxic hot spots.	Please refer to the response to Comment 13.4.	No	page xiv, Monitoring approach
13.10	There has not been a proper incorporation of the toxic-available forms of chemical constituents. This can only be done through sediment toxicity investigation evaluation.	The BPTCP is using the best available information to assess the significance of chemicals. It is clear that sediment-associated pollutants are entering and affecting biological systems. However, the processes responsible for the transfer of pollutants from sediments to animals and the chemical/physical processes and environmental factors modifying these factors remain ill-defined (cf. Landrum and Robbins, 1990). The understanding of the bioavailability of pollutants to organisms is improving however. Ideally, only the bioavailable forms of chemicals would be used; unfortunately, most studies completed to date use total concentration of chemicals. At present it is not possible to use only the bioavailable fraction because these studies are generally not available.	No	page xiv, monitoring approach
13.11	The NOAA sediment values are less reliable than flipping a coin in predicting whether sediments are toxic.	This is not true. Please refer to Long et al. (1998) for an assessment of the predictability of the sediment values. When multiple ERMs or PELs are observed the chance for highly toxic sediments are higher than 50 percent.	No	
13.12	The RWQCBs should discuss the deficiencies in the monitoring approach for properly designating or ranking toxic hot spots.	There is no reason to discuss the deficiencies because the monitoring approach was designed to specifically address toxic hot spot identification and site ranking. Also, the RWQCBs are allowed flexibility in selecting indicators and adjustments to the approach to meet their Region-specific needs.	No	page xiv, Monitoring approach, second paragraph
13.13	The RWQCBs do not have the information to properly characterize a Porter-Cologne pollutant. The BPTCP has not performed the kinds of studies needed to couple true pollutants with impairment of beneficial uses.	The first sentence is not correct. Pollution means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects ... the following: (A) the waters for beneficial uses.... "Quality of water" refers to chemical, physical,	No	page xiv, Section 5, first paragraph

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		biological, bacteriological, radiological and other properties and characteristics of water which affect its use. As discussed in the response to Comment 13.7, the BPTCP monitoring approaches provides the information to identify toxic hot spots and also provides the information to identify pollutants. The kind of studies envisioned in the second sentence of the comment are not required but are not prevented from being completed or used in toxic hot spot evaluations.		
13.14	The definition of a toxic hot spot will lead to technically invalid and inappropriate designation.	Please refer to the response to Comments 13.2, 13.7, 13.10 and 13.13.	No	page xiv, Section 5, second paragraph
13.15	Additionally the RWQCBs should be required to present a discussion of the technical validity of the listing based on what is known about the chemical impacts on beneficial uses.	This is not necessary because once the proposed Policy is in place it will serve as the basis for establishing their toxic hot spot lists and ranking. There is no need to repeat discussions that have already occurred during the SWRCB proceedings on the proposed Policy.	No	page xv, item D, Reason for listing.
13.16	The term "pollutant" is used synonymously with "chemical constituent". The Porter-Cologne definition of "pollutant" has been ignored.	Please refer to the response for Comment 13.13.	No	page xv, pollutants present at the site
13.17	The assessment of areal extent should be based on toxicity and organisms assemblage alteration. It should not be based on chemical concentrations.	The assessment should be based on all the information available. Information on toxicity and benthic community composition (if available) should be used in addition to measures of chemicals. The section will be modified accordingly.	Yes	page xvi, areal extent
13.18	RWQCBs will only be able to designate that chemicals are elevated. Extensive studies are needed to determine the pollutants responsible for the toxicity.	This section is a preliminary assessment of likely dischargers. Extensive study of the sources is desirable but it is not necessary or required for the RWQCBs to make these findings.	No	page xvi, item B, sources of pollutants
13.19	The RWQCBs do not have the information to say if a pollutant is impacting beneficial uses.	Please refer to the responses for Comments 13.7 and 13.13.	No	page xvi, item C, summary

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				of actions
13.20	The NAS review falls far short of providing the information needed to develop a credible assessment of the required actions.	The NAS review of sediment methods is the best available information on cleanup methods and cost estimates. Please refer to the responses to Comments 12.43 and 12.44.	No	page xvii, item D, preliminary assessment of actions
13.21	The cost estimates are of little or no value in defining true costs of remediation.	Please refer to the response to Comment 12.44.	No	page xiv, item E, cost estimates
13.22	The proposed Policy creates an "aquafund" where responsible parties can take these matters to the courts and show that the designation and ranking have little or no technical merit.	"Aquafund" is an undefined term; it has no definition in law or Policy to our knowledge. Therefore, it is not possible to respond to whether the proposed Policy creates an "aquafund". Responsible parties can always file lawsuits. The implication is that the proposed Policy is somehow illegal, portions are illegal, or that the scientific portions are not substantiated in the record. In developing the proposed Policy the SWRCB has satisfied legal requirements and provided information in support of the technical approaches used.	No	page xvii, item F, Recoverable costs
13.23	The SWRCB "aquafund" will have even greater problems than EPA's Superfund. Consider putting the Policy into the Basin Plan requirements.	Please refer to the response for Comment 13.22. The Policy is intended to provide a measure of Statewide consistency in development of the regional toxic hot spot cleanup plans. If the provisions of the Policy were placed in the Basin Plans each region would tailor the requirements to their individual needs and it may be impossible to consolidate the regional plans into a comprehensible statewide cleanup plan.	No	page xvii, items D through G
13.24	The SWRCB needs to start over on designation and ranking of toxic hot spots where peer review is used to develop consensus among all stakeholders to avoid unnecessary expenditures for chemical constituent control.	Please refer to the response for Comment 13.6. Additionally, it is unclear how peer review (which is a review by scientists) will be used to develop consensus among stakeholders (which can be scientists and non-scientists).	No	

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13.25	The exceedance (sic) of water or sediment quality objectives for toxic pollutants is not an appropriate criterion for designating a toxic hot spot.	The Water Code requires that if water or sediment quality objectives are exceeded the location should be considered a toxic hot spot (Section 13391.5(e)).	No	page xviii, water and sediment quality objectives
13.26	There is no requirement for aquatic chemistry-toxicology information be developed through TIEs.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	page xviii, item 1, second paragraph
13.27	The chemical association/co-occurrence approach is not a valid approach for assessing whether a chemical constituent is the cause of toxicity at a particular location.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	age xviii, item 2
13.28	If the SWRCB allows the use of a co-occurrence approach (toxicity/benthic community and chemical measurements) there will be "justified litigation" and the approach, "if it receives appropriate judicial review", will "be determined to be inappropriate." Instead use toxic-available chemical forms that impact beneficial uses of a water body.	Please refer to the responses for Comments 13.2, 13.7, 13.13 and 13.22.	No	page xix, first paragraph
13.29	The FDA values are not protective of human health. EPA values are protective. The NAS values are not valid for these kind of assessments.	It is our assessment that the FDA and EPA values are protective of human health. The NAS values are useful for interpreting possible impacts on aquatic life from bioaccumulation of pollutants. To our knowledge the NAS values have not been withdrawn or superseded by other vales and are therefore appropriate to use for this purpose.	No	page xix, item 3
13.30	The only reliable values available for excessive concentrations of chemicals that bioaccumulate are the edible tissue values.	Please refer to the response for Comment 13.29.	No	page xix, section 3, second paragraph
13.31	Use OEHHA guidance for determining the number of replicates.	OEHHA has reviewed the definition of a toxic hot spot during the development of BPTCP. They have not expressed disagreement with these provisions of the specific definition.	No	page xx

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13.32	Chemical constituents cannot be associated with toxic pollutants found in resident individuals with water quality impacts.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	page xx, item 4
13.33	Chemical constituents measured in sediment or water at an elevated level cannot be assumed to be responsible for the demise of aquatic organisms. Co-occurrence approaches cannot be used in a regulatory program.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	Policy, definition
13.34	Do not use human health advisory for ranking purposes because of the politics involved. Use DHS, OEHHA or EPA guidance values.	Human health advisories can and should be used for identifying toxic hot spots and for ranking sites. Health advisories are an acknowledgment that beneficial uses are impacted or lost. To our knowledge, there are no other viable alternatives available to assess human health impacts.	No	page xxi, mid-page, first paragraph
13.35	"Sediment chemistry" is confused with "sediment chemical composition".	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	page xxi, last paragraph
13.36	There is no relationship between chemical concentration of total constituents as measured that determines impacts.	Please refer to the responses for Comments 13.2, 13.7, 13.11 and 13.13.	No	page xxii, first paragraph
13.37	Data should be reviewed with respect to the collection and analysis approaches. Thirty-year-old data can be much more reliable than much of the data that are being collected today.	Please refer to the response for Comment 12.27.	No	page xxii, water quality objectives
13.38	Do not use areal extent criterion. Use real water quality use impairment.	Comment acknowledged. Beneficial use impairment is being used for ranking.	No	page xxii, areal extent
13.39	Do not use pollutant source for ranking purposes.	Please refer to the response for Comment 3.2.	Yes	page xxii, pollutant source
13.40	Do not use the natural remediation potential criterion. The information to make this assessment is not available to the RWQCBs.	Comment acknowledged. This criterion is an estimate based on the experience with and knowledge of the sites being ranked.	No	page xxii, natural remediation potential
13.41	This is a superficial treatment of a complex topic.	Please refer to the responses for Comments 12.43 and 12.44.	No	page xxiv, xl; sediment cleanup

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				methods, costs
13.42	Define sources using TIEs. For new sources, use site-specific risk assessments to identify sources that are likely to be responsible for identifying toxic hot spots.	For sites where sources are unknown these types of analyses seem appropriate. The proposed Policy should not be modified because the RWQCB should be allowed significant flexibility in determining the sources of pollutants. In some circumstances TIEs have been used (Region 5's identification of toxic hot spots).	No	page xlii, prevention of toxic hot spots
13.43	The template falls short of information needed to develop credible toxic hot spot designation, ranking and cleanup plan.	Comment acknowledged.	No	pages xlv and xli, template
13.44	The SWRCB should start over and begin the development of toxic hot spot designation and ranking and provide for full public involvement in implementing the BPTCP.	Please refer to the responses for Comments 13.6 and 13.24.	No	FED, page 1
13.45	Those who advised the Legislature failed to advise them that exceeding a water or sediment quality objective is not a valid basis for defining a toxic hot spot. Directly measure toxicity.	Nonetheless, the Water Code requires that this is one of the specific criteria for identifying toxic hot spots. The BPTCP monitoring approaches measures toxicity directly.	No	FED, page 6
13.46	Reevaluation of waste discharge requirements (as required by Water Code Section 13395) will result in inappropriate changes in WDRs and will place dischargers under a significant financial burden not related to impacts on beneficial uses.	Please refer to the response for Comment 12.48.	No	FED, page 8
13.47	It is readily possible to establish a toxic hot spot definition based on toxicity and organism assemblage information. There is no need to incorporate total concentrations of chemicals to define a toxic hot spot.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 27, first paragraph
13.48	SPARC did not conduct a detailed peer review discussion of issues that would support that the BPTCP monitoring approaches are "scientifically defensible".	This statement is not true. Please refer to the SPARC recommendations (SPARC, 1997). Beyond this review the SWRCB is conducting an additional peer review in compliance with Health and Safety Code Section 57004.	No	FED, page 27, third paragraph

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13.49	The criteria provided for this alternative provide appropriate incorporation of chemistry, not chemical analysis, in the assessment.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 28, Table 2
13.50	The definition of a toxic hot spot should not be tied to the existing monitoring information.	Please refer to the response for Comment 13.4.	No	FED, page 29, Item 3
13.51	Low dissolved oxygen leads to production of chemicals such as ammonia and hydrogen sulfide. These factors may cause the observed effects and should not be ignored.	This is true. No change is necessary in the proposed Policy. Please refer to the response for Comment 12.18.	No	FED, page 29, Item 5
13.52	Indicators (such as biomarkers) that are not related to beneficial use impairment should not be used.	Agree. Biomarkers are not included as a category of indicators. These indicators were remove after the SPARC review (SPARC, 1997). No change in the proposed Policy is necessary.	No	FED, page 29, Item 6
13.53	The SWRCB should use procedures that can be used to determine whether the toxicity is caused by, not associated with chemical measurements.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 38, mid-page, chemical measures
13.54	Equilibrium partitioning assumes that chemical constituents in sediments are in equilibrium.	Agree.	Yes	FED, page 38, last paragraph
13.55	Some component of the equilibrium partitioning is associated with ingestion of sediment particles by some forms of aquatic life.	Agree.	Yes	FED, page 39, top of page
13.56	EPA is abandoning the development of sediment quality criteria.	Agree. EPA appears to be pulling back some of the sediment values they have previously published. EPA recently used the SQC to evaluate chemistry data in the National Sediment Inventory.	Yes	FED, page 39, first paragraph
13.57	The ERM and ERL values are not valid for estimating the effects of chemical constituents on aquatic life.	Please refer to the responses for Comments 13.2, 13.7, 13.11 and 13.13.	No	FED, page 39, Item 2, first paragraph
13.58	Apparent Effects Thresholds do not provide a cause and effect relationship necessary to properly define the cause of toxicity.	Please refer to the responses for Comments 12.61, 13.2, 13.7 and 13.13.	No	FED, page 40, Item 3

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13.59	Do not use correlations between toxicity and chemicals to show relationships.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 41, Item 4
13.60	Multivariate analysis can lead to inappropriate assessment of the cause and effect between chemicals and toxicity.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 41, Item 5
13.61	TIEs are the only procedures that can be used to determine whether chemical constituent causes toxicity. It is better not to have "cookbook-type" procedures that can be used by the unqualified.	Please refer to the responses for Comments 13.2, 13.7 and 13.13. Procedures are developed and should be used as a basis for this type of study.	No	FED, page 41, Item 6
13.62	Using a Weight-of-Evidence" is an appropriate approach; but using an approach with a chemical component is not appropriate.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 41, Item 7
13.63	The reports of monitoring information that have been generated have limited reliability in terms of identifying the chemicals responsible in determining the cause of toxicity.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 42, first full paragraph
13.64	There is no way to relate exceeding a water or sediment quality objective to beneficial use impairment.	Please refer to the response for Comment 13.25.	No	FED, page 42, water and sediment quality objectives
13.65	An alternative is not presented that properly incorporates chemistry into the evaluation and an associated economic analysis.	Please refer to the responses for Comments 13.2, 13.7 and 13.13.	No	FED, page 42, staff recommendation
13.66	The SWRCB never responded to the comments made on the 1993 version of the ranking criteria. Those comments and responses should be included in the administrative record.	Comment acknowledged.	No	FED, page 44, issue description
13.67	The assumption is not appropriate. The SWRCB could identify the toxic hot spot and then perform additional studies to determine its rank.	The approach advocated in this comment would require additional study before sites could be ranked. This approach would delay completion of the regional cleanup plans and would consequently delay the completion of the consolidated cleanup plan. By	No	FED, page 45, bottom of page

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		taking this approach the consolidated plan would not be completed by June 30, 1999.		
13.68	The ranking should be based on impact to beneficial use, not the cost to clean up.	Water Code Section 13393.5 requires the SWRCB, in part, to adopt ranking criteria that take into account "...the extent to which the deferral of a remedial action will result, or is likely to result, in a significant increase in environmental damage, health risks, or cleanup costs." Additional factors (such as areal extent and remediation potential) are needed to satisfy the Water Code requirements.	No	FED, page 45, Item 3, assumptions
13.69	The BPTCP is an aquatic "Superfund" (aquafund) program. It should be subject to the same degree of rigor as the land-based Superfund program.	Please refer to the responses for Comments 13.22 and 13.23.	No	
13.70	Alternative 3 should be rejected in favor of an alternative where the professional judgment of a panel of experts would advise the RWQCBs on designating and ranking toxic hot spots.	Please refer to the responses for Comments 13.6 and 13.24. Additionally, identifying and ranking toxic hot spots is a Water Code-mandated responsibility. It does not seem feasible to delegate this responsibility to a "panel of experts."	No	FED, page 49, weighted numerical ranking criteria
13.71	Do not use NAS guidelines, whether water quality objectives are exceeded, or ERMs, ERLs, and PELs values.	Please refer to the responses for Comments 13.2, 13.7, 13.11, 13.13 and 13.29.	No	FED, page 51, chemical measures
13.72	Pollutant source, remediation potential, etc. should not be used to rank sites. Ranking should be based on "water quality-use impairment significance".	Please refer to the responses for Comments 3.2, 13.38, 13.39, and 13.40.	Yes (for pollutant source) and No (for the remainder of the comment)	FED, page 52
13.73	Do not use these measures because there is no relationship between the value and water quality problems.	These values have been useful in interpreting bioaccumulation monitoring data and for the purposes and in the context of the weighted ranking criteria (Alternative 3) could assist the RWQCB in establishing priorities.	No	FED, page 53. MTRLs
13.74	Rare, threatened or endangered species should be used only if they are being affected by the toxic hot	Comment acknowledged.	No	FED, page 53,

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	spot.			bottom of page
13.75	If multiple chemicals are present, it is arbitrary to multiply the factor by 2.	This factor is proposed to account for situations when there is more than one pollutant suspected of causing the identified problem. Multiplying by two provides a way of increasing priority based on multiple chemicals.	No	FED, page 54, chemical measures
13.76	Delete reference to NAS values.	Please refer to the response for Comment 13.29.	No	FED, page 54, last paragraph
13.77	The EPA criteria when appropriately used are more reliable than most of the parameters used for ranking toxic hot spots.	Please refer to the response for Comment 13.29.	No	FED, page 55, third paragraph.
13.78	The table should be deleted as it provides unreliable information which will be inappropriately used to assess the significance of chemical constituents in sediments.	Please refer to the responses for Comments 13.2, 13.7, 13.11, 13.13, and 13.29.	No	FED, page 57, Table 3
13.79	This section provides distorted information on incorporating chemical issues into assessing toxic hot spots.	Please refer to the responses for Comments 13.2, 13.7, 13.11 and 13.13.	No	FED, page 56, sediment values
13.80	Areal extent should be based on actual impacts on organisms or as a source of bioavailable forms of chemicals.	Please refer to the responses for Comments 13.2, 13.7, 13.13 and 13.17.	No	FED, page 56, areal extent
13.81	These are not appropriate ranking criteria.	Please refer to the responses for Comments 13.38, 13.39 and 13.40.	No	FED, page 56, pollutant source and remediation potential
13.82	Numeric scores have no meaning and should not be used.	Numeric scores are not calculated for the Categorical Ranking Criteria.	No	FED, page 58 and 59
13.83	Delete NAS values from the table as none of these are applicable today.	Please refer to the response for Comment 13.29.	No	FED, Table 4.

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13.84	The NAS values, various correlation techniques, etc. are not reliable for the purposes of identifying and ranking toxic hot spots.	Please refer to the response for Comment 13.29.	No	FED, Page 61, aquatic life impacts
13.85	Alternative 4 is fundamentally flawed analysis of the parameters to rank toxic hot spots.	Please refer to the responses for Comments 13.38, 13.39 and 13.40.	No	FED, page 63, staff recommen-dation
13.86	Add a third alternative that puts control of the program in the hands of a public advisory panel to direct the development of the cleanup plans.	Please refer to the responses for Comments 13.6, 13.24 and 13.70.	No	FED, page 65
13.87	This section is not an adequate base for developing cleanup plan remediation approaches and costs.	Please refer to the responses for Comments 13.20, 12.43 and 12.44.	No	FED, page 66+
13.88	TMDLs ignore fundamental principles of water chemistry, water quality and toxicity impacts and control. Focus on toxic forms of constituents.	Comment acknowledged.	No	FED, page 97, TMDLs
13.89	Large amounts of public funds could be wasted through misdirected efforts outlined in the proposed Policy.	Comment acknowledged.	No	FED, page 102+
13.90	The SWRCB must address the potential costs and inadequate discussion of economic issues related to designating and ranking toxic hot spots. OAL has grounds to reject the proposed Policy as being inadequately developed.	Please refer to the responses for Comments 13.3 and 13.5. The SWRCB will comply with all the requirements of the Administrative Procedure Act before it is submitted to OAL for their review.	No	FED, page 102+
14.1	The organizations sending the letter have serious concerns with the Board including nonpoint sources in the BPTCP.	In order for toxic hot spots to be prevented all sources of pollutants should be involved in the prevention efforts. NPS should be included in the BPTCP as should point source dischargers.	No	Policy, prevention
14.2	It is inappropriate to include nonpoint sources because the program is a point source program.	This is not a true statement. The BPTCP has never been exclusively a point source program. Water Code Section 13392 states, in part, that: "...the state and regional board shall ... develop appropriate prevention strategies including...development of new programs to reduce urban and agricultural runoff." The BPTCP should be and is focused on point and nonpoint sources of pollution.	No	Policy, prevention

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14.3	The MAA between the State Board and the PMP is the preferred means to address pesticide related water quality impairment.	The MAA provides ways for the SWRCB and DPR to coordinate their responsibilities. To our knowledge nothing prevents the RWQCBs from addressing these water quality impairments in regional cleanup plans.	No	Policy, prevention
14.4	Chemicals found at specific locations in episodic patterns should not be swept into the BPTCP regulatory scheme.	If impacts are occurring in water bodies covered by the BPTCP and the definition of a candidate toxic hot spot is satisfied, then a site should be included and addressed in the cleanup plans.	No	Policy, definition
15.1	The Policy adopted by the SWRCB to establish toxic hot spots must be consistent in all regions. RWQCBs must be given specific criteria to apply with little discretion to modify those criteria.	We agree that the ranking criteria should be consistent in all Regions and that the criteria should not have the discretion to modify the guidance. The guidance should also be general enough to apply in the diverse conditions in the State's enclosed bays and estuaries. Please also refer to the response for Comment 5.1 and 5.11.	No	Policy, ranking criteria
15.2	The legal authority of CERCLA/Superfund vs. the BPTCP needs to be addressed. An agency performing cleanup actions mandated by CERCLA is not liable to lawsuits under the CWA as long as the approved CERCLA cleanup action is followed. Will this immunity apply to BPTCP legal actions?	The BPTCP is independent of other programs and is not bound by the mandates in the Federal Superfund program. Whatever liability or immunity is applied will be in compliance with the Porter-Cologne Water Quality Act and the Clean Water Act to the extent this Federal law applies.	No	
15.3 and 15.4	The final results of the BPTCP do not meet the scientific considerations suggested by SPARC. on p. 27-29 of the FED. The weak correlation between sediment chemistry and sediment toxicity, as well as the qualitative nature of the benthic analysis conflict with the SPARC recommendation that "biological response should be associated with the presence of non-naturally-occurring toxic pollutants."	Please refer to the response for Comment 13.2, 13.7, 13.11, and 13.13. The proposed Policy and the FED are in agreement with the SPARC recommendations with respect to this point. SPARC said that the BPTCP monitoring information is sufficient to identify problems and move to the next level of responsible party investigation.	No	FED page 27-29
15.5	The data from the BPTCP does not support delineation of toxic hot spot boundaries.	This is true. For the most part additional site characterization is needed as part of implementation of any remediation activities. It is recommended in the Policy that the first step in implementation is better characterization of sites.	No	Policy, areal extent

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15.6	Page 156 of the San Diego report states that "...sampling ..to quantify areal extent of an impacted area must be addressed during extensive site characterizations."	Please refer to the response for Comment 15.5.	No	
15.7	Page 155 of the San Diego Bay report states: "...the results also should be confirmed with further studies before any adverse ecological impacts can be conclusively demonstrated."	Please refer to the response for Comment 15.5.	No	
15.8	It is not clear how the study determined the 0, 1, or 2 rankings for the benthic assessment. It appears that there was no comparison of these numbers to reference sites for any of the samples. The proper use of reference sites are very important for benthic community studies.	The explanation for the evaluation of the benthic community data is presented in the San Diego Bay report (Fairey et al., 1996).	No	
15.9	Since the BPTCP data was collected, some areas may have been cleaned up, or otherwise altered. This data should be considered before cleanup plans are imposed or required.	Agreed. The RWQCBs should not require that areas that have already been cleaned up be remediated again. The RWQCBs are compiling the actions already completed at the sites so no duplication of effort occurs.	No	
15.10	Dischargers may be identified as a matter of convenience in areas of long use (historical contamination).	No response is necessary.	No	Policy, page xvi
15.11	As written, the policy calls for determinations after two sampling events, but the time interval has not been specified. At a minimum, at least two sampling events, at least one year apart must be included in the definition.	The determination of when sampling events occur is a situation- and Region-specific decision. No time interval can be specified because some situations require resampling within days or weeks while other situations can be delayed substantially longer.	No	Policy page xviii
15.12	Recommend adoption of weighted numerical ranking criteria to rank toxic hot spots. Human health considerations should have more weight.	Comment acknowledged.	No	Policy page xxi
15.13	If environmental effects of cleanup are more damaging than leaving the sediment in place, the site should not be cleaned up. As written, the site must be cleaned up, causing more damage than leaving the	The other information is needed to adequately analyze this alternative and characterize the site. The proposed Policy does not require that the "no action"	No	Policy, remediation alternatives

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	site undisturbed.	alternative not be considered. The Policy states it should be considered last.		
16.1	The FED states that the Policy is applicable to the "surface waters" of the state in Regions 1, 2, 3, 4, 5, 8 and 9. This is incorrect and inconsistent with Section 13391.5(e) of the Water Code. Fig. 1 could be misinterpreted.	Section 13391.5(e) states that toxic hot spots can only be identified in enclosed bays, estuaries or the ocean. There is no requirement that action be taken to address the problems found at toxic hot spots. In fact, the Water Code (Section 13392) says "the state board and regional boards shall ... identify specific discharges or waste management practices which contribute to the creation of toxic hot spots and shall develop appropriate prevention strategies including ... more stringent waste discharge requirements, onshore remedial actions, adoption of regulations to control source pollutants, and development of new programs to reduce urban and agricultural runoff." Since many of these kinds of actions are on land and upstream from bays and estuaries, the recommended actions should apply to surface waters in the Regions.	No	FED, page 11
16.2	Discounting smaller sites in ranking because they may be difficult or not practical to remediate seems counter-intuitive. Larger sites should be discounted for those reasons.	Please refer to the response for Comment 12.16.	No	FED, page 62
16.3	Extend the watershed management approach to include an "airshed" component to include sources in a larger geographic scale.	If the "airshed" is a source of the pollutants then it should be included in the watershed efforts. However, this assessment should be made on a site- and Region-specific basis because not all watersheds will need an "airshed" component.	No	Policy, prevention
17.1	Extend the deadline for comments by two weeks.	The deadline was extended from May 11, 1998 to May 15, 1998.	No	
18.1	The time schedule identified for assessing areal extent, preliminary cleanup alternatives and estimated cleanup costs seems unrealistic. The process being considered should address this inevitability.	It is acknowledged that full implementation of the plans will take a long time to implement. The cleanup plans are a planning tool to be used by the RWQCBs and the SWRCB to address toxic hot spots. It is probable that the responsible parties will be brought into the process to assist in making the remediation planning more specific.	No	

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18.2	The Policy and FED should describe a procedure for delisting a site based on supporting data, remediation, or sites being addressed under other federal or state programs.	Please refer to the response for comment 3.6.	Yes	
18.3, 18.4, and 18.5	If a dredging program is considered as a cleanup alternative, the dredging project will require CEQA/NEPA compliance. The FED needs to more fully address alternative projects, a "no action alternative", and other issues as they relate to state and Federal regulations.	Please refer to the response for Comment 12.43 and 12.4. The SWRCB and RWQCBs cannot by law (Section 13360 of the Water Code) select the preferred alternative for remediation at a site. That will be done in cooperation with responsible parties. If NEPA or additional CEQA analyses are needed they will be performed when the plans are implemented.	No	Policy, remediation alternatives
18.6	Pollutant source should not be used as a ranking criterion.	Please refer to the response for Comment 3.2.	Yes	Policy, page xxii
18.7	In the Policy, the no action alternative is the last alternative considered, and is only considered if cleanup of the site would be detrimental. The selection of a cleanup method should be that which results in the greatest net environmental benefit for the site.	This is the intent but "net environmental benefit" is very difficult to define (notwithstanding the use of "net environmental benefit" for certain circumstances in Region 2). While the "no action" alternative may be the best alternative for a site, this will not be known unless the other alternatives are analyzed first.	No	Policy, remediation alternatives
18.8	Using FDA or NAS level exceedances or OEHHA health advisories for listing sites automatically as candidate or toxic hot spots does not provide adequate information to develop a detailed remedial action plan. These criterion should only be used for initial screening, use a triad approach for final designation.	Please refer to the response for Comment 3.1 and 13.29. Possible impacts on human health (i.e., health advisories) cannot be confirmed using measures of impacts on aquatic life. Impacts on aquatic life do not necessarily mean there will be impacts on human health, and vice versa.	No	Policy, definition
19.1	Chevron supports the comments of the Western States Petroleum Association (Commenter 18).	Please refer to the responses for Comments 18.1 through 18.8.	No	
20.1	A weight of evidence approach should be used in the definition by requiring that two or more of the criteria be met for designation as a candidate or known toxic hot spot.	Please refer to the response for Comment 30.5.	No	Policy, definition
20.2	Need more than one reference site.	In evaluating toxicity the reference envelope approach considers and uses information from more than one site (cf. Fairey et al., 1996).	No	Policy, definition

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20.3	Recommend that the criterion for areas with fish consumption advisories to automatically be considered toxic hot spots be removed, since there is no way to tell where the fish became contaminated.	Please refer to the response for Comment 3.1.	No	Policy, definition
20.4	Remove pollutant source as a ranking criterion.	Please refer to response to Comment 3.2.	Yes	Policy, ranking criteria
20.5(a)	The requirement to remedy or restore a toxic hot spot to an unpolluted condition is not measurable or practicable.	Please refer to the response for Comment 30.23.	Yes	Policy, mandatory requirement
20.5(b)	Sites identified due to water and/or fish tissue contamination, without associated sediment contamination should be addressed under other existing water quality programs.	Please refer to the response for Comment 30.3, 30.18, 30.22.	No	Policy, prevention
20.6	The section on cleanup alternatives needs to be more extensive. Also, cleanup only refers to sediment cleanup, not water column or fish tissue cleanup. These need to be addressed under other programs.	Please refer to the responses for Comments 12.43 and 12.44.	No	Policy, prevention
20.7	The FED should be modified to include activities of other state and Federal agencies to address toxic hot spots and specify that these sites should not be identified as candidate or known toxic hot spot to assure there is no duplication of effort	Please refer to the response for Comment 7.11, 7.12, and 30.3.	No	Policy, prevention
20.8	Concur with the use of watershed management approach, but recommend use of more specific guidance to the Regional Boards	Partially agree. The proposed Policy should be modified to require that the RWQCBs provide as part of cleanup plan implementation, site-specific and pollutant specific strategies to address the toxic hot spot.	Yes	Policy, page xliii
20.9	Need more thorough analysis of potential environmental impacts of the proposed policy with respect to cleanup actions.	Please refer to the response for Comment 30.29 and 30.30.	No	FED, environ-mental impacts
21.1	In general, comments are supportive of staff recommendations.	Comment acknowledged.	No	

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21.2	Source of sediment samples is unclear. Was sampling surficial, at a certain depth or homogenized over a wide interval.	Sediment samples were collected generally in the top 2 cm of surficial sediments (in some circumstances the top 5 cm were collected). These samples were then homogenized. All field and laboratory procedures are presented in the BPTCP Quality Assurance Project Plan (Stephenson et al., 1994).	No	
21.3	Consider the depth distribution of the contaminants. When ranking criteria are evaluated, the depth distribution is important in anticipating potential availability and toxicity.	The concentration of pollutants at depth in the sediment is very important for determining and possibly predicting the potential availability and toxicity once these sediments are dredged. These are the types of factors that should be considered in the implementation of the cleanup plans (i.e., when responsible parties are evaluating remediation options). This type of study is not needed to determine if surficial sediments are impacting beneficial uses. This should be included in the factors necessary to fully characterize a toxic hot spot.	Yes	Policy, page xvi
21.4	The text depends heavily on the 1997 NRC report, and there is very little experience in sediment remediation other than dredging. The endpoint of remediation actions is not indicated in the Policy, and the NRC document provides little guidance. Also, there is little guidance on how the areal and vertical extent of contamination is determined.	The decision on cleanup level should be made on a pollutant- and site-specific basis. We agree that general guidance is appropriate and have changed the proposed Policy to include a general analysis of the benefits that may occur after addressing problem sites. Please refer to the response for Comment 12.3.	Yes	Policy mandatory requirement
22.1	Extend comment period by 14 days.	Comment period was extended from May 11, 1998 to May 15, 1998.	No	
22.2	Coordinate with DPR through the existing MAA.	RWQCBs will implement the MAA with DPR and will coordinate with DPR on the development of cleanup plans for pesticides.	No	Policy, prevention
22.3	The policy for Toxic Hot Spots if vigorously implemented with the current language will have a potential negative impact on key agricultural growing areas in California.	Disagree. No specific information was provided to support this hypothesis.	No	
22.4	How the Environmental Checklist was derived to indicate "no impact" for "affects agriculture	Best professional judgment was used to come up with this determination. The commenter did not	No	FED, environ-

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	resources or operations."	provide any data to the contrary determination.		mental checklist
22.5	The process by which CVRWQCB used for the listing of toxic hot spots for non-point source pesticide detections is inappropriate (page 26).	This is not a comment on the proposed Policy. The potential harmful effect of pesticide on aquatic organisms does not depend on whether the toxicant is from point source or nonpoint source.	No	
22.6	The scientific data for currently registered pesticides which are detected clearly shows that they will fit into the lower priority category, as a worst case scenario (page 28).	Disagree. Although the recommended criteria are for sediment quality assessment strategy, the pesticides meet the criteria for some the lower priority as well as some criteria for higher priority.	No	
22.7a	The agencies represented in the MAA should agree on the listings, prior to placing the non-point pesticides on either candidate or known hot spots (page 30).	The MAA is one way to address impacts from pesticides. To our knowledge nothing prevents the RWQCBs from addressing these impairments independently in regional cleanup plans.	No	Policy, definition
22.7b	"Significant toxicity" should not be defined wholly by single species toxicity tests, but should allow for the inclusion of ecological risk assessments, when available.	The RWQCBs are not prevented from using the information from "ecological risk assessments" in identifying toxic hot spots. As long as the information is of high quality and addresses the provisions of the definition, the data can be used. Single species toxicity tests provide essential information for assessing aquatic organism response and for assessing impacts on beneficial uses.	No	Policy, definition
22.8	Use multiple species and community level effects in assessing the benthic community structure and function for toxicity testing and interpretation of toxicity data (pages 31-37).	Toxicity testing is one type of measure that gives the SWRCB and RWQCBs an indication of beneficial use impairment. Toxicity tests are well developed, measure meaningful organism response and get at what is causing the animal response (when TIEs are completed). Community level information and toxicity are independent measures of effects on organisms (SPARC, 1997).	No	Policy, definition
22.9	The affected parties be allowed to meet with the SWRCB, appropriate RWQCB, and DPR under the Pesticide Management Plan portion of the MAA to present any additional science that may be available;	The Water Code (Section 13394) states that it is a RWQCB responsibility to identify toxic hot spots. Coordination with DPR as stated in the MAA is necessary and has been done. It is acknowledged	No	FED, page 42

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	and no THS be listed until all agencies listed under the MAA agree. The listing of THS will impact agriculture in affected areas (page 42).	that the toxic hot spot listing may impact dischargers but it is premature to state precisely how.		
22.10	Coordination with other parties under the PMP re: MAA is needed prior to any listings of known or candidate toxic hot spots (page 58).	Please refer to the response to Comment 22.9.	No	FED, page 58
22.11	Modern ecological risk assessment models or studies should be included in "preponderance of information" (page 58). The ability to classify a THS based on two TIEs is too stringent and will lead to many potential listings, which will take funds from the most toxic sites and dilute them over all state. No THS should be assigned a "High" priority unless all agencies operating under the MAA agree.	Please refer to the response to Comment 22.9 and 22.7b.	No	FED, page 58
22.12	"Scientifically defensible ecological risk assessments" should be added to the weight of evidence for aquatic life impacts (page 61).	The approaches used by the BPTCP are scientifically defensible and do not prevent the use of ecological risk assessment information. Please refer to the response to Comment 22.7b.	No	FED, page 61
22.13	"Prevention programs (implemented through permits)" discussed under the section on Pollutant Source and Remediation Potential (page 62) will not work for production agriculture, unless these permits are developed under the MAA and implemented by DPR with the help of the UC Cooperative Extension. A special section is needed to fully describe how these "permits" will be incorporated into agricultural (and some urban) areas. The SWRCB cannot take what is essentially a "point source" program and expect it to work in the nonpoint source arena, without significant outreach.	Comment acknowledged. Ranking sites using remediation potential will work, we are not ranking industry types. WDRs may not be issued to agricultural dischargers but if they contribute to a water quality problem, they should be included in addressing the problem. Please refer to the response to Comment 3.2, 14.2, 22.9, and 28.1.	Yes	FED, page 62
22.14	Disagrees with staff's reasons for recommending alternative 2 (watershed management planning) for THS prevention strategies (pages 92 through 100). Recommends adoption of alternative 1 (point source pollution control strategy only) , which will get the most done, per dollar spent. Since several programs	There is a great need to address all sources of pollutants that discharge into a water body. Watershed management approaches allows this to happen. Generally, point sources have been well regulated and incremental improvement in these discharges are very expensive. The RWQCBs have a	No	FED, pages 92-100

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	are in place for the nonpoint source issues and a THS designation is not needed.	responsibility to address toxic hot spots if the data are available to do so. Please refer to the response for Comment 28.1.		
22.15	The MAA should be referenced under 'Regulatory" discussion (page 98). No listing or regulatory actions should take place until all MAA agencies agree.	Agree that the MAA should be referenced in the Prevention Section. Please refer to the responses for Comments 14.3 and 35.2.	Yes (for reference to MAA) and No for the remainder of the comment	FED, prevention section
22.16	Add the word 'deny' to the second sentence in fifth paragraph under Proposed Policy (page 108): "Any site designated as an area of concern will be considered for further monitoring to confirm *or deny* preliminary indications of impairment."	This change is not needed because denying a site designation is not possible as more than one sampling event many be completed that may reveal impacts on organisms.	No	FED, page 108
22.17	The paragraph under the discussion of Proposed Policy for issue #6 : Toxic Hot Spot Prevention Strategies and Costs (page 116) should be amended to include all MAA agencies for pesticide issues, CDFA, UC Cooperative Extension.	The guidance restates the NPS Plan requirements for addressing NPS problems and encourages the RWQCBs to involve all interested parties in the development of prevention strategies.	No	FED, page 116
23.1	Commenter supports the fundamental objectives and technical basis for the BPTCP.	Comment acknowledged.	No	
23.2	Promote consistency among Regions with respect to interpretation and implementation strategies.	The proposed Policy does this. Please refer to the response for Comment 5.1 and 5.11.	No	
23.3	Develop a guidance document to promote consistency with input from the public, including industry.	The SWRCB has solicited public input on the proposed Policy.	No	
23.4	The criterion for areal extent, pollutant source and natural remediation are most contentious. Need detailed chemical characterization of all input sources.	Comment acknowledged. Detailed assessments are necessary when RWQCBs begin the process of implementing the cleanup plans and it is appropriate to complete these studies at that time. An absolutely complete assessment of the pollutant sources is not necessary for ranking because the RWQCB are given flexibility to estimate the information. Please refer to Comment 3.2 for the pollutant source.	Yes (for pollutant sources) and No for other portion of comment.	

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23.5	Need a sampling approach that defines a three-dimensional volume of contaminated sediments for determining areal extent of a toxic hot spot.	Please refer to the response for Comment 21.3.	Yes	Policy, remediation alternatives
23.6	Potential for natural remediation of contaminated sediments is not well known.	Comment acknowledged.	No	Policy, remediation alternatives
23.7	Ranking criteria needs work, and the criteria needs to be consistent statewide.	Comment acknowledged. Please refer to the response for comment 5.11	No	Policy, ranking criteria
23.8	Do not use fish tissue contaminant concentrations to determine toxic hot spot, except as part of a weight-of-evidence consideration. Exposure histories of fish cannot be determined.	Please refer to the response for Comment 3.1.	No	Policy, definition
23.9	Sediment threshold effects levels (e.g., ERMs) should be refined, especially for contaminants such as the chlorinated pesticides. Decisions concerning site identification, ranking and cleanup requirements should not be based solely or primarily on effects as thresholds are variable or poorly defined.	The BPTCP definition relies on the use of impacts on beneficial use primarily and then the use of sediment guidelines secondarily to support any impact found on beneficial use. We agree that variable or poorly defined guidelines should be used with caution and that these values should be based on the RWQCB understanding of the conditions in their Regions.	No	Policy, definition
23.10	SWRCB must continue to solicit input from industry in order to achieve an effective watershed management approach to restore beneficial uses to the State's water bodies.	The SWRCB will continue to solicit input from industry; Federal, State and local agencies; environmental groups; and the public in the development of the BPTCP activities.	No	Policy, prevention
24.1	One of the conditions that would classify a site as a toxic hot spot would be the exceedance of sediment quality objectives. The SWRCB has authority and a mandate to develop Sediment Quality objectives for toxic pollutants, yet none exist.	Comment acknowledged. Please refer to response to comment 5.9.	No	Policy, definition
24.2	ERLs and ERMs were never intended to be used as regulatory criteria, and should not be used as such.	These sediment guidelines are not being used as "regulatory criteria" (in the sense of water or sediment quality objectives). The values are being used to support information that directly measures impacts on beneficial uses. Please refer to the response for Comment 5.9.	No	Policy, definition

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24.3	Due to fish mobility, it is not appropriate to designate an entire water body a toxic hot spot based on fish tissue contaminant levels alone.	Please refer to the response for Comment 3.1.	No	Policy, definition
24.4	Evidence suggests that low-level, widespread contamination, rather than hot spots, are contributing to bioaccumulation of contaminants in fish. Remediation of the toxic hot spot may not reduce bioaccumulation in fish tissues.	Using a watershed management approach where point and nonpoint sources of contamination are included, may address these kinds of problems and may reduce the bioaccumulation of contaminants in fish tissue.	No	Policy, definition, prevention
24.5	Use dissolved metal concentration to measure metals concentrations. Do not use total metal concentrations in marine sediments, since they are not biologically available.	Please refer to the response for Comment 13.2, 13.7 and 13.13.	No	Policy, definition
24.6	The use of benthic community analyses in water bodies such as San Francisco Bay is not relevant.	This may be true. The RWQCB should make this determination based on the information available and the quality of that information.	No	Policy, definition
24.7	The Policy does not analyze the potential presence of hot spots outside areas that have BPTCP data. This may lead to piece-meal remediation with little long-term benefit.	Toxic hot spots cannot be identified unless there is good information to do so. It is not possible to analyze sites that do not have the appropriate types of data.	No	Policy, definition
24.8	Do not use pollutant source as a ranking criterion. Toxic hot spots should be prioritized based on threat to human health or the environment, not on whether a funding source exists.	Please refer to response for Comment 3.2.	Yes	Policy, ranking criteria
24.9	Regional policy in San Francisco Bay and state Policy are inconsistent with regard to in-place capping of sediments. BCDC opposes in-place capping.	Please refer to the response for Comment 12.39.	No	Policy, remediation alternatives
24.10	Upland disposal of dredge material contributes to air quality impacts. This impact must be evaluated under CEQA, even in an FED.	Please refer to the response for Comment 30.29 and 30.30.	No	Policy, Environ-mental impacts
24.11	There needs to be a mechanism for delisting sites.	Please refer to the response for Comment 3.6.	Yes	
24.12	Remediating hot spots is beneficial to improving the health of localized areas, but this does not address the problem of low-level contaminants in the entire	Comment acknowledged.	No	Policy, definition

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	ecosystem. Many of the toxic hot spots are historic, naturally capped and are therefore no longer a significant source to the biota.			
25.1	The draft Policy reveals an approach which strikes a balance between the SWRCB and the RWQCB responsibilities. The proposed guidance policy provides the framework for implementation of the BPTCP consistently across California, while allowing each RWQCB flexibility to meet it's unique regional needs.	No response is necessary.	No	
25.2	Insert the word "California" before Department of Health Services to distinguish between the state and local agencies.	This clarification is not needed, all State agency names would have to have this designation if this change is made. The change does not appear to add clarification to the proposed Policy.	No	Policy, page xix
25.3	RWQCBs should consider all available data when developing the toxic hot spot list.	The RWQCBs will consider all information that can be used for the purposes of identifying and ranking toxic hot spots.	No	Policy, mandatory requirement
25.4	Once a site is listed as a toxic hot spot, what is the mechanism for re-evaluation? How often? Will the toxic hot spot criteria for listing be changed?	Please refer to the response for Comment 12.48.	Yes	
25.5	If a toxic hot spot is identified as having contaminants from urban runoff, will the county wide municipal NPDES permit be modified for that specific site, water body, specific watershed, or the total county?	These are the types of decisions that will need to be made by the RWQCBs in developing the regional toxic hot spot cleanup plan. Guidance on these issues are not appropriate for statewide guidance.	No	Policy, prevention
25.6	The Port District supports the philosophy of pollution prevention to help protect water quality.	Comment acknowledged.	No	Policy, prevention
25.7	This Policy may not have met CEQA requirements, since growth-inducing impacts were not properly addressed.	Please refer to the response for Comment 30.29 and 30.30.	No	FED, page 117
26.1	We support the need to protect water quality and appreciate the opportunity to comment.	Comment acknowledged.	No	
26.2	The guidance does not include the legislative definition of toxic hot spot. The definition should at least be referenced.	The FED contains several references and quotations of the Water Code definition of a toxic hot spot (Section 13391.5(e)). The definition should not be repeated in the Policy because that would violate the	No	Policy, page xviii

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
		Administrative Procedure Act requirements related to nonduplication.		
26.3	The guidance and policy place too much emphasis on revising waste discharge requirements or NPDES permits as the strategy for cleaning up toxic hot spots.	Please refer to the response for Comment 28.1.	Yes	Policy, page xliii
26.4	Only use properly adopted, scientifically-based water quality, fish tissue, wildlife, and sediment quality criteria as a basis for designating toxic hot spots.	This suggestion would not satisfy the definition of a toxic hot spot in the Water Code (Section 13391.5(e)). Water and sediment quality objectives are only one of the considerations. Please refer to the response for Comment 13.2, 13.3, 13.7, and 13.13.	No	Policy, page xviii – xxi
26.5	Restoring toxic hot spots to an unpolluted condition should be removed as this is an impossible and immeasurable standard to meet.	Please refer to the response for Comment 30.23.	Yes	Policy, page xvii
26.6	Pollutant sources should not be used as a ranking criteria.	Please refer to the response for Comment 3.2.	Yes	Policy, page xxii
26.7	One of the alternatives states that US EPA 304(a) criteria be used as aquatic life numbers. These should not be recommended for use in California as water quality objectives must go through the proper Porter-Cologne analysis before being used as an indicator of impairment.	Alternative 3 suggest the use of Section 304(a) criteria to help determine the significance of water column data that may be available to the RWQCBs. These values can be used for this purpose, they are not being used as water quality objectives.	No	FED, Issue 3
26.8	Remove the sentence that states "Stricter effluent limits can help remediate and prevent recurrence of toxic hot spots." This is only if the discharger whose permit is made more stringent is a substantial contributor to a toxic hot spot.	The statement in the FED is true in some cases even if the discharger is a minor contributor to the toxic hot spot. Please refer to the response for Comment 7.8.	Yes	FED, page 99
26.9	The SWRCB should consider the total costs, including remediation costs, and increased costs to permit holders and the environmental benefit that results from incurring these costs.	This will be done when the consolidated toxic hot spot cleanup plan is developed. Please refer to the response for Comment 12.3.	Yes	Policy, cleanup costs
26.10	The statement on effects to water utility and service systems, should be modified to include effects on	Agree. The statement will be modified.	Yes.	FED, page 127,

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	wastewater treatment systems.			endnote XII c, d, e, g
26.11	Further comments could be made regarding the potential impact to the commenters wastewater treatment plant budget, however, additional comments will not be included.	Comment acknowledged.	No	
27.1	We have been impressed by the efforts of your staff to develop a solution to the problem of locally concentrated toxic pollution which is scientifically sound, practical, and equitable.	No response is necessary.	No	
27.2	This document meets CEQA requirements for use as a "program" environmental document, and we suggest no amendments to the proposed language so long as the document is used for this purpose only.	No response is necessary.	No	FED, environ-mental impacts
27.3	Additional, more detailed, environmental review should be performed, on a site specific basis, as part of preparation of the individual cleanup plans for each particular toxic hot spot.	Comment acknowledged.	No	FED, environ-mental impacts
27.4	"Weight of evidence" approach for identifying hot spots is strongly supported by the City.	Comment acknowledged.	No	FED, definition
27.4a	Basing hot spot designations on demonstrated adverse biologic effects to species and not on arbitrary levels of contaminants in sediment or water is also supported by the City.	Comment acknowledged.	No	FED, definition
27.4b	The city supports the requirement that explicit consideration of "natural remediation" be included in the preparation of site specific cleanup plans for designated toxic hot spots.	Comment acknowledged.	No	FED, remediation alternatives
27.5	The city does not support the proposed designation of the entire San Francisco Bay as a toxic hot spot. This seems contrary to the Water Code.	Please refer to the response for Comment 3.1.	No	FED, definition
27.6	Using a health advisory to identify toxic hot spots seems to identify regional water quality problems and not local concentrated contamination that the BPTCP is intended to address. Designation of the	The BPTCP is intended to identify toxic hot spots. To our knowledge the Water Code does not focus the identification on localized areas. Please refer to the response for Comment 3.1 and 12.8 (related to water	No	FED, definition

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	whole San Francisco Bay as a toxic hot spot results in a defacto water quality standard.	quality objectives).		
28.1	It is unclear how the proposed Policy will accomplish any meaningful enhancement on water quality if the focus continues to be existing discharge permits.	Agree. The prevention section of the proposed Policy should be broadened to include potential sources of pollution that have not been issued WDRs.	Yes	Policy, Page xliii
28.2	Has the SWRCB consulted with relevant government agencies consistent with Water Code Section 13144?	The SWRCB has distributed the proposed Policy widely for comment. We have received comments from Federal, State and local agencies. Additionally, the SWRCB has also consulted with other State agencies through the State Clearinghouse. During the development of many of the proposals in the FED, the SWRCB consulted with OEHHA, DPR, DHS and DFG.	No	
28.3	How will the SWRCB meet the requirements for peer review?	In compliance with Health and Safety Code Section 57004, the SWRCB has conducted an independent peer review of the FED. Scientists at the University of California have reviewed the FED.	No	
28.4	The proposed Policy could mislead the public into believing that the RWQCBs are able to evaluate years of planning, study, analysis, monitoring, review inherent with technical and policy wisdom not available to other agencies, and provide remediation plans. The proposed Policy should provide for a phased approach to address such issues in a logical manner.	It is possible that the public is confused by the proposed Policy. As long as the proposed Policy sets out flexible approaches and consistent guidelines, the RWQCBs will be able to develop legally and scientifically defensible cleanup plans that can be implemented. The FED does establish a phased approach to developing the cleanup plans.	No	
28.5	What are the relationships between all the cleanup activities in the Regions relative to the BPTCP planning efforts? What justifies omission of some sites? How do other State and Federal program cleanup actions relate?	The cleanup plans are a way for the RWQCBs to organize their efforts to remediate the worst sites in enclosed bays, estuaries and the ocean. The cleanup plans are intended to bring together regional efforts, not serve as a new, independent planning effort. Sites that do not meet the specific definition of a toxic hot spot are omitted.	No	
28.6	Policy, Page xvii, Section D. In developing a list of preliminary actions, are the RWQCBs to rely upon their own experience or upon the development of data equivalent to a Remedial Investigation/	The RWQCBs need to rely on their own experiences and their knowledge and understanding of problem sites. The BPTCP planning efforts are not exactly the same as other State and Federal efforts. Perhaps	No	Policy, page xvii, Section D

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	Feasibility Study?	the RWQCBs will be able to use information from different programs to develop cleanup plans such as those discussed in the comment.		
28.7	The FED and proposed Policy make reference to the need for evidence. Are these references to circumstantial evidence, direct evidence, preponderance of the evidence? Should not the proposed Policy give instructions on what the burden of proof requirement will be?	The proposed Policy establishes a definition of a toxic hot spot that can be used consistently throughout enclosed bays and estuaries. The RWQCBs are required to make sure the conditions for a toxic hot spot are present before a site is classified as a candidate toxic hot spot. Where flexibility is provided (e.g., toxicity assessments and chemical concentration interpretation), the RWQCBs are afforded discretion. The proposed Policy provides the SWRCB's views on the burden of proof necessary to identify toxic hot spots.	No	
28.8	With respect to reevaluation of WDRs, if dischargers are not identified can an already identified discharger take action to include others? How will reevaluations be scheduled? Will reevaluation trigger EPA Region 9 review? Will general permits be examined?	Please refer to the response for Comment 12.48. It is premature to discuss these issues before the RWQCBs have developed their final toxic hot spot cleanup plans. These topics should be discussed at the RWQCB hearings on the proposed cleanup plans and when the SWRCB considers the consolidated plan. A new section has been added the proposed Policy for issues to be considered by the SWRCB in development of the consolidated plan.	Yes	Policy, prevention
28.9	What are the relationships to the National Toxics Rule, Implementation Policy, 303(d)/TMDL efforts, watershed protection planning, 319 and 205(j) planning, and consistency in remediation alternatives and costs?	The National and California Toxics Rule will (if approved) ultimately provide water quality criteria that could be used in identifying toxic hot spots. The implementation Policy will be an important Policy when the RWQCBs begin the process of implementing Section 13395 (after the consolidated plan is approved) because it will provide guidance on developing WDR limitations. Watershed planning, 319, and 205(j) are important mechanisms to provide funding and planning for addressing nonpoint sources, identifying sources and implementing some forms of corrective actions. Remediation alternatives and costs will necessarily be region- and, in most	No	FED, prevention

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		cases, site-specific. In all cases, it is the intent that the RWQCBs consider a wide range of alternatives for addressing problems.		
28.10	A 30 day time extension on the close of the record is requested to allow much of the regulated community to focus on the issues and provide the needed input to improve the proposed Policy.	The hearing record was extended from May 11, 1998 to May 15, 1998.	No	
28.11	Data has been used in a positive way to formulate planning, identification and consideration of other SWRCB programs has been considered to some extent, creative and effective use of CEQA is proposed in concept, current known technologies for addressing sediment pollution are drawn together effectively, and the FED is logically organized.	Comments acknowledged.	No	
28.12	Listing an entire water body will not solve water quality problems and will assure they will never be solved.	Please refer to the response for Comment 3.1.	No	Policy, definition
28.13	Policy, Page xxi, Ranking Criteria. Is the "value of the water body" the same as described in the Clean Water Strategy or the 303(d) listings?	It is not the same as described in the Clean Water Strategy or in the 303(d) process. The guidance given is meant for the RWQCB to use the ranking criteria provided but if there are additional considerations about special water bodies or portions of water bodies, those considerations should be factored into the decision. It is impossible to incorporate those factors on a Statewide level into the proposed Policy because they are water body-specific.	No	Policy, ranking criteria
28.14	Related to the water quality objectives ranking criterion, it seems that data 10 years old may be too old for purposes of ranking.	Please refer to the response to Comment 12.27.	No	Policy, ranking criteria
28.15	Related to the water quality objectives ranking criterion, the terms "regularly", "occasionally" and "infrequently" should be defined.	This criterion is more clearly defined in Alternative 3; however, this criterion is very dependent on the data available to the RWQCBs. The frequency of the exceeded water quality objective should be left up to the RWQCB so a fair determination with site-specific	No	Policy, ranking criteria

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		information can be made. Please refer to the response for Comment 5.15.		
28.16	The rationale for using an areal extent criterion for ranking seems backward.	The RWQCBs are not required to make a "high" or "moderate" determination for the areal extent ranking criterion. The RWQCB may therefore discount smaller sites or increase their priority based on RWQCB priorities. The reason for the criterion is that an estimate of the areal extent of the toxic hot spot should be included in the ranking process and regional priority should be established by the RWQCBs.	No	Policy, ranking criterion
28.17	"Pollutant source" and "source" should be defined. The definition should include more than dischargers who hold WDRs.	Please refer to the response for Comment 28.1. Pollutant source is being dropped as a ranking criterion. "Source" is a discharger of pollutants.	Yes	Policy, ranking criteria
28.18	The proposed ranking criteria should allow for more than a summary description of the ongoing regulatory efforts.	The appropriate place for a description of the ongoing regulatory efforts is in the "summary of actions by the regional board" section required by Water Code Section 13396(h).	No	Policy, ranking criteria
28.19	The ranking criteria should include a value for the interrelationships of existing programs giving priority to sites with the framework for watershed management.	This suffers from the same problems as the pollutant source criterion and therefore should not be used.	No	Policy, ranking criteria
29.1	The use of criterion #3, the issuance of a health advisory against fish consumption, to automatically designate a site as a toxic hot spot, results in a designation that is overly broad and in effect, meaningless.	Please refer to the Response for Comment 3.1.	No	Policy, definition
29.2	The use of "pollutant source" as a criterion in the Ranking Process.	Please refer to the Response for Comment 3.2.	Yes	Policy, ranking criteria
29.3	Both government and private funds are limited and every effort should be made to avoid redundancy and duplication in prevention efforts under the BPTCP.	Comment acknowledged.	No	

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30.1	The BPTCP should be developed as part of an integrated watershed management approach.	Comment acknowledged.	No	
30.2	The definition of a candidate toxic hot spot does not embody a weight-of-evidence approach focused on sediment pollution. The definition is overly broad.	The definition of a toxic hot spot addresses the mandates of the Water Code (Section 13391.5(e)) and gives guidance on the various conditions that need to be met to designate a candidate toxic hot spot. The definition addresses both water and sediment problems as well as aquatic life and human health protection (as required by law).	No	Policy, definition
30.3	Address water quality problems under other existing SWRCB programs.	If problems are being addressed by other programs the sites should not be exempted or removed from the cleanup plans. The Water Code requires that the RWQCBs identify efforts to address the identified problems. The proposed Policy requires RWQCBs to identify actions underway and gives guidance on other factors that are needed in the prevention section of the Policy. Some water quality problems may not be addressed by existing programs, such as pesticides in the Sacramento River/San Joaquin River Delta.	No	Policy, prevention
30.4	Use alternate mechanisms to address fish tissue problems. It is inappropriate to use health advisories and elevated tissue concentrations as indicators of impairment. Focus on sediments and benthic effects.	Please refer to the response for Comment 3.1 and 13.29.	No	Policy, definition
30.5	Redefine the candidate toxic hot spot definition to require that a site meet more than one of the conditions. The definition should also allow for delisting sites.	This alternative would make it more difficult for a site to be included on the candidate toxic hot spot list. It also seems to conflict with the statutory definition of a toxic hot spot because it requires more than one condition to be met to have a hot spot while the Water Code definition does not. Please refer to response for Comment 3.6 with respect to de-listing sites.	No (for change to definition) and Yes (for de-listing).	Policy, definition
30.6	Base the ranking criteria risks to human health and aquatic life and not on factors related to the ease or expense of cleanup.	This proposal would conflict with the direction given in Water Code Section 13393.5.	No	Policy, ranking criteria

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30.7	Remove pollutant source from the ranking criteria.	Please refer to the response for Comment 3.2.	Yes	Policy, page xxii
30.8	Streamline ranking criteria by performing ranking in two steps: (1) base first ranking on environmental impacts, and (2) use weighted areal extent and remediation potential ranking criteria subsequently.	This alternative is virtually the same as the toxic hot spot identification and ranking provided in the FED. The apparent difference is that all environmental impacts have different unspecified weights. The advantages of using this approach are unclear and do not seem to streamline the process.	No	Policy, ranking criteria
30.9	Define toxic hot spots using categories like "significantly contaminated sediment sites" based on the number of listing criteria met.	This approach is very similar to the BPTCP Advisory Committee recommendations developed in October 1996. These categories work well if human health is not considered in the ranking. We are unaware of reference sites related to human health concerns. In accordance with the Water Code, human health must be considered by the SWRCB and RWQCBs in identifying and ranking toxic hot spots.	No	Policy, definition, ranking criteria
30.10	The proposed policy fails to address any non-sediment impairments, the associated cleanup methods and costs for remediation.	Non-sediment impairments are considered in the definition and ranking of sites. Methods and costs are not included in the Policy because water remediation methods are very site-specific and discharge-specific. The proposed Policy has been revised to present some considerations for assessing costs of remediation for water-related toxic hot spots. The FED has been revised to present water treatment technologies, expected effluent quality with different methods and estimated costs.	Yes.	Policy, xxiv+
30.11	Narrow the definition to address sediment pollution only.	The Water Code requires the identification of toxic hot spots in sediment and water (Section 13391.5(e)). The SWRCB would not be able to comply with the Water Code if the definition were focused exclusively on sediment pollution.	No	Policy, definition
30.12	Delete or move tables of methods to an appendix. Acknowledge that more detailed analyses are required to carry out the plans.	The tables seem to be more useful if in the text. The proposed Policy already acknowledges that more detailed assessments and analysis should be performed by responsible parties (please refer to Policy, page xvii, Section E).	No	Policy, remediation alternatives

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30.13	The proposed Policy is too narrowly focused on point source dischargers. RWQCBs should be directed to develop site- and pollutant-specific strategies. Acknowledge improvement in POTW discharge quality.	Agreed. Please refer to the response for Comment 28.1.	Yes	Policy, page xliii
30.14	Before WDRs are reevaluated a source assessment should be completed.	This may be a likely outcome of the reevaluation but the decision to complete this study should be made on a region- and problem-specific basis. Please refer to the response for Comment 28.8.	No	Policy, prevention
30.15	Revise the wording of the prevention section to broaden focus to all contributing sources. Use language from October 1997 Guidance Document.	Please refer to the response for Comment 28.1.	Yes	Policy, page xliii
30.16	Executive Director approval of variances is superfluous. Allow RWQCB Executive Officer to approve variance.	This variance provision is provided so the RWQCBs can use an alternate approach not listed in the Policy. This provision is provided so the discussions on alternate approaches begin before the RWQCB hearings and so the approach can be incorporated into the SWRCB consolidated plan. Because the time is so short, it is essential that any changes be rolled into the cleanup plans early so the SWRCB can still meet the June 30, 1999 deadline. It does not make sense to delegate this responsibility to the RWQCB Executive Officer. Please refer to the response for Comment 13.8.	No	Policy, Introduction
30.17	The proposed Policy should be very specific on identifying present and historical loadings, how sources will be identified, and assigning responsibility.	This is a problem- and region-specific effort that should be completely delegated to the RWQCB because they know the conditions and discharges in their Regions the best. Any guidance the SWRCB might give may negatively influence source identification.	No	Policy, mandatory requirement
30.18	Sites being addressed by other agencies or programs should not be characterized as candidate toxic hot spots and should not be part of the regional cleanup plan.	Please refer to the response to Comment 7.11, 7.12, and 30.3.	No	Policy, prevention, mandatory requirement

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30.19	Policy, Page xvii. It may be impossible to restore a toxic hot spot to an unpolluted condition.	Please refer to the response to Comment 30.23.	Yes	Policy, page xvii
30.20	A requirement for potential dischargers to prepare a proposal for site remediation is premature and should not be included in the regional cleanup plans.	We disagree. More detailed assessments of the problem, areal extent, and remediation options should be carried out by the responsible parties in order to implement the cleanup plans after the consolidated plan is complete.	No	Policy, remediation alternatives
30.21	Require a source assessment for toxic hot spots to include data supporting identification of potentially responsible parties.	Please refer to the response to Comment 30.17.	No	Policy, remediation alternatives
30.22	Create a separate category for sites being addressed by other agencies or programs. Action by another agency should be grounds for a site not being listed.	This recommendation seems contrary to the Water Code definition of a toxic hot spot (Section 13391.5(e)) and requirements for what should be included in the cleanup plans (Section 13394). If a site meets the requirements for the definitions it should be included on the candidate list.	No	Policy, definition, remediation alternatives
30.23	Consider alternatives for defining "how clean is clean."	Specific guidance on this issue may make it more difficult to address problem site remediation but general guidance seems appropriate. A section will be added to the proposed Policy to address this issue and "unpolluted condition" comments.	Yes	Policy, page xvii
30.24	Consider alternatives to requiring dischargers to prepare site remediation action proposals. Alternatively, consider amending Basin Plans to include these requirements.	Please refer to the response to Comment 30.20. These requirements could be put in Basin Plans at the discretion of the RWQCBs.	No	Policy, mandatory requirement
30.25	The process for adopting Policies and Cleanup plans are not certified as functionally equivalent to the CEQA process. If these plans are adopted under these provisions they are, in effect, Water Quality Control Plans. The SWRCB must apply for certification for the Cleanup Plan adoption.	We disagree. This process has been used successfully to adopt Policies. Granted the contents of cleanup plans differ from water quality control plans, but there is no reason for the process and considerations for their adoption to be different.	No	FED, policy adoption process
30.26	We strongly object to the RWQCBs adopting the regional cleanup plans without complying with	The RWQCB cleanup plans do not require action until they are approved and implementation begins.	No	FED, adoption

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	CEQA.	Implementation may take the form of WDR amendments, cleanup and abatement orders, or other mechanisms which themselves will be the subject of CEQA compliance. To perform CEQA analyses at this time is duplicative and wasteful, since the implementation mechanisms are currently unknown.		process
30.27	A full environmental impact report is required for the consolidated cleanup plan because the process for developing cleanup plans has not been certified as being functionally equivalent to the CEQA process.	Please refer to the response to Comment 30.25.	No	FED, adoption process
30.28	More information should be provided on why the preferred alternatives were selected.	The FED provides ample information on why the preferred alternative was selected. Pages 102 through 117 provide a baseline description and for each issue: existing RWQCB practices, the proposed policy, differences between policy and existing practices, potential adverse effects, and potentially significant adverse effects.	No	FED, environ-mental impacts
30.29	The SWRCB has failed to analyze the potential adverse effects of the proposed Policy. The SWRCB is required to "generally assess the potential environmental impact[s]" of the Policy.	The FED provides ample information on baseline conditions and the affects the proposed Policy will have on those conditions. Pages 102 through 117 provide a baseline description and for each issue: existing RWQCB practices, the proposed policy, differences between policy and existing practices, potential adverse effects, and potentially significant adverse effects. Impacts of the regional plans and the subsequent consolidated cleanup plan will be addressed when they are developed and proposed for adoption.	No	FED, environ-mental impacts
30.30	The environmental checklist are inadequate and must be revised to include the possibly significant economic impacts on dischargers and the public and these considerations must take place at the earliest possible stage (i.e., at the RWQCB level).	Partially agree. The environmental checklist is appropriate for the adoption of the proposed Policy. We agree that the environmental considerations should take place at the earliest possible stage which begins when the final regional cleanup plans are developed. Also, please refer to the response to Comment 30.29.	No	FED, environ-mental checklist

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31.1	The Policy, as a whole, represents a consistent and scientifically balanced approach in addressing the issues associated with THS.	Comment acknowledged.	No	Policy
31.2	Support the establishment of the terms "candidate" and "known" in the definition of THS.	No response is necessary.	No	Policy, definition
31.2a	Support the state's approach of assigning a "No Action" value to any criterion which has not supporting data.	No response is necessary.	No	Policy, ranking criteria
31.3	Supports the state's decision to preclude the use of data which is older than 10 years.	No response is necessary.	No	Policy, ranking criteria
31.3a	Supports the state's recognition of the importance in using data for assigning ranking criteria which was the result of "appropriate analytical methods and quality assurance."	No response is necessary.	No	Policy, ranking criteria
31.4	Supports the state's recognition of the evolving and emerging nature of remediation techniques and technologies by not prescribing an approach in the Policy, but rather allowing the respective RWQCBs and/or responsible dischargers the flexibility to identify and develop the appropriate cleanup plans at the time.	No response is necessary.	No	Policy, remediation
31.4a	Supports the state's recognition that a variance mechanism for developing site-specific alternative cleanup approaches is an important element of the Policy.	No response is necessary.	No	Policy, Introduction
31.5	Supports the state's position that analyses of community composition or population of a site with respect to impacts associated with the presence of toxics can only occur after all other influencing factors are excluded.	No response is necessary.	No	Policy, definition
31.6	Supports the state's position that the various RWQCBs must complete their regional plans for considering what actions are necessary to address	No response is necessary.	No	Policy, adoption process and

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	THS before initiating any enforcement actions or revising WDRs.			definition
31.7	Page xiv, Item No. 5 - No overall ranking is given in the toxic hot spot tables. Provide a mechanism for prioritizing the list for an overall ranking of all the THS sites within a region.	Agree. A new column will be added to the list for the overall ranking of a site within the Region.	Yes.	Policy, page xxi and xlvi
31.8	Review the historic to present data from each potential discharger before listing them as a potential source likely to have discharged or deposited the pollutant(s) identified in the THS.	The RWQCBs will use their understanding of the discharges to sites and water bodies in order to make this assessment. The assessment will certainly be made with information available to the RWQCBs. It is not advisable to place specific guidance on what information a RWQCB should use specifically because the amount and kinds of information will vary significantly from site to site.	No	Policy, mandatory requirement
31.8a	The RWQCBs should consider the mobility of the toxicants, the effects of currents and natural events (such as upwelling) in the toxicants distribution, the presence of the pollutant in the discharge, the concentration, total amount potentially discharged, proximity of the discharger to the THS and likelihood for the discharge to reach the THS.	Please refer to the response for Comment 31.8.	No	Policy, mandatory requirement
31.8b	Liability for site cleanup must be apportioned according to the responsibility for the THS' existence. The state should consider appropriating money from the State General Fund for the purpose of establishing a cleanup fund for those sites where the responsible party(ies) is (are) unknown or cannot fully pay for cleanup.	This comment will be addressed when the SWRCB develops the consolidated toxic hot spot cleanup plan. It is premature to address this issue now as part of the proposed Policy. A new section will be added to the proposed Policy on issues that may be considered in the consolidated cleanup plan.	Yes	
31.9	High Priority needs to be clarified.(Page xv, Item 6)	Please refer to the Response for Comment 31.7.	Yes	Policy, page xv, Item 6
31.10	It is unreasonable and impractical to require a site to be restored to an "unpolluted" condition. (Page xvii, Item 6D)	Please refer to the Response for Comment 30.23.	Yes	Policy page xvii Item 6D
31.11	A candidate THS is being identified as one where any one of a list of conditions is met. This is	Please refer to the Response for Comment 30.5.	No	Policy, definition

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	Inconsistent with the "weight of evidence" philosophy.			
31.12	The State must move rapidly forward in the establishment of numeric sediment quality objectives.	No response is necessary.	No	
31.13	If estimates for a criterion are made, the basis for such a judgment must be clearly stated and documented by the RWQCB. (Page xxi, Ranking Criteria)	Agree. The RWQCBs should describe the reasons for ranking.	Yes	Policy, Page xxi
31.14	The terms "regularly", "occasionally", and "infrequently" are too subjective and need to be defined. (Page xxii, Water Quality Objectives)	Please refer to the Response for Comment 5.15.	No	Policy, ranking criteria
31.15	Confirmation of the identity or partial identity of a pollutant source should also be required as part of the ranking criteria. The criteria used in ranking the THS should not only consider the pollutant source but also the nature of the toxin for cleanup purposes. (Page xxii, Pollutant Source)	Please refer to the Response for Comment 3.2.	Yes	Policy, ranking criteria
31.16	The explanation of scoring in the areas of feasibility and effectiveness seem to be reversed. (Page xlii, Table 14)	These values are not reversed. Cf. NRC, 1997.	No	Policy, page xlii, Table 14
31.17	The wording within the Policy should remain flexible in the selection, use, and future use of alternative technology or alternative approaches which can also meet the goals and objectives of THS prevention. (Page xliii, Prevention of THS)	Agree. No change is necessary.	No	Policy, page xliii
31.18	Alternative approaches to developing a cleanup plan should not have to demonstrate that the approach will provide better protection. (Page xliv, Item No. 4)	This finding is necessary so the "no remediation" is used as a last resort. If it is the best option then beneficial uses will be protected at equal or better levels. This statement will be clarified to add "equal to or" to the statement.	Yes	Policy, Page xxxvii-xxxviii
31.19	The Policy does not provide a mechanism for delisting or reranking a THS. Such a mechanism needs to be incorporated.	Please refer to the Response for Comment 3.6.	Yes	

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31.20	The regional THS plans should be required to include a reference section of all material used to support their decisions and a fact sheet which substantiates all their judgments.	Agree. The RWQCBs should provide the stated information. It will not only provide the necessary justifications but provide information of the potential environmental impacts of the proposed actions.	Yes	Policy, mandatory requirements
32.1	The State Board must not allow the dischargers to determine program policies - especially on issues such as protecting public health. The SWRCB should use water quality objectives and health advisories in the definition of a toxic hot spot.	Please refer to the response for Comment 3.1 and 13.25.	No	Policy, definition
32.2	There is a need for consistency from region to region in toxic hot spot listing and ranking criteria. "P" values used in the determination of toxicity should be consistent from Region to Region.	Please refer to the response for Comment 6.3.	No	Policy, definition
32.3	The use of natural remediation potential, identification of pollutant source and the estimated areal extent of the hot spot should not be used as ranking criteria.	Please refer to the response for Comment 10.5.	No	Policy, ranking criteria
32.4	The proposed pollution prevention policy is inadequate because it does not require specific actions, rather it "promotes", "encourages" and "considers" actions.	Please refer to the response for Comment 3.5.	No	Policy, prevention
33.1	Supports the State Board's preferred definition of a toxic hot spot, designating "candidate" toxic hot spots and "known" toxic hot spots.	No response is necessary.	No	Policy, definition
33.2	Define the term "site" more clearly.	The RWQCBs should have flexibility in determining what they consider a site to be. The SWRCB could very clearly define "sites" but the definition might not be applicable or useable under the many circumstances and conditions found in the State's diverse enclosed bays and estuaries.	No	
33.3	State Board should outline what resources exist when a Regional Board does not follow the State Board policy mandates.	It appears all the RWQCBs have complied with the tenants of the specific definition of a toxic hot spot presented in the October 1997 guidance document. If RWQCBs do not comply with the Policy, once approved, the final cleanup plans could be remanded for revision.	No	

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33.4	For those stations which received a single toxicity hit with elevated levels of toxic pollutants, the Regional Board should be required to go back and take another sample.	Comment acknowledged.	No	Policy, definition
33.5	There have been inconsistent sampling strategies and standards used in defining toxicity and chemistry exceedances [sic].	Please refer to the Response for Comment 6.3.	No	Policy, definition
33.6	Disagree with the State Board's recommended criteria for ranking hot spots. The ranking criteria should not be given equal weight.	Giving the ranking criteria weights is similar to Alternative 3. It does not appear that additional information will be gained by setting up more categories. The selected alternative allows the SWRCB to satisfy the Water Code requirements for the ranking criteria and provides the RWQCBs with a way to discriminate the worst sites.	No	Policy, ranking criteria
33.7	Criteria should not be given a "no action" or "zero" score when information does not currently exist.	If the information does not exist or is unavailable then the score should be that the site cannot be ranked for the criterion. There is no reason to give a site a ranking if information is not available.	No	Policy, ranking criteria
33.8	The Regional Board and its staff should not have the discretion to determine which sites should be prioritized for further action.	The Water Code says the RWQCBs should establish the ranks in the regional cleanup plans (Section 13394).	No	Policy, ranking criteria
33.9	Continuing to operate under current management strategies, as now recommended, is not enough. EHC requests that all identified pollutant sources at known toxic hot spots be required to conduct an independent pollution prevention audit.	This type of study should be made on a pollutant- and region-specific basis.	No	Policy, prevention
34.1	Fish consumption advisories should remain a criteria for listing sites as "candidate" toxic hot spots.	Please refer to the response for Comment 3.1.	No	Policy, definition
34.2	Stay focused on the legislative intent of the BPTCP and provide maximum protection for human health and the environment.	No response is necessary.	No	
35.1	BPTCP does not generally apply to currently registered pesticides because these pesticides do not contribute to toxic hot spots.	The BPTCP applies to enclosed bays, estuaries and the ocean. Pesticides can contribute to impacts on beneficial uses in water or sediments. Registered	No	Policy, definition

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		pesticides can be considered pollutants if these are concentrations in water or sediments and if they contribute to or cause the observed effects on organisms.		
35.1a	The term "have accumulated" (in Water Code Section 13391.5(e)) should be reserved to describe substances of which concentrations increased in water or sediment over time. A toxic hot spot is an area where these substances reside and are still continuously available to threaten beneficial uses.	"Accumulated" is not specifically defined in the Water Code. The dictionary definition of "accumulated is "amassed" or "piled up". No time frame is given in the Water Code for how long pollutants need to accumulate before being considered. The definition for "hazardous substances" has been used to determine if a pollutant can be addressed by the BPTCP. "Hazardous substances" are defined in the Health and Safety Code Section 25281, in part, as: "All of the following liquid and solid substances: (A) Substances on the list prepared by the Director of Industrial Relations pursuant to Section 6382 of the Labor Code. (B) Hazardous substances, as defined in Section 25316." In Health and Safety Code Section 25316 "hazardous substances" are defined, in part, as: "Any element, compound, mixture, solution, or substance designated pursuant to Section 102 of the federal act (42 U.S.C. 9602) ." 40 CFR Section 302.4 contains a list of hazardous substances designated under Section 102. Many pesticides (including diazinon and chlorpyrifos) are included in the table of hazardous substances.	No	Policy, definition
35.1b	The definition of toxic hot spots may also exclude most pesticides from the BPTCP because pesticides do not qualify as hazardous substances.	Please refer to the response for Comment 35.1a.	No	Policy, definition
35.2	DPR believes that the BPTCP does not apply to pesticides because the SWRCB did not confer with	The SWRCB staff have conferred with DPR at meetings held in November 1997 and December	No	

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	DPR prior to the completion of this draft guidance policy.	1997. DPR and the SWRCB have conferred concerning the BPTCP monitoring activities (which are included in the Management Agency Agreement).		
35.3	There should be public review for candidate toxic hot spots. The public cannot differentiate between candidate and known toxic hot spots. Eliminate candidate toxic hot spot designation.	Candidate toxic hot spot designations will be reviewed at the RWQCBs in public meetings and adopted at RWQCB meetings. The difference between candidate and known toxic hot spot designations is that both the RWQCBs and the SWRCB have adopted the list. If only RWQCB has adopted the list the sites are still candidates. The candidate designation is needed to avoid starting the reevaluation of WDRs required by Water Code Section 13395.	No	Policy, definition
36.1	The review period is closed and none of the state agencies have comments.	No response is necessary.	No	
37.1	The guidance document should not be including products like diazinon in the Toxic Hot Spot Cleanup Plans or given "high" priorities for TMDL issues. Information on the degradation of diazinon is provided.	Comment acknowledged.	No	Policy, definition
38.1	Correct typographical error in first paragraph regarding "p" values.	Accept.	Yes	FED, definition
38.2	It is not appropriate to use the "S" statistic in all circumstances. Use an alternate "K" statistic when there is variation in time and space.	Accept. The text describing interpretation of toxicity data in the FED has been revised.	Yes	FED, definition
38.3	The paragraph was drawn from the early drafts of the San Francisco Bay reference site report. Use an alternate description of the considerations for establishing "p" values.	This is not accurate. The paragraph was drawn from the SPARC recommendations. The revised language that is proposed revises the SPARC recommendations to bring undefined terms such as "Optimal conditions" that clouds the ideas expressed rather than clarifies. Also the revised descriptions discusses setting the "p" values based on the overall pollution of a water body (higher "p" values for more polluted water bodies and lower "p" values for cleaner water bodies). From a policy perspective, the	No	FED, definition

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		evaluation may be the opposite: if the water body is very polluted then "p" values may be set low to reduce the number of sites that are identified as toxic hot spots so the existing regulatory framework is not overloaded. In any case, it is a Region-specific decision on sites depending on Regional priorities.		
38.4	In the absence of a reference envelope, the toxicity evaluation point should be (1) t-test between laboratory control and organism response, and (2) organism response is lower than 90th percentile of the minimum significant difference for each specific test organism. The proposed Policy as written is not accurate in this respect.	Agree this change should be made. Statistical significance in t-tests should be determined by dividing an expression of the difference between sample and control by an expression of the variance among replicates. We should have used a "separate variance" t-test that adjusted the degrees of freedom to account for variance heterogeneity among samples. If the difference between sample and control is large relative to the variance among replicates, then the difference is determined to be significant. In many cases, however, low between-replicate variance will cause a comparison to be considered significant, even though the magnitude of the difference can be small. The magnitude of difference that can be identified as significant is termed the Minimum Significant Difference (MSD), which is dependent on the selected alpha level, the level of between-replicate variation, and the number of replicates specific to the experiment.	Yes	Policy, page xviii-xviv
39.1	We believe that pesticides that do not "accumulate in the water or sediment", including chlorpyrifos, a common active ingredient used for insect control, should not be characterized as responsible for Toxic Hot Spots or included in Regional Hot Spot Cleanup Plans.	Please refer to the response for Comment 35.1a.	No	Policy, definition
39.1a	The policy should reflect the concern with accumulations of pollutants and not transient exposures in the water column.	Please refer to the response for Comment 35.1a.	No	Policy, definition
39.2	We are concerned that insufficient attention has been paid in the proposed Guidance to the unique	Appropriate attention has been placed to identify impacts on beneficial uses and the pollutants that	No	Policy, definition

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	approaches appropriate for analysis and management of the potential water quality impacts of pesticides. Adoption of the proposed Policy will compromise the integrity of the PMP and MAA by creating a unnecessarily redundant and inappropriate program.	contribute to or cause the impacts. The integrity of the MAA implementation is not compromised; it appears to be enhanced by using the data from a monitoring program listed in the MAA to address pollutants. Also, please refer to the response for Comment 14.3.		
39.2a	Existing programs, specifically the PMP, which implements MAA between the SWRCB and DPR, provide appropriate mechanisms to manage water quality concerns related to pesticides.	Please refer to the response for 14.3.	No	FED, prevention
39.2b	Adoption of the Guidance as proposed will compromise the effectiveness of the PMP and integrity of the MAA by creating an unnecessarily redundant and inappropriate program.	Please refer to the response for Comment 39.2.	No	
39.3	Guidance for programs to address pesticides and surface water quality should recognize the unique nature of the extensive scientific information that supports their registration and the program should utilize this information to make more refined, science-based decisions about their status in the environment. We recommend that assessments should be based on risk of an adverse effect, not hazard.	The BPTCP monitoring activities are based on measures of effect (e.g., measures from toxicity tests). The procedures and measurements used in the BPTCP have been peer reviewed (SPARC, 1997). With the definition of the toxic hot spot, the RWQCB are granted flexibility in determining what exposures are appropriate. For example, in Region 5 the RWQCB has used toxicity tests coupled with toxicity identification evaluations to carefully decide if there is reason to believe if effects on organisms are related to relatively short toxic pollutant exposure. The approaches used by the BPTCP are scientifically defensible and are consistent with the Water Code.	No	
39.4	Only persistent chemicals or those that are continuously discharged are considered with the definition of a toxic hot spot.	This is not true. Please refer to the response for Comment 35.1a.	No	FED, page 6
39.5	The ranking criteria should consider only impacts on vertebrates.	"Toxic hazards to fish, shellfish and wildlife" can refer to vertebrates and any other type of organism (and life stage). There is not precise limits placed on what type of organisms or life stages can be used for ranking purposes.	No	FED, page 7

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39.6	Emphasizes that weight of evidence involving multiple trophic levels in an ecosystem best characterize an environment of interest. The staff's proposal is far simpler than suggested in the 1991 workshop.	The approaches discussed at the workshop and the approaches presented to SPARC (SPARC, 1997), embody a weight-of-evidence approach that is scientifically defensible and meets the requirements of the Water Code.	No	FED pages 26-27
39.7	These higher priority criteria in Table 2 are not consistently implemented in the policy recommended by staff.	The approaches used by the BPTCP to identify toxic hot spots addresses many of the criteria recommended for a sediment quality assessment strategy. No approach completely addresses all the criteria, the approach that we ultimately used satisfies most of the criteria.	No	FED page 28
39.8	The best available scientific information requires both hazard and exposure characterization of sufficient detail to predict actual area of impacted aquatic habitat and the temporal pattern of these impacts.	Chemistry measurements, toxicity test results and community impacts are separate lines of evidence that assist he RWQCB in making assessments of whether sites are impacted. Site ranking is based on the information available.	No	FED, page 45
39.9	The full scope of impact should be determined prior to committing resources to cleanup.	Comment acknowledged. Ranking is the first step in developing cleanup plans. It is anticipated that sites will be more fully characterized during the implementation of the cleanup plan.	No	FED, page 46
39.10	Transient toxic effects on populations in localized areas typically are mitigated by recolonization from unaffected surrounding areas, especially in the water column of flowing systems.	Comment acknowledged. Complete loss of beneficial use is not necessary to demonstrate that beneficial uses are impacted.	No	FED, page 47
39.11, 39.12	Ranking Criteria: Alternative 3 appears to represent better science than the simpler Alternative 4.	Comment acknowledged.	No	FED, pages 50-51
39.13	The terms "regularly", "occasionally", and "infrequently" suggest that the intent is to define the probability of exposure and imply that a risk-based assessment should be carried out. We support the use of probabilistic risk assessment methods to achieve this goal.	Please refer to the response for Comment 5.15.	No	FED, page 59
39.14	The agricultural industry and those who benefit from urban pest control have a critical stake in the development of the toxic hot spots' process and	Please refer to the response for Comment 30.29 and 30.30.	No	Environ-mental Checklist, I.d

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	policy. The policy will have profound adverse impacts on agriculture and urban environments that depend on pest control.			
39.15	We believe there are effective means through existing programs to reduce the offsite movement of pesticides in both the agricultural and urban environment.	Comment acknowledged.	No	
39.16	We do not believe the proposed Guidance should allow the identification of pesticides that do not accumulate, but may be present in transient, episodic events to be interpreted as causal of Toxic Hot Spots, and incorporated into Regional Board Cleanup Plans.	Please refer to the response for Comment 35.1a.	No	Policy, definition
39.17	We believe existing programs implementing the MAA between DPR and the Board provide appropriate, effective mechanisms to address pesticide concerns in surface water.	Please refer to the response for Comment 14.3.	No	Policy and FED, prevention
40.1	It is inappropriate to include pesticides that are currently being used and do not "accumulate" in a program that focuses on persistent materials.	Please refer to the response for Comment 35.1a.	No	Policy, definition
40.2	An example of a episodic nature of a pesticide is provided to show that the pollutant is not "accumulated".	Comment acknowledged.	No	Policy, definition
41.1	Support and incorporate by reference the comments made on behalf of Tri-TAC and the California Association of Sanitation Agencies.	Those responses to the Tri-TAC/CASA comments are listed under Commenter 30 (above).	No	
41.2	The definition of "candidate toxic hot spot" contained in the Guidance will cause nearly every water body in the State with data available to be identified as a toxic hot spot. More than one criterion in the existing definition should be used to identify hot spots.	The first statement is not correct. Sixty-three sites were identified as candidate toxic hot spots using the definition in the proposed Policy. This does not comprise all water bodies with data available. Please refer to the response for Comment 30.5 for response to the "multiple indicator" comment.	No	Policy, definition
41.3	The Guidance's proposed identification and characterization processes could result in a circumvention of the California Water Code. (Sections 13000, 13241). The guidance proposes adoption of a "standard".	The proposed Policy does not circumvent the Water Code. Standards are contained in WDR and NPDES permits. Standards are not a part of the proposed Policy.	No	Policy, definition

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41.4	Knowledge of "Pollutant Source" should not be a ranking criterion.	Please refer to the response for Comment 3.2.	Yes	Policy, ranking criteria
41.5	Ranking should not be based on exceedances of "criteria".	Please refer to the Response for Comment 12.14.	No	Policy, ranking criteria
41.6	The cleanup plans should be strongly grounded in science and should seriously assess whether and to what extent cleanup of the sites could reasonably be achieved through the coordinated control of all factors which affect the water or sediment quality.	Comment acknowledged.	No	
41.7	The SWRCB should give guidance to the RWQCBs on the appropriate manner for amending WDRs related to cleanup plans.	Please refer to the Response for Comment 12.48.	No	Policy, prevention
41.8	The FED should consider the potential costs associated with implementation of pollution prevention/source control.	This is a site- and problem-specific consideration and should be considered by the RWQCBs, if possible, in developing the regional cleanup plans.	No	FED, environ-mental impacts
41.9	The potential adverse environmental effects of a sediment remediation plan resuspension of contaminants, relocation and disposal of contaminated sediments must be considered at the earliest possible point.	Please refer to the response for Comment 30.29 and 30.30.	No	FED, environ-mental effects
41.10	Cleanup plans and revisions will affect government services, sewage treatment facilities and storm drainage.	Please refer to the response for Comment 30.29.	No	FED, environ-mental effects
41.12	The FED's analysis is far too cursory and narrow	Please refer to the response for Comment 30.29.	No	FED, environ-mental effects
41.13	We would like to encourage the SWRCB to restructure these documents to avoid duplication with existing programs to the maximum extent possible.	Restructuring is not necessary to avoid duplication.	No	

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42.1	The Definition of a Toxic Hot Spot should embody a weight of evidence approach.	The definition does embody a weight-of-evidence approach. Please refer to the Response for Comment 30.5. Both aquatic life impacts and potential impacts on human health are considered in the definition consistent with the Water Code.	No	Policy, definition
42.2	Do not recommend using the current Criteria for ranking. Use criteria developed by the BPTCP Advisory Committee.	Please refer to the Response for Comment 30.9.	No	Policy, ranking criteria
42.3	The appropriate remediation strategy should be directed towards non-point source pollution prevention and watershed management approaches and not expensive sediment methods.	The types of remediation that will be identified by the RWQCBs should specifically address the problem identified. It makes no sense to cleanup sediments if the problem can be addressed by watershed management or other pollution prevention activities. All of the approaches discussed are available to the RWQCBs and should be selected for consideration as needed.	No	Policy, prevention
42.4	The BPTCP should be streamlined and coordinated with other state and federal programs with similar objectives and authorities. Sites covered by other programs should not be listed.	Please refer to the responses for Comments 7.11, 7.12, and 30.3.	No	Policy, mandatory requirement prevention
43.1	The SWRCB/DPR MAA and the PMP have been overlooked.	The FED should acknowledge the MAA and the PMP. The FED has been revised to describe the PMP and MAA.	Yes	FED, prevention
43.2	Consider redundant programs. RWQCBs are crossing over into the NPS management plan and PMP.	The regional cleanup plans are not redundant but rather are another mechanism for addressing water or sediment quality problems. Please refer to the response for Comment 14.3.	No	Policy, prevention
43.3	The proposed Policy will have a major impact on key agricultural growing areas and urban areas where pesticides are used.	Comment acknowledged.	No	
43.4	Listing of pollutants should be consistent statewide.	The RWQCBs are required to list the pollutants that are suspected of causing the toxic hot spot. Considerable discretion is afford the RWQCBs in their descriptions of pollutants. It is agreed that a chemical should not be listed unless there is	No	Policy, mandatory requirement

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		information available to substantiate the finding. We know of no cases in the proposed regional toxic hot spot cleanup plans were pollutant listings were not made with knowledge of the suspected pollutants.		
43.5	Extend the comment period by 30 days.	The comment period was extended from May 11, 1998 to May 15, 1998.		
44.1	As discussed in the hearing, there are significant deficiencies with the SWRCB staff's approach for designating and ranking toxic hot spots.	Comment acknowledged.	No	Policy, definition, ranking criteria
44.2	The Board is going to be provided with significantly unreliable information by its staff on the validity of it's proposed approaches for designating and ranking toxic hot spots.	Please refer to the response for Comment 13.2, 13.4, 13.5, 13.7, and 13.13.	No	Policy, definition, ranking criteria
44.3	If the SWRCB staff disagrees with any of the material I have submitted, I would like the opportunity to enter into a full public, peer review discussion of issues where an independent, unbiased panel of experts could review the issues and advise the SWRCB.	Comment acknowledged.	No	
44.4	The peer review should be one in which no party has the ability to control the results of the review where it is based on the best possible technical information available to develop guidance to the Board on issues and there is an opportunity for those concerned about a particular issue to interact with the peer reviewers.	Please refer to the response for Comment 13.6 and 13.24.	No	
44.5	The focus of this program should be on controlling aquatic life toxicity and excessive bioaccumulation of hazardous chemicals in edible aquatic organisms that cause the organism to be a threat to be used as human food.	Comment acknowledged.	No	Policy, definition
44.6	Strongly support a non-numeric, best professional judgment, weight-of-evidence approach involving aquatic organism assemblage information, aquatic	Please refer to the response for Comment 13.2, 13.7 and 13.13.	No	Policy, definition

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	life toxicity/excessive bioaccumulation information and appropriate chemical information to designate and rank toxic hot spots.			
44.7	The primary problem with the proposed policy is that the State Board staff have persisted with an obviously technically invalid approach of attempting to incorporate chemical information into the sediment quality triad weight-of-evidence approach which does not properly define the relationship between the presence of a chemical constituent in sediments and/or water and the impact on the beneficial uses of a waterbody.	Please refer to the response for Comment 13.2, 13.4, 13.5, 13.7 and 13.13.	No	Policy, definition
44.8	There is no need to use the technically invalid approaches for designating and ranking toxic hot spots proposed by the staff. Use real use impairments.	Please refer to the response for Comment 13.2.	No	Policy, ranking criteria
44.8a	The chemical component of a sediment quality triad should be based on a proper evaluation of the relationship between the presence of a chemical constituent and the adverse impact, i.e. cause of toxicity, source of constituents that bioaccumulate to excessive levels, etc.	Please refer to the response for Comment 13.7.	No	Policy, definition
44.9	The toxic hot spot definition and ranking criteria are unreliable. I have recommended that the SWRCB adopt a Policy that provides the opportunity to appoint an independent, non-State-Board-staff-controlled expert panel representing various stakeholders to develop appropriate toxic hot spot designation and ranking procedures.	Please refer to the response for Comment 13.6 and 13.24.	No	Policy, definition, ranking criteria
44.10	The State board staff's approach which is based on an association/co-occurrence approach is obviously technically invalid for determining the cause of toxicity and/or the source of the toxic components - bioaccumulatable chemicals of concern in designating and ranking toxic hot spots.	Please refer to the response for Comment 13.7.	No	Policy, definition

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44.11	The co-occurrence-based approaches that the State board staff have advocated are obviously technically invalid. The methods are contrived. These chemicals do not cause the observed effects.	Please refer to the response for Comment 13.2 and 13.7.	No	Policy, definition
44.12	Ammonia and hydrogen sulfide are by far the most important cause of sediment toxicity. Co-occurrence values are not a valid basis for establishing a regulatory program in which public entities could become trapped into becoming responsible parties.	Please refer to the response for Comment 12.18.	No	Policy, definition
44.13	A stormwater quality management conference organized by the University of Southern California agree with the approaches advocated by the commenter (e.g., forensic TIE approaches).	Comment acknowledged.	No	Policy, definition
44.14	An environmental group says more hot spots should be identified related to stormwater discharges. This is the type of situation that can develop from inappropriate use of chemical information.	Comment acknowledged.	No	
44.15	Co-occurrence-based values are "junk" science.	Comment acknowledged.	No	Policy, definition
44.16	It is dangerous to assert that elevated concentrations of constituents in sediments are causes of toxicity or bioaccumulation.	Agree. The FED does not say that the sediment values represent levels that cause sediment toxicity. The values have been used to show associations between observed toxicity (beneficial use impact) and chemical concentrations that could contribute to the observed impacts.	No	Policy, definition
45.1	The SWRCB and RWQCBs have obviously put in considerable amount of effort including the use of expert panels (SPARC) and are to be congratulated on their output. In particular, the detailed notes from the committee meetings allowed me to understand their thinking and make an informed peer review.	Comment acknowledged.	No	
45.2	Given adequate reference and control data, field biology assessment (including benthic community structure) should clearly dominate toxic hot spot rankings.	Agree. Field biology should receive higher rankings by the RWQCBs relative to the other measures. The ranking criterion for aquatic life has been changed to reflect this comment. Benthic community impacts alone are not sufficient to identify a toxic hot spot.	Yes	Policy, ranking criteria.

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45.3	The use of the "reference envelope" is not yet appropriate. Small differences may not be detectable. Encourage the publication of this concept as soon as possible in the open peer-reviewed literature.	With the reference envelope we are looking for very large differences between reference conditions and impacted sites. We agree that small differences are not as important in the BPTCP because we are looking for the worst of the worst sites. A publication on the reference envelope as being used in the BPTCP is being prepared. The proposed Policy says to use the reference envelope approach but does not say specifically how to calculate it. If the method changes those changes can be used. The policy provides a mechanism for evaluating toxicity data in the absence of the reference envelope.	No	Policy, definition
45.4	Go farther than the SPARC recommendations. Suggest in the final ranking of candidate toxic hot spots, field biology (including benthic community structure) should be more important than the other two legs of the sediment quality triad.	Partially agree. Please refer to the response for Comment 45.2. Sites should still be ranked as "high" priority if two biological impacts plus chemistry hits are available.	Yes	Policy, ranking criteria
46.1	This is an opportunity for the State Board to provide guidance to the RWQCBs so that this program can be applied consistently throughout the State.	Comment acknowledged.	No	
46.2	More guidance needs to be provided to the Regional Boards for Program consistency.	Please refer to the response for Comment 5.1 and 5.11.	No	
46.3	In the identification of a toxic hot spot, RWQCBs do not always use available data. Include language that mandates the use of readily available data, and cite all data sources. Sites are not listed, although data exists that indicate they should be included.	Please refer to the response for Comment 5.4.	No	Policy, mandatory requirement
46.4	Expand on the triad approach in the document.	Please refer to the response for Comment 5.2.	No	Policy, definition
46.5	Provide justification for determinations of areas of no concern.	Please refer to the response for Comment 5.4.	No	Policy, mandatory requirement
46.6	Priority ranking should be based on good science, and data that is less than ten years old. Also look at studies done with regard to health effects.	Please refer to the response for Comment 5.13.	No	Policy, ranking criteria

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46.7	More clearly define appropriate analytical methods for the Regional Boards' guidance. Define regularly, occasionally, and infrequently. Pollution source should not be used as a criterion.	Please refer to the response for Comment 5.15 and 3.2.	Yes (for "pollutant sources") and No for remainder of Comment.	Policy, ranking criteria
46.8a	Need additional guidance on how to choose a cleanup method.	The proposed Policy provides sufficient guidance to the RWQCBs on choosing alternatives especially with respect to complying with Water Code Section 13360.	No	Policy, remediation alternatives
46.8b	Language in the document seems to favor capping in place or no action. Cost of cleanup will be a large issue.	Comment acknowledged.	No	Policy, cleanup
46.8c	If no remediation is the finding at a site, it must be strongly substantiated, based on a full scale use attainability analysis. If no remediation is warranted due to environmental hazards, then all future dredging projects should be prohibited in the area.	If it is appropriate for a Federal use attainability analysis to be considered by the RWQCBs in development or implementation of the cleanup plans that should be completed under existing authorities and mandates of the Clean Water Act. The proposed Policy does not need to repeat or duplicate existing requirements.	No	Policy, prevention
46.8d	If environmental hazard is associated with clean up, there should be an independent scientific verification of this.	Identification of the hazards associated with remediation activities should be considered by the RWQCBs in developing the cleanup plans and in the plan implementation.	No	
46.9	Future WDRs should not allow the discharge of identified pollutants that contribute to toxic hot spots	Please refer to the response for Comment 5.24.	No	Policy, Prevention
46.10	Take note of the use attainability analysis criticism with the substantial widespread economic impact.	Please refer to the response for Comment 46.8c.	No	Policy, prevention
47.1	Due to the migratory nature of fish, do not use a health advisory as a trigger for designation of a toxic hot spot. There should be a trigger for follow-up use for the triad criteria which have been established.	Please refer to the response for Comment 3.1 and 18.8.	No	Policy, definition
47.2	Identification of a responsible party should not be a factor in prioritization. An immediate threat to	Please refer to the response for Comment 3.2.	Yes	Policy, ranking

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	human health and the environment, and the loss of beneficial uses should determine prioritization of sites.			criteria
47.3	It is inappropriate to have the NAS information in the policy. The SWRCB should use it as a resource, but not include it as part of the policy.	Please refer to the response for Comment 3.3.	No	Policy, sediment cleanup methods
47.4	Recommend removal of cost estimates from the policy. Set up the criteria for areal extent, type of activities that are impaired, distance to shore, available disposal options on land and in water.	Please refer to the response for Comment 3.4.	No	Policy, ranking criteria
47.5	Prevention or exacerbation of toxic hot spots should be a priority. This section needs to be strengthened in the document. Do not duplicate Federal efforts on a toxic hot spot.	Please refer to the response for Comment 3.5.	No	Policy, prevention
47.6	Limited resources should be focused on sites that are not being addressed by other programs.	Please refer to the response for Comment 3.5.	No	
47.7	Need a mechanism for delisting sites.	Please refer to the response for Comment 3.6.	Yes	
48.1	The BPTCP has provided the San Diego Regional Board with an excellent tool for identifying toxic hot spots and given the Board defensible information to require cleanup actions at these sites.	Comment acknowledged.	No	
49.1	State staff have come up with a balanced approach between the State and Regional board activities, allowing for some flexibility in determining what needs to be done within each region.	Comment acknowledged.	No	
49.2	FED, page xxii . Insert "California" before the use of "Department of Health Services".	Please refer to the response for Comment 25.2.	No	Policy, page xxii
49.3	Use all available data when developing and prioritizing the toxic hot spot list.	Please refer to the response for Comment 25.3.	No	
49.4	Once a toxic hot spot list is developed, is it re-evaluated at some point in time? What determines that re-evaluation period? Will the toxic hot spot criteria for listing be changed?	Please refer to the responses for Comments 25.4 and 25.5	No	

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49.5	FED, page 117. Growth inducing impacts were not properly addressed, and therefore may not have met CEQA.	Please refer to the response for Comment 25.7.	No	FED, page 117
50.1 (a)	Need a consistent and objective implementation of the policy among the RWQCBs, including a baseline level protection for all the state bays and estuaries.	Please refer to the response for Comment 5.1 and 5.11.	No	
50.1 (b)	Need mandatory pollution prevention strategies.	Please refer to the response for Comment 3.5.	No	Policy, prevention
50.2 (a)	Support the alternative to define candidate and known toxic hot spot. Do not believe that this was followed in the San Diego cleanup plan. The regional board applied discretion without the authority to do so.	In developing the proposed regional toxic hot spot cleanup plan (RWQCB, 1997g) the RWQCB implemented the suggested guidance document appropriately.	No	Policy, definition
50.2 (b)	There needs to have state oversight, consistent application of the State Board's guidance and more clear direction on what defines sufficient information.	Please refer to the response for Comment 6.3.	No	
50.3	There has been inconsistent standards used in defining toxicity and chemistry exceedances. SWRCB needs to set baseline levels of measuring standards.	Please refer to the response for Comment 6.3.	No	Policy, definition
50.4	SWRCB needs to have a process for instances when we believe the Regional Board violates their mandate.	Any action of the RWQCB can be petitioned to the SWRCB.	No	
50.5	Disagree with the ranking criteria. Criteria with no information currently receives a value of no action. Each ranking criteria should not be given equal weight since they do not have equal importance in protecting human health and the environment. This potentially puts a higher priority on sites with low contamination but a known pollution source over sites with high contamination but an unknown pollution source.	Please refer to the response for Comment 6.4.	No	Policy, ranking criteria
50.6	Consider dividing the criteria and give each toxic hot spot two rankings. The first based on the site's impact to human health and the environment. The	Please refer to the response for Comment 6.6.	No	Policy, ranking criteria

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	second would be based on other criteria. Each site would have a double score, such as high, high or high, moderate, etc.			
50.7	Criteria should not be given a no action or zero score when information is lacking.	Please refer to the response for Comment 6.7.	No	Policy, ranking criteria
50.8	RWQCBs should not have the discretion to determine which sites should be prioritized as toxic hot spots.	Please refer to the response for Comment 5.11.	No	Policy, ranking criteria
50.9	How will these toxic hot spots be cleaned up, and what will be done to prevent ongoing pollution.	The guidance is contained in the proposed Policy. The precise mechanisms for implementation of the cleanup plans are not known now. The SWRCB will make recommendations on this point in the consolidated plan.	No	
50.10	All identified pollutant sources at known toxic hot spots should be required to conduct an independent pollution prevention audit to provide options and recommendations for actions.	Please refer to the response for Comment 28.8, 30.14 and 30.17.	No	Policy, prevention
51.1	We are really interested in seeing this program be effective.	Comment acknowledged.	No	
51.2	The definition and the program has been oriented in a very broad fashion.	Comment acknowledged.	No	Policy, definition
51.3	90 percent of our sediments are clean and are deemed clean, meaning they are deemed suitable for unconfined aquatic disposal.	Comment acknowledged. This assessment appears to have not been made using the definition of the toxic hot spot in the proposed Policy.	No	
51.4	We want the program to get to being more focused and narrowed toward the sites that are toxic and then we can effectively clean those up.	Comment acknowledged.	No	Policy, definition
51.5	The Bay is a sink for everything that runs into the bay. We bear the burden for removing those sediments. We become the sole responsible party. We want it to be done in an effective way and a more focused way.	Comment acknowledged.	No	

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51.6	The definition should look to repeated toxicity associations. Note the importance of a weight of evidence approach. Currently you have to have only one of the five or six criteria. It should be two or more.	Please refer to the response for Comment 30.5.	No	Policy, definition
51.7	Fish consumption criteria, we do not see that as a cleanup effort.	Comment acknowledged.	No	Policy, definition
51.8	The SWRCB should develop a whole set of ranking criteria that are more related to the risks posed by the listed hot spots.	Comment acknowledged.	No	Policy, ranking criteria
51.9	The NAS cleanup methods are very costly and should not be used in this broad program.	Comment acknowledged.	No	Policy remediation alternatives
51.10	The RWQCBs need to discuss the relationship of other programs.	The cleanup plans are aimed at providing the information required by law. The RWQCBs will provide information on what actions are taking place at sites but will not develop an overall assessment of all programs.	No	
52.1	Data has been used in a positive way to formulate planning, identification and consideration of other SWRCB program has been considered to some extent, creative and effective use of CEQA is proposed in concept, current known technologies for addressing sediment pollution are drawn together effectively, and the FED is logically organized.	Comments acknowledged.	No	
52.2	Listing an entire water body will not solve water quality problems and will assure they will never be solved.	Please refer to the response for Comment 3.1.	No	Policy, definition
52.3	Policy, Page xxi, Ranking Criteria. Is the "value of the water body" the same as described in the Clean Water Strategy or the 303(d) listings?	Please refer to the response for Comment 28.13.	No	Policy, ranking criteria
52.4	Related to the water quality objectives ranking criterion, it seems that data 10 years old may be too old for purposes of ranking.	Please refer to the response to Comment 12.27.	No	Policy, ranking criteria

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52.5	Related to the water quality objectives ranking criterion, the terms 'regularly", "occasionally" and "infrequently" should be defined.	Please refer to the response for Comment 5.15 and 28.15.	No	Policy, ranking criteria
52.6	The rationale for using an areal extent criterion for ranking seems backward.	Please refer to the response for Comment 28.16.	No	Policy, ranking criteria
52.7	"Pollutant source" and "source" should be defined. The definition should include more than dischargers who hold WDRs.	Please refer to the response for Comment 3.2.	Yes	Policy, ranking criteria
52.8	The proposed ranking criteria should allow for more than a summary description of the ongoing regulatory efforts.	Please refer to the response for Comment 28.18.	No	Policy, ranking criteria
52.9	The ranking criteria should include a value for the interrelationships of existing programs give priority to sites with the framework for watershed management.	Please refer to the response for Comment 28.19.	No	Policy, prevention
53.1	The specific definition of a candidate toxic hot spot and the use of criterion number three, the issuance of a health advisory is inappropriate.	Please refer to the response for Comment 3.1.	No	Policy, definition
53.1a	Concern over the entire San Francisco Bay under this method.	Please refer to the response for Comment 3.1.	No	Policy, definition
53.1b	The weight of evidence approach based on a triad of testing protocols is being ignored.	Please refer to the response for Comment 5.2.	No	Policy, definition
53.2	The use of pollutant sources as a criterion in the ranking process ignores some of the worst of the worst sites not having an identified responsible party.	Please refer to the response for Comment 3.2.	Yes	Policy, ranking criteria
53.3	The prevention of toxic hot spots - coordination between BPTCP and other programs. Every effort should be made to avoid redundancy and duplication.	Comment acknowledged.	No	Policy, prevention
54.1	The toxic hot spot definition does not seem to include most pesticides.	Pesticides in water are pollutants and can negatively impact aquatic life beneficial uses.	No	Policy, definition

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54.2	The term "have accumulated" should be reserved to describe substances of which concentrations increased in water or sediment over time. Substances should not be regarded as accumulative if their presence in water or sediment is transitory.	Pesticides do accumulate to levels in water that impact beneficial uses and therefore are covered under the definition.	No	Policy, definition
54.3	If BPTCP were to apply the pesticides, board staff would have conferred with DPR.	SWRCB and RWQCB staff have conferred with DPR about the BPTCP, the proposed guidance, and the proposed toxic hot spot cleanup plans.	No	
54.4	The definition of candidate toxic hot spots - It is believed that the Board staff developed the candidate toxic hot spots and if this is the case the candidate list lacked regulatory context and their value is limited.	Comment acknowledged.	No	Policy, definition
54.5	Eliminate the concept of candidate toxic hot spots altogether.	The category of candidate toxic hot spot is needed so reevaluation of WDRs is not required before the consolidated cleanup plan is completed.	No	Policy, definition
55.1	Request more time for written comments.	The record closing date was changed from May 11, 1998 to May 15, 1998.	No	
55.2	Concerns of the definition related to the term accumulation in relation to currently used pesticides. We believe that pesticides which do not accumulate in the water or sediment should not be characterized as responsible for toxic hot spots and should not be included in the plans.	Please refer to the response for Comment 52.1 and 52.2.	No	Policy, definition
55.3	Adoption of the guidance as proposed, we believe, will compromise the effectiveness of the PMP and the integrity of the MAA by creating an unnecessarily redundant inappropriate program for pesticides.	Please refer to the response for Comment 14.3.	No	
55.4	Guidance for programs to address pesticides and surface water quality should recognize the unique nature of the extensive scientific information that supports the registration.	Comment acknowledged.	No	
55.5	Assessments on pesticides should be based on risk of an adverse effect, not hazard.	Please refer to the response for Comment 13.2. The approaches have been applied to water in Region 5 where pesticides have been identified as a pollutant of concern.	No	Policy, definition

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55.6	We advocate the use of probabilistic, ecological risk assessment consistent with the U.S. EPA guidelines as endorsed by OEHHA and the U.S. EPA, Science Advisory Panel.	Comment acknowledged.	No	Policy, definition
55.7	We do not believe the proposed guidance should support the inclusion of pesticides that do not accumulate. And we believe that the guidance does not consider the more refined science available for pesticides.	Please refer to the response for Comment 52.1 and 52.2.	No	Policy, definition
56.1	There hasn't been sufficient time to review the policy and the guidance. Would like a two week extension.	Please refer to the response for Comment 55.1.	No	
57.1	The ranking criteria has a lack of consistency from region to region.	Please refer to the response for Comment 5.11.	No	Policy, ranking criteria
57.2	Aerial extent - We feel that this criterion should not be used.	Please refer to the response for Comment 10.2 and 10.7.	No	Policy, ranking criteria
57.3	Pollutant source should not be used.	Please refer to the response for Comment 3.2.	Yes	Policy, ranking criteria
57.4	Pollution prevention - nothing has been done about this.	Please refer to the response for Comment 10.12.	No	Policy, prevention
57.5	Only a couple days extension would be appropriate.	Please refer to the response for Comment 55.1.	No	
58.1	Only list those sites that are severely contaminated causing environmental or public health risks and not just listing all the water bodies in the state.	Please refer to the response for Comment 30.2.	No	Policy, definition
58.2	The State Board can use its discretion to narrow the definition to focus on contaminated sediment sites.	Please refer to the response for Comment 30.2	No	Policy, definition
58.3	We support a weight of evidence approach where our suggestion would be to change the definition to have it meet two or more of the conditions listed.	Please refer to the response for Comment 30.5.	No	Policy, definition
58.4	We believe that the sites should be listed according to the most severely contaminated sites.	Please refer to the response for Comment 30.8.	No	Policy, ranking criteria

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58.5	We suggest a proposal for alternative categorizations of contaminated sites.	Please refer to the response for Comment 30.9.	No	Policy, ranking criteria
58.6	Narrow the definition or drastically expand the cleanup methods section to address how you plan on cleaning up these low level water quality contamination and fish tissue issues.	Please refer to the response for Comment 30.10.	Yes	Policy, definition
58.7	Have a watershed approach and pull in everything, nonpoint sources, which can be a large contributor to the toxic hot spot sites.	Please refer to the response for Comment 28.1, 30.13 and 30.15.	Yes	Policy, prevention
58.8	Regarding WDRs, we suggest that the State Board issue guidance to the regional boards on how to amend those waste discharge requirements when the time comes.	Please refer to the response for Comment 12.48.	Yes	Policy, prevention
58.9	Streamline this program to avoid duplication with existing cleanup programs such as Superfund, Department of Defense, DTSC programs and the TMDL process.	Please refer to the response for Comment 28.5.	No	Policy, prevention
59.1	The proposed definition of a toxic hot spot is too broad and contains too many different separate criteria. Be more focused. Multiple criteria should be met in order to qualify as a hot spot.	Please refer to the response for Comment 30.5.	No	Policy, definition
59.2	This policy should go further to avoid duplication and overlap.	Please refer to the response for Comment 28.5.	No	
59.3	We are concerned about the CEQA analysis, as well as the proposed approach to CEQA compliance for the regional and statewide cleanup plans. We do not think that the FED has adequately analyzed the potential environmental impacts that may result from this policy.	Please refer to the response for Comment 3.29 and 30.30.	No	Policy, environ-mental impacts, Checklist
60.1	In the definition of a hot spot it doesn't make sense to include exceedance of sediment quality objectives, since they don't exist for the enclosed bays and estuaries in California right now.	Please refer to the response for Comment 5.9.	No	Policy, definition

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60.2	The policy document should indicate what methods and guidelines are appropriate for interpreting sediment chemistry data.	Please refer to the response for Comment 5.9.	No	Policy, definition
60.3	The use of considering pollutant sources should not be part of the ranking criteria.	Please refer to the response for Comment 3.2.	Yes	Policy, ranking criteria
60.4	Program costs are not adequately addressed as those previously mentioned.	Comment acknowledged. Please refer to the response for Comment 7.5a, 7.5b and 7.5c.	No	Policy, cleanup costs
60.5	Page 99 on the FED, there's a comment that says stricter effluent limits can help remediate and prevent recurrence of toxic hot spots.	Please refer to the response for Comment 7.8.	Yes	FED page 99
60.6	We're very concerned that the Bay Protection Program be integrated with existing programs.	Please refer to the response for Comment 7.11.	No	Policy, prevention
60.7	The policy indicates that cleanup plans should contain a preliminary assessment of actions required to remedy or restore a toxic hot spot to an unpolluted condition, but there's no definition of unpolluted condition and no recommendation for follow-up monitoring that you might use.	Please refer to the response for Comment 30.23.	Yes	Policy, remediation alternatives
61.1	We support the statements from Heal the Bay.	Please refer to the responses for Commenter 5 and 44.	No	
61.2	I urge you to move forward with this policy.	Comment acknowledged.	No	
61.3	Ranking criteria is one area that needs a little bit of work.	No response is necessary.	No	Policy, ranking criteria
61.4	Using aerial extent of contamination, as an equal ranking, is not appropriate.	Comment acknowledged.	No	Policy, ranking criteria
62.1	There is no question for the need for the BPTCP and this policy.	Comment acknowledged.	No	
62.2	Use of aquatic chemistry components will lead to massive litigation.	Please refer to the response for Comment 13.2, 13.7, 13.13, and 13.22.	No	
62.3	The chemical approaches are not credible. Use TIEs, do not rely on total concentrations of chemicals.	Please refer to the responses for Comments 13.2, 13.3, 13.7, 13.11 and 13.13.	No	Policy, definition

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62.4	Appoint a technical advisory committee who can work with all interested parties to develop appropriate toxic hot spot designations and ranking.	Please refer to the responses for Comments 13.6 and 13.86.	No	Policy, definition, ranking criteria
101.1	Pesticides that do not accumulate should not be included in the BPTCP.	Please refer to Comment 111.3 and the response for Comment 115.2.	No	Policy, definition
101.2	The BPTCP will not enhance the MAA process between the DPR and the SWRCB. A coordinated predictable regulatory framework with the fewest regulatory programs is desirable. This allows investment of resources toward seeking real solutions to problems.	Please refer to the response for Comment 102.3	Yes	SWRCB resolution adopting the Policy
101.3	Toxicity testing (the C. dubia test) is insufficient for the types of pesticide products registered. There are other types of information that could be used to help make policy decisions with regard to pesticides.	Please refer to the responses for Comments 22.7b and 22.8.	No	Policy, definition
101.4	The persistence of pesticides in surface water is episodic. The persistence or half life of pesticides (several hours to several days) is very short when compared with the other substances considered by the BPTCP.	Comment acknowledged. Please refer to Comment 111.3 and the response for Comment 115.2.	No	Policy, definition
101.5	C. dubia test should only be used for screening purposes. Determination of a THS based on two toxicity hits using the C. dubia test is not appropriate.	Please refer to the response for Comment 22.7b.	No	Policy, definition
102.1	There is an inability to determine true aquatic impacts due to Diazinon because it does not bioaccumulate. Establishment of a toxic hot spot based on aquatic toxicity is not proper because pesticides have been designed to kill insects such as Ceriodaphnia.	Please refer to Comment 111.3 and the response for Comment 22.8.	No	Policy, definition
102.2	The BPTCP should rely on ecological risk assessment to address issues of water quality.	Please refer to the response for Comment 22.7b.	No	Policy, definition
102.3	The pesticide management portion of the MAA provides the process to handle these problems. This also provides the ability to look at the science in terms of determining whether there are true aquatic	Using the MAA to address these problems has merit. Even though the SWRCB and DPR have different responsibilities the MAA provides a mechanism for implementation of actions to address water quality	Yes	SWRCB resolution adopting the Policy;

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	impacts.	problems associated with pesticides in the State's waters. The SWRCB resolution and the prevention section of the proposed Policy have been revised to reflect that it is the SWRCB's intent that any actions of the SWRCB and RWQCBs with respect to registered pesticides should be consistent with the MAA. The Policy also addresses other transient chemicals.		Policy, prevention
103.1	More time is needed to review the revised proposed policy and response to comments in the FED.	The comment period was extended from June 19, 1998 to June 29, 1998.	No	
103.2	Changes made to the policy are appreciated, specifically the removal of pollutant source as one of the criteria used to rank THS and the inclusion of language regarding volume and depth considerations in the areal extent ranking criteria.	Comment acknowledged.	No	Policy, ranking criteria, mandatory requirements
103.3	The weight of evidence approach should be used in the THS definition not solely in the ranking.	Please refer to the response for Comment 30.5.	No	Policy, definition
103.4	Two or more measures should be used to define a THS.	Please refer to the response for Comment 30.5.	No	Policy, definition
103.5	The focus of the BPTCP should be on contaminated sediments.	Please refer to the response for Comment 30.11.	No	Policy, definition
103.6	CEQA analysis should be accomplished, early in the process, at the RWQCB level. Evaluation of environmental impacts should not replace CEQA analysis at the RWQCB level.	Please refer to the responses for Comments 30.29 and 30.30.	No	
103.7	Approaches for consolidating and compiling regional THS cleanup plans (new section of issues to be considered in the development of the consolidated THS Cleanup Plan) should be addressed in the current policy adoption phase rather than at the consolidation phase.	The issues of compiling the regional toxic hot spot cleanup plans should be addressed when the consolidated plan is developed. The consistent mandatory requirements, toxic hot spot definition and ranking criteria will allow for the plans to be compiled, but the actual compilation should be evaluated in the environmental document for the consolidated plan because all the details of the regional plans are not available now.	No	Policy, consolidated plan
104.1	The BPTCP should focus only on sediment quality problems.	Please refer to the response for Comment 30.11.	No	Policy, definition

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104.2	It would be difficult to explain THS listing in the cleanup plan based on a sporadic non-permanent detection of a pesticide.	Please refer to Comment 111.3 and the response to Comment 115.2.	No	Policy, definition
104.3	The three-tier NPS management plan implemented in coordination with DPR and the pesticide management plan for water quality are more appropriate programs to deal with potential non point source water quality problems. These programs fit best under the Watershed Management Initiative, adopted through resolution 95-72, to address nonpoint source water quality problems.	Please refer to the response for Comment 102.3.	Yes	SWRCB resolution adopting the Policy
105.1	"THS are locations where hazardous substances have accumulated in the water and sediment ...." to a specified level. Accumulation is not defined in Code. Pesticides pass through the system, they do not accumulate. The BPTCP Code does not apply to pesticides.	Please refer to the response for Comment 115.1 and 115.2.	No	Policy, definition
105.2	Hazardous substances, as defined in Section 13050, ... does not include any pesticide applied for agricultural purposes which is not discharged accidentally or for disposal. Therefore, according to this Water Code Section definition, pesticides are not considered hazardous substances.	Please refer to the responses for Comments 115.4 and 115.7.	No	Policy, definition
105.3	Health and Safety Code reference is inappropriate. It does not directly reference pesticides. Any reference to pesticides are only in connection with other non-related federal and State programs and does not properly fit under the scope of the BPTCP.	Please refer to the response for Comment 115.6.	No	Policy, definition
105.4	Pesticides that are discharged accidentally or disposed of are covered under the Water Code but lawfully used pesticides are not.	Please refer to the response for Comment 115.4.	No	Policy, definition
105.5	Page 198, response No. 22.15 "No regulatory action shall take place until the MAA agencies agree". It is felt that this is a true reading of the MAA however the agencies involved do not seem to be there yet.	Response 22.15 was inaccurate. The agreement was focused on the first part of the comment. The response has been revised to more carefully describe the SWRCB response to the comment.	Yes	FED, response to comments

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106.1	BPTCP is being used as an authority to deal with pesticides. This creates confusion and overlapping authorities with regard to pesticide regulation.	Please refer to the response for Comment 102.3 and 115.4. There is no overlap in the jurisdiction of the SWRCB and DPR. The MAA is a way to coordinate the separate authorities.	Yes	SWRCB resolution adopting the Policy
106.2	Cost of agricultural operations could increase if pesticides are listed. Do not adopt policy until economic issues are resolved.	Comment acknowledged.	No	Policy, definition
107.1	Not satisfied with staff responses. Definition of Hazardous Substances excludes pesticides.	Please refer to the response for Comment 115.4.	No	Policy, definition
107.2	The term "have accumulated" in the definition of a THS does not apply to pesticides. There is a time component in the general definition of accumulation and that is a "long one" implying a gradual buildup of substance, examples; snow, dust, sand, wealth. The transitory nature of pesticides in the surface waters does not constitute accumulation and therefore should not be considered under BPTCP.	Please refer to the responses for Comments 115.1 and 115.2.	No	Policy, definition
107.3	Accumulation should be defined in the Guidance policy.	The term "accumulation" is not used in the specific definition of a toxic hot spot so no specific definition is needed.	No	Policy, definition
108.1	Support the SWRCB in naming THS on the basis of a health advisory in the definition.	Comment acknowledged.	No	Policy, definition
109.1	Thank you for changes made to proposed Policy and FED. The underline/strikeout was appreciated although it should have been extended to the FED portion.	Comments acknowledged.	No	
109.2	THS definition should be based on the weight-of-evidence approach to see if a site meets the statutory definition. Without this, a site could be listed as a THS solely for a health advisory.	Please refer to the response for Comment 3.1.	No	Policy, definition
109.3	Refine the THS definition to include at least two of the conditions listed in pages xx-xxiii. This would provide the linkages necessary between fish tissue and sediment to list a site as a THS.	Please refer to the response for Comment 30.5.	No	Policy, definition

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109.4	Some cleanup technologies in the Cleanup Methods Section may be technologically feasible but not necessarily economically feasible.	Please refer to the response for Comment 120.6d.	No	Policy, remediation methods
109.5	The RWQCB should review the cleanup costs at the earliest possible point when listing a THS.	Please refer to the response for Comment 119.6.	No	Policy, remediation methods
109.6	All items described in the SWRCB Consolidated Plan section of the policy should be required and not merely considered.	Please refer to the response for Comment 119.4.	No	Policy, consolidated plan
109.7	The Environmental Checklist lists no impact to all items. The guidance sets in motion a whole chain of events that will eventually have some impact. The cumulative environmental impacts should be considered at the earliest possible stage.	Please refer to the responses for Comments 30.29 and 30.30.	No	FED, checklist
109.8	Look forward to another revision of the Policy based on the comments submitted.	Comment acknowledged.	No	
110.1	The program is finally on track.	Comment acknowledged.	No	
110.2	The THS definition requires the consideration of Human health impacts. Not taking human health considerations as addressed through health advisories would be contrary to the established law.	Comments acknowledged.	No	Policy, definition
110.3	There is a lack of consistency from region to region in determining THS. The determination should be based on science and not on policy.	Please refer to the response for Comment 5.11 and 6.3.	No	Policy, definition
110.4	Glad to see that pollutant source has been dropped from the ranking criteria.	Comment acknowledged.	No	Policy, ranking criteria
110.5	Pollution prevention in the Policy should not be voluntary in nature.	Please refer to the response for Comment 10.13.	No	Policy, prevention
110.6	Sediment contamination should not be separated from water column contamination.	Comment acknowledged.	No	Policy, definition
110.7	Delisting considerations are premature and should not be included in the policy at this time.	Comment acknowledged.	No	Policy, consolidated plan

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111.1	Pesticides do not accumulate in sediment, but they accumulate in bioassay animals to a sufficient degree to kill them.	Comment acknowledged.	No	Policy, definition
111.2	The bioassay test used is the US EPA three species test. This is the same test used in NPDES permits to determine if dischargers are causing toxicity. The RWQCB is using the same standard for non point sources (agriculture) as it used for point sources.	Comments acknowledged.	No	Policy, definition
111.3	Probabilistic risk assessment produced by Novartis (registrant for Diazinon) acknowledges that the main stem of the San Joaquin River is acutely toxic to the 10% most sensitive species approximately 30 percent of the time (100 days a year). This is not episodic toxicity.	Comment acknowledged.	No	Policy, definition
111.4	The Central Valley RWQCB developed the Regional THS Cleanup Plan in consultation with the DPR. There is nothing in the Regional Cleanup Plan that precludes DPR continuing with the MAA. The cleanup plans call for information that would be required if regulatory actions become necessary some time in the future after following the MAA.	Please refer to the response for Comment 102.3.	Yes	SWRCB resolution adopting the Policy
112.1	Changes made to the Policy and FED are appreciated.	Comment acknowledged.	No	
112.2	More time to review the Policy and FED is requested.	The comment period was extended from June 19, 1998 to June 29, 1998.	No	
112.3	Integrate the BPTCP with other existing SWRCB programs.	Please refer to the responses for Comments 3.5 and 28.9.	No	Policy, prevention
113.1	The proposed Policy would improve the water quality and protect/enhance various beneficial uses of impacted water bodies where toxic hot spots have been identified, and where cleanup plans are being prepared, if the Policy and subsequent cleanup plans are fully implemented.	Comment acknowledged.	No	
113.2	The proposed Policy would likely result in improved habitat, and would reduce or in some cases eliminate various sources of possible chronic or acute	Comment acknowledged.	No	

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	biological impairment to endangered and threatened species, or would reduce and in some cases eliminate various sources of possible chronic or acute biological impairment to the food species or habitat upon which they depend.			
113.3	If fully implemented as recommended, the Policy will provide for prevention strategies which will likely result in less contaminated runoff entering coastal bays and estuaries, and ultimately the ocean.	Comment acknowledged.	No	
113.4	The remediation alternatives will provide for analysis of environmental impacts, including possible impacts to endangered or threatened species, or the habitat upon which they depend, and therefore the Department requests its continued role in CESA consultation as specific cleanup plans are finalized.	Comment acknowledged.	No	
113.5	DFG finds that adoption of the proposed Policy will not jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of habitat essential to the continued existence of the species.	The proposed resolution for adoption of the proposed Policy has been modified to reflect DFG's finding.	Yes	SWRCB resolution adopting the Policy
113.6	DFG reserves the right to further assess the upcoming cleanup plans for Endangered Species Act compliance and to respond as appropriate.	The proposed resolution for adoption of the proposed Policy has been modified to reflect DFG's reservation about future responses to the regional and consolidated toxic hot spot cleanup plans.	Yes	SWRCB resolution adopting the Policy
114.1	The commenter supports the need to protect water quality.	Comment acknowledged.	No	
114.2	The revised Policy was received on June 8, 1998 which is insufficient time for our staff to examine the revisions. Request that their submitted comments dated May 15, 1998 be considered as previously presented.	Comment acknowledged. The deadline for submission of comments was extended to June 29, 1998. The responses to the resubmitted comments are presented in the responses to Commenter 26.	No	
114.3	The City would like to see (or know if) a program process evaluation takes place periodically.	The effectiveness of any actions that are implemented as part of the consolidated cleanup plan will be assessed. The proposed Policy states this in the mandatory requirements section (Item 6.D.).	No	

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115.1	The existence of accumulation is pivotal as to whether or not a toxic hot spot exists. The SWRCB must determine if: (1) the levels are growing or increasing via accumulation (and there may be a toxic hot spot if the situation meets the secondary tests regarding toxicity levels); or (2) the levels are instantaneous, temporary or decreasing (there is not a toxic hot spot).	The definition of "toxic hot spot" is consistent with the use of the word "accumulation" in the statute. The definition references criteria that are clearly not instantaneous, one-time events. In developing the BPTCP, the SWRCB developed a specific definition of a toxic hot spot that focused, in order, on (1) whether beneficial uses are impacted and (2) whether chemicals were present at sufficiently high concentrations to contribute to or cause the observed impacts. Interpreting the Water Code definition (Section 13391.5(e)) in this way allows the SWRCB and RWQCBs to avoid unnecessary remediation of pollutant concentrations that do not impact beneficial uses. Consequently, the evaluation of toxicity (and other biological information) is primary in the assessment of a toxic hot spot. Chemical concentrations are secondary. Also, chemicals can have various degrees of impact over very different periods of exposure. For example, chlorine can be toxic after minutes of exposure; while biological impacts from other pollutants are manifested after much longer exposures. Effects on organisms varies with exposure to each chemical. If chemicals are present at concentrations that contribute to the observed effects, then the chemicals have accumulated to levels in sediment or water that can impact beneficial uses.	No	Policy and FED, definition
115.2	Temporary levels or seasonal, episodic concentrations of pesticides categorically are not accumulating and do not qualify as toxic hot spots.	Pesticides, like diazinon and chlorpyrifos, are present in concentrations during periods of the year that impact beneficial uses. Please refer to the comments by Commenter 111.	No	Policy and FED, definition
115.3	The SWRCB has ample statutory authority to deal with water quality issues associated with pesticides,	Please refer to the responses to Comments 115.1 and 115.2.	No	

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	but the Toxic Hot Spots statute does not apply in these situations.			
115.4	The California Water Code definition of "hazardous substances" (Section 13050(p)(2)(B)) generally does not include pesticides which are applied for agricultural purposes. There are limited exemptions when there is an accidental discharge or disposal. The lawful use of pesticides can not be covered by the Toxic Hot Spots law (Section 13390 et seq.).	The Water Code definition of "hazardous substances" does not apply to this program. See response to Comment 115.7. The Commenter is correct in describing the provisions of the Water Code definition of "hazardous substance." The commenter is also correct that the lawful application of pesticides is not covered by the BPTCP; application of pesticides to agricultural lands is regulated by DPR. When pesticides runoff fields or otherwise enter waters of the State, the SWRCB and RWQCB have the responsibility to protect the quality of the waters of the State (Water Code Section 13000 et seq.) and these concentrations and impacts can be addressed under the BPTCP (Water Code Section 13390 et seq.).	No	Policy and FED, definition
115.5	The author and sponsors of AB 1487 (Chapter 209 of 1989) clarified that the bill was not intended to apply to agricultural pesticides with the exception of accidental discharges, disposals or unlawful uses.	Please refer to the response for Comment 115.8.	No	Policy and FED, definition
115.6	Subsection (f) of Health and Safety Code Section 25281 makes no reference to hazardous substances so there is nothing which would counter the Water Code definition (Section 13050(p)(2)(B)).	When the Water Code was amended to include the BPTCP (Chapter 5.6), Health and Safety Code Section 25281(f) was the specific definition of "hazardous substance". Subsequent changes to the Health and Safety Code in 1995 inserted a new definition before subsection (f). It is a reasonable interpretation of the Health and Safety Code that the Legislature did not intend to modify the use of the definition of "hazardous substance" because of this incidental change.	No	Policy and FED, definition
115.7	Hazardous substances are defined in Section 25281(g). This section deals with the underground storage tanks and, therefore, would generally have no possible applicability whatsoever to the BPTCP.	Section 25281(g) defines "hazardous substances". Please refer to the response for Comment 35.1a for the reference to pesticides in 42 U.S.C. 9602 Section 102. Substances listed in Health & Safety Code	No	Policy and FED, definition

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	References to other laws and sections of the Health and Safety Code do not reference pesticides including 42 U.S.C. 9602 Section 102. There is no reference to pesticides in any of these lists or laws.	section 25316 are included. Section 25316 defines hazardous substances broadly to include a number of different dangerous chemicals listed in various State and Federal laws. Pesticides are included in these lists. Pesticides are listed in 40 CFR 302.4 pursuant to Section 102.		
115.8	The Water Code's definition of "hazardous substance" expressly states that pesticides are not to be regarded as hazardous substances and, therefore, pesticides cannot be regulated as "Toxic Hot Spots".	For the BPTCP (Water Code Section 13390 et seq.), the Water Code specifies that the SWRCB shall use the Health and Safety Code definition of "hazardous substances" instead of the Water Code definition (Section 13050(p)(2)(B)). In developing and implementing the BPTCP, the SWRCB has used the Health and Safety Code definition as required. However, even the Water Code definition covers pesticides that are spilled accidentally to State waters.	No	Policy and FED, definition
115.9	The SWRCB did not confer with DPR as mandated in the MAA, it is apparent that the SWRCB recognizes that the Toxic Hot Spots Law does not apply to pesticides. Only one meeting took place with one DPR staff person present.	Please refer to the response for Comment 35.2. One of the meetings held was attended by SWRCB and DPR management; the other meeting was attended by several staff from each agency.	No	
115.10	The June 1998 FED and the proposed resolution to adopt a Policy of development of Toxic Hot Spot Cleanup Plans are clearly misguided and legally wrong in regards to the definition of Toxic Hot Spots and Candidate Hot Spots. The definition of "Toxic Hot Spots" is clearly defined in the authorizing statute. A regulatory agency cannot change statutory definition nor can it revise the thrust of a statute or regulate beyond the scope of the statutory authority and direction provided.	Please refer to the responses for Comment 35.3. The SWRCB has not rewritten statute but rather created a class of toxic hot spots that will not trigger revaluation of WDRs before CEQA analysis is complete on the development of the consolidated toxic hot spot cleanup plan.	No	Policy and FED, definition
115.11	The SWRCB has broad authority to deal with water quality problems, but this program is narrowly and precisely crafted. The SWRCB cannot rewrite this statute and must adjust these documents accordingly.	Please refer to the responses for Comment 115.1 through 115.8, 35.1a, and 35.3.	No	Policy and FED, definition

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116.1	Overall, we were disappointed that many of the issues we raised previously were dismissed with little explanation or justification.	Comment acknowledged.	No	FED, response to comments
116.2	We were startled to read that the SWRCB believes the San Diego RWQCB developed the proposed regional toxic hot spot cleanup plan "appropriately" and in accord with the suggested SWRCB guidance document.	Comment acknowledged.	No	FED, response to comments
116.3	If the RWQCB's are given great discretion in determining which sites are "hot spots", which "hot spots" will be prioritized for remediation, and which strategy, if any, will be implemented to prevent ongoing/future pollution. This allows different regions to have disparate levels of cleanup. This is contrary to the legislative intent of the program.	The Legislative intent for the BPTCP is presented in Water Code Section 13390. Nothing in this section contradicts the application of regional discretion in implementation of the BPTCP.	No	
116.4	The San Diego RWQCB's proposed regional toxic hot spot cleanup plan contravenes the suggested SWRCB guidance and fails to safeguard the beneficial uses of San Diego Bay. There is no way to characterize the San Diego plan as anything but inadequate, inappropriate and in direct deviation from State Board guidance.	Please refer to the response for Comment 33.3. The San Diego RWQCB used the best information available in late 1997 to develop the proposed regional cleanup plan.	No	
116.5	We request that the State Board retract their approval of the San Diego cleanup plan and require the San Diego RWQCB to prepare a plan in compliance with the guidance and that accurately reflects the results of the testing in the extensive state study.	The San Diego RWQCB will undergo a redevelopment of the cleanup plan using the Policy finally adopted by the SWRCB. The RWQCB will reevaluate the existing data and evaluate new data made available since the proposed plan was developed. The RWQCB will issue a draft revised toxic hot spot cleanup plan. This plan will undergo public review at a RWQCB hearing in late summer 1998. There is no reason to retract approval of the proposed regional cleanup plan because the plan was never approved by the SWRCB. Please refer to the response for Comment 33.3.	No	
117.1	We are insulted at the lack of response to our comments, as well as the comments from the	Comment acknowledged.	No	FED, response to

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	Environmental Health Coalition and Save San Francisco Bay Association, from the SWRCB.			comments
117.2	It is disheartening to work on a program where industry has a stronger voice and influence than the environmental community.	Comment acknowledged.	No	
117.3	We have not received a formal response to our comments dated May 1, 1998. Only three of our recommendations have been acknowledged in the revised text. We are resubmitting the original comments for consideration at the June 18, 1998 workshop.	The formal response to comments is contained in the final FED. All commenters on the draft FED were sent copies of the draft final version of the FED (DWQ/SWRCB, 1998b). The responses to the resubmitted comments are presented in the responses to Commenter 5.	No	FED, response to comments
117.4	None of the recommendations presented are unreasonable or irrational, please consider this resubmission for revisions to the proposed policy.	Comment acknowledged.	No	FED, response to comments
118.1	Diazinon is not "always" present in waterways. Diazinon breaks down very rapidly in water. See May 15, 1998 letter from Commenter 22.	Comment acknowledged.	No	
118.2	The levels of Diazinon detected are in the parts per trillion range. These may have toxicity to Ceriodaphnia, but are nowhere near any human health advisory levels.	Comment acknowledged.	No	
118.3	Material safety data sheets are designed to give emergency personnel the information needed to properly handle emergencies.	Comment acknowledged.	No	
118.4	The Long Island, New York Bird Advisory was due to an old granular formulation of Diazinon that was used on golf courses. The label for that form of Diazinon has been canceled. Other forms of Diazinon are being used but a precaution is needed to prevent the puddling on lawns following application.	Comments acknowledged.	No	
119.1	We appreciate some of the modifications that were made by the SWRCB as we had requested in our earlier comments.	Comment acknowledged.	No	
119.1a	BADA members are still concerned that many of their comments have not been adequately addressed.	Comment acknowledged.	No	

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119.2	The Guidance's proposed definition of "candidate toxic hot spot" goes beyond the statutory definition and far beyond the BPTCP Advisory Committee recommendations that the program be focused on sediment contamination and remediation.	The specific definition of a candidate toxic hot spot goes beyond the recommendations of the BPTCP Advisory Committee because the proposed definition focuses on both human health and aquatic life. The Advisory Committee focused on aquatic life concerns only. The proposed definition is consistent with the statutory definition (Water Code Section 13391.5(e)). Please refer to the response for Comment 30.2.	No	Policy, definition
119.2a	The definition of a "candidate toxic hot spot" fails to recognize earlier proposals defining a site that meets only one of these identification criteria as a "potential" or "suspected" toxic hot spot.	Earlier proposals (e.g., DWQ/SWRCB, 1995) defined candidate toxic hot spot in the same fashion as the present proposal. An alternative for using "potential" toxic hot spot designation is presented in the FED. Separate criteria were used to identify potential sites.	No	Policy, definition
119.2b	The definition adopted would only define a site as a "candidate" or a "known" toxic hot spot if it were demonstrated on the basis of reliable, quality-assured data that two or more criteria were met.	Please refer to the response for Comment 30.5.	No	Policy, definition
119.2c	The requisite conditions for defining a toxic hot spot should be demonstrated by "substantial evidence", not the "preponderance of the evidence" standard proposed in the Draft Final Guidance.	The data that will be used to identify THS will be substantial. The point of using the preponderance of evidence is that more than one line of evidence is needed to identify the toxic hot spot (i.e., repeated toxicity and associated high chemistry, benthic community impacts and associated high chemistry, etc.). "Preponderance" implies a greater weight-of-evidence or evidence which is more credible and convincing. "Substantial evidence" does not mean a large or considerable amount of evidence but rather, relevant evidence that a reasonable mind might accept as adequate to support a conclusion and furnish a reasonably sound basis for the action under consideration. In a review of the RWQCBs' record with respect to their regional toxic hot spot cleanup plans the SWRCB would assess if there is substantial	Yes	Policy, definition

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		evidence to support the RWQCBs action. The proposed Policy and FED will be modified to reflect this change.		
119.3	The Guidance even as amended, does not satisfy the Water Code section requirements for adoption of water quality objectives. The Water Code is circumvented in this respect.	Please refer to the response for Comment 12.8.	No	Policy, definition
119.3a	Water Code Sections 13000 and 13241 require consideration of reasonableness and costs prior to adoption of regulatory objectives or standards, such as those set forth in the proposed Guidance to the Regional Boards.	Please refer to the response for Comment 12.8.	No	Policy, definition
119.3b	The SWRCB consider the economic ramifications of adopting extremely broad objectives or criteria for designating and ranking toxic hot spots that will result in areas such as the entire San Francisco Bay being designated as a known toxic hot spot.	Please refer to the responses for Comments 3.1 and 13.5.	No	Policy, definition
119.3c	The SWRCB must consider the feasibility, cost and reasonableness of adopting a cleanup plan to remediate candidate toxic hot spots before they are listed as "known" toxic hot spots.	These factors will be considered by the SWRCB in considering the adoption of the consolidated toxic hot spot cleanup plan.	No	Policy, remediation methods
119.3d	The term "water quality objective" as used in the Guidance be defined as an objective that has been properly adopted in accordance with the definitions and procedures contained in the Porter-Cologne Water Quality Control Act (Water Code Section 13050(h) and Section 13241).	The term "water quality objective" is very specific in meaning and use. It would be duplicative of State law to repeat the definition in the proposed Policy.	No	Policy, definition
119.4	The SWRCB should state in this Guidance document that the SWRCB shall issue further guidance to the RWQCBs on the appropriate manner for amending effluent limitations to effectuate the cleanup plans and Water Quality Control Plan amendments.	The SWRCB will consider a variety of issues in the development of the consolidated plan, including the development of guidance on the reevaluation of WDRs.	No	Policy, consolidated plan
119.5	The FED still fails to fully consider the costs that will most likely be incurred by point sources having to implement pollution prevention/source control	This topic will be evaluated when the RWQCBs develop their plans and when the SWRCB develops the consolidated plan. It is premature to address	No	Policy, prevention

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	programs or install additional treatment technologies in order to meet new effluent limitations imposed as a result of reevaluated WDRs.	these potential impacts now.		
119.6	The potential adverse environmental effects and economic ramifications of any proposed regulatory scheme or policy must be considered at the earliest possible point.	In general, the proposed Policy requires that costs be considered early in the planning for remediating sites. The only exception is when the RWQCBs are using a watershed approach. The RWQCBs are then allowed to defer estimating costs until estimates are available for the sources identified.	No	Policy, prevention; FED, checklist
119.7	The conclusions in the FED and Environmental Checklist that the Guidance and resultant cleanup plans will have "No Impact" on government services, sewage treatment facilities, and storm drainage are erroneous.	The identification and ranking of toxic hot spots as proposed in the guidance policy will have no impact. Possible impacts resulting from implementing this guidance will be considered comprehensively in the development phase of the consolidated plan where it will be most appropriate.	No	FED, checklist
119.8	The environmental impact review is far too cursory and narrow. The SWRCB must revise the FED to contain a more comprehensive analysis of the resultant effects of the Guidance.	Please refer to the response for Comment 119.7.	No	FED, checklist
120.1	The definition of "Candidate Toxic Hot Spot" contained in the proposed Guidance does not embody a weight-of-evidence approach focused on sediment contamination. This approach is favored by the majority of the stakeholders involved with the BPTCP.	Please refer to the response for Comment 30.2.	No	Policy, definition
120.2	Redefine "Candidate Toxic Hot Spots". A site should only be listed if it meets at least two of the conditions listed on pages xx-xxiii of the Guidance.	Please refer to the response for Comment 30.5.	No	Policy, definition
120.3	Use substantial evidence test for determining Impairment. The conditions listed as indicators of impairment on pages xx-xxiii of the Guidance be demonstrated using a "substantial evidence" test, instead of the "preponderance of the evidence" approach currently prescribed in the final draft of the Guidance.	Please refer to the response for Comment 119.2c.	No	Policy, definition

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120.4	The Guidance does not specify the significance of being ranked as "high", "moderate", or "low".	If sites are ranked as "high" the RWQCBs are required to develop the more detailed mandatory requirements listed in the Policy (and required by Section 13394). Also, ranking determines the order in which WDRs shall be reevaluated (please refer to Water Code Section 13395).	No	Policy, ranking criteria
120.5	Amend the Guidance to specify the significance of the ranks proposed. The SWRCB should amend the Guidance to designate sites ranked as "low" as "Areas of Concern" instead of Candidate Toxic Hot Spots.	Please refer to the response for Comment 120.4 for the first comment. Even if a site is "low" priority it meets the definition of a candidate toxic hot spot and should remain listed as a candidate site.	No	Policy, ranking criteria
120.6	Due to concerns with current wording, the Commenter suggests some language modifications to newly added sections on remediation methods for water-related toxic hot spots.	Responses to each change is presented below.	No	
120.6a	Wherever used, replace "preponderance of the evidence" with "substantial evidence" (e.g., FED page 43, last paragraph).	Please refer to the response for Comment 119.2c.	Yes	FED, definition
120.6b	"if the natural remediation/no-action alternative is to be implemented, the RWQCB shall consider all the factors specified in Table 12 plus determine the following: (a) point source discharges have been controlled under waste discharge requirements,..." Guidance page xxxix, second paragraph.	This change does not add any additional information or meaning to the proposed Policy.	No	Policy, page xxxix
120.6c	"The three basic approaches ~~which~~ that may be practiced independently or concurrently are pollution prevention, pretreatment and recycle and reuse. The RWQCBs shall develop prevention activities tailored to local conditions and shall comply with the regulatory tools available under existing water quality control programs. The RWQCBs should avoid creating duplicative pollution control programs. ..."Guidance page xlii, first paragraph, and FED page 86, second paragraph.	The word "tools" was meant to be interpreted broadly by the RWQCBs. "Tools" could refer to regulatory and non-regulatory activities (such as education). One reason for listing all actions implemented at a site is to avoid duplication of actions.	No	Policy, page xlii; FED, page 86

COMMENT NUMBER	SUMMARY OF COMMENT	RESPONSE	REVISION	SECTION/ AREA
120.6d	"... In developing the cleanup plans, the RWQCBs shall base their assessment of possible treatment technologies on the effectiveness of removing the pollutant(s) of concern and on economic feasibility. ...Methods for addressing stormwater and nonpoint sources are emerging and RWQCBs should use their best judgment in suggesting approaches (~~and their~~ with due consideration being given to costs)." Guidance page xlii, second paragraph.	"Determining "economic feasibility" is not a requirement of the Water Code (Please refer to the response for Comment 13.5). The second change (i.e., "due consideration...") modifies the intent of the statement. The intent is for the RWQCBs to consider their best estimates of the approaches to take and the best estimate of the cost to implement the approaches.	No	Policy, page xlii
120.6e	"The costs for implementing the waste water treatment technologies and best management practices should be developed at the earliest possible point. It is acknowledged that these costs will be discharge-and site-specific. In developing cost estimates, the RWQCBs shall use the EPA Treatablity Manual, applicable National Research Council reports, and site specific estimates, ~~or delay the development of costs esimates if~~ If the toxic hot spot will be addressed as part of the watershed management effort. ~~If the cost estimates are delayed~~, the RWQCBs shall develop cost estimates for developing and coordinating the watershed planning effort." Guidance page xliii, first full paragraph and corresponding FED language.	Please refer to the response for Comment 119.6. The changes remove flexibility from the RWQCBs for estimating costs during the implementation of a watershed management effort.	No	Policy, page xliii
120.6f	"... It is acknowledged that the benefits to be developed by the RWQCBs ~~are~~ will predominantly be qualitative estimates. . ." Guidance page xliii, second full paragraph.	We have no information that would lead us to believe that any of the estimates would be quantitative.	No	Policy, page xliii
120.6g	". . . The SWRCB ~~should consider incorporating~~ shall incorporate the following information in the consolidated plan:. . . (2) guidance to the RWQCBs on reevaluation of WDRs: (3) findings and recommendations to the Legislature for funding the implementation of the plans. . ." FED page 67, first paragraph under Alternative 3.	Please refer to the response for Comment 119.4.	No	FED, page 67

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120.6h	". . .The treatment technologies that may possibly be applicable to situations in California coastal waters are presented in Table 16. However, not all of these technologies may be economically feasible or reasonable to implement. . . ." FED page 86, third paragraph.	Please refer to the response for Comment 120.6d.	No	FED, page 86
120.6i	"The TMDL allocates a portion of the load to point sources (Waste Load Allocation), and to nonpoint sources and background (Load Allocation) with a margin of safety." FED page 108, first paragraph.	Agree.	Yes	FED, page 108
120.6j	". . .The SWRCB and RWQCB currently issues individual and general permits to regulate ~~all~~ most storm water discharges." FED page 110, second full paragraph.	Agree.	Yes	FED, page 110
120.6k	"Owners and operators of industrial storm water discharge systems and some construction sites must obtain authorization for the use or continued use of storm water discharge systems by submitting a "Notice of Intent," which signifies that the discharger intends to comply with the provisions of ~~the~~ a statewide general permit. For example, the industrial storm water general permit authorized. . ." FED page 110, third full paragraph.	Agree.	Yes	FED, page 110
120.6l	The finding of "No Impact" is erroneous in many cases (e.g., I.d.; IV.c: VII.d.; XII.c.,d.,e., and g.; XVI.b. and c.) FED Environmental Checklist, pages 130-135.	Please refer to the response for Comments 30.29, 30.30 and 119.7.	No	FED, pages 130-135
120.7	Amend Guidance to reflect that some technologies, while technologically feasible, may not be economically feasible.	Please refer to the response for Comment 13.5.	No	Policy, remediation methods
120.8	Refine Guidance to address problems related to fish tissue impairments.	Please refer to the response for Comment 3.1.	No	Policy, definition
120.9	Potential costs must be determined at the earliest possible point.	Please refer to the response for Comments 119.6 and 30.30. Some costs will have to be deferred if they are developed as part of a watershed management effort.	No	Policy, remediation methods

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120.10	This new language in the Guidance does not go far enough to identify the requirements to be addressed by the SWRCB in developing the Consolidated Cleanup Plan. The last sentence on page xlviii and the numbered items on page xlix of the Guidance be amended.	Please refer to the response for Comment 119.4.	No	Policy, pages xlvii, xlix
121.1	The SWRCB staff has continued to use several technically invalid approaches for designating and ranking THS	Comment acknowledged.	No	Policy, Definition and ranking criteria
121.2	SWRCB staff have failed to provide complete correspondence of each of the commenters on the preliminary draft FED.	Comment acknowledged. All correspondence received regarding the proposed Policy is available for review and is a part of the administrative record for this action.	No	Response to comments
121.3	The peer review should not be conducted where selected information is sent to peer reviewers selected by the staff who have a particular approach for which they wish to gain support.	The peer reviewers were sent the draft FED, the SPARC recommendations, and other information to assist them in making their review. It is a common practice for the SWRCB staff to make recommendations to the SWRCB on an alternative to select. SWRCB staff were not involved in selecting the independent peer review panel. The peer review was conducted as a separate process in accordance with the Health and Safety Code Section 57004.	No	Policy, definition and ranking criteria
121.4	Language on page xviii regarding the RWQCB, "shall work with responsible parties to determine the appropriate and reasonable..." should be revised to include all interested parties, both public and private.	The RWQCBs are free to invite any parties they wish to develop remediation activities. The proposed Policy establishes the minimum.	No	Policy, mandatory requirements
121.5	Language on page xix, item e, "will also present a list of benefits (consistent with the guidance in this Policy) derived by implementing the cleanup plan." should be expanded to include documentation of the benefits not simply a superficial list.	Please refer to the response for Comment 120.6f. We do not have the quantitative information in most cases to perform a detailed benefit analysis. Listing the probable benefits is doable with the information available.	No	Policy, remediation
121.6	The t-test requirement change from 80% to 90% is too strict for certain types of test organisms.	Please refer to the response for Comment 38.4. No information is provided by the commenter showing that the 90 percent value is too strict.	No	Policy, definition

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121.7	Page xxiii, under "Aquatic Life Impacts," SWRCB staff has still not addressed the fundamental error of using sediment chemical analysis rather than sediment chemistry as a basis for incorporating chemical information into the decision process.	Please refer to the responses for Comments 13.2, 13.7, 13.10, and 13.13.	No	Policy, definition
121.8	Pleased to see that "Pollutant Source" has been deleted. Other errors still not addressed include the NAS values in Table 1.	Comment acknowledged for the first part of the comment. Please refer to the response for Comment 13.29 to address the use of NAS values.	No	Policy, ranking criteria
121.9	New information on pages xlii and xliii still does not address the problems with site investigation and remediation.	Comment acknowledged.	No	Policy, pages xlii-xliii
121.10	Beneficial Effects of Remediation, Table 15 will lead to a superficial discussion of the benefits compared to the costs of remediation of THS and the prevention of future THS. SWRCB should require that its staff properly address the issues raised by various commenters on this issue by having the RWQCB provide fairly quantitative estimates of the potential benefits for expenditures of public and private funds in the remediation of THS and the imposition of additional controls on NPDES permitted discharges.	Please refer to the response for Comment 121.5.	No	Policy, Table 15
121.11	Beginning on page 144, SWRCB staff have presented a summary which is often inappropriate compared to the original comment, of the comments made by various commenters and a response as well as any revision because of the comment.	Comment acknowledged.	No	Response to comments
121.12	SWRCB have inadequately presented in table form many of the issues raised and have provided superficial and often inadequate and unreliable discussion of issues in their responses.	Comment acknowledged.	No	Response to comments
121.13	Response No. 13.1 on the proposed policy regarding misdesignation and ranking of THS was not responded to adequately in the response to comments 13.2, 13.7, and 13.13. Staff should be required to specifically discuss this issue.	Comment acknowledged.	No	Policy, definition and ranking criteria

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121.14	Response No. 13.2 on the need to focus on real significant water quality use impairments has been addressed in a superficial manner. The sediment quality triad approach is technically invalid as implemented by the SWRCB staff. The approach must be based on a proper and adequate database and the appropriate use of chemical information.	Comment acknowledged	No	Policy, definition
121.15	Response No. 13.3 about the potential for increasing the cost of wastewater treatment and stormwater runoff without significant improvement in the beneficial uses has not been addressed appropriately.	Comment acknowledged.	No	Response to comments
121.16	Response No. 13.4, regarding an adequate database to designate and rank THS is false. The SPARC review did not address the adequacy of the database to designate and rank THS.	The SPARC made the finding that : "...BPTCP data collected to date allows for a scientifically defensible ranking of high priority sites....The data is currently sufficient to justify regulatory actions." (SPARC, 1997). The database is adequate.	No	Response to comments
121.17	The public and regulated community are entitled to understand the economic impacts of the proposed policy.	Comment acknowledged.	No	Response to comments
121.18	Response No. 13.6 regarding the development of an independent expert panel to provide guidance to the SWRCB where such an approach could cause the SWRCB to fail to meet the June 30,1999 deadline is an inadequate response.	Response No. 13.6 still stands. An independent panel of experts was convened to review the scientific aspects of the BPTCP. Also external scientific peer review was carried out in accordance to Health and Safety Code Section 57004. However, many of the issues pertaining to the development of the toxic hot spot designation and ranking criteria are a matter of policy. These are matters for the SWRCB and the RWQCBs to address.	No	Response to comments
121.19	Concerns are raised regarding the inappropriate use of the co-occurrence-based approaches for incorporating chemical information. Judging from the statement made in response No. 13.7, "The use of 'co-occurrence-based approaches' is only used when there is a need to show that pollutants or hazardous substances are caused by or contributing to the observed impacts..." Staff does not understand	Comment acknowledged.	No	

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	and/or reliably report on the use of co-occurrence-based approaches in the BPTCP.			
121.20	The statement: "The approaches used to show the significance of chemical concentration have been published in peer reviewed literature and have been reviewed by the SPARC." Published peer reviewed literature does not mean that approaches are necessarily valid. Contrary to Staff's statement SPARC did not endorse the approach.	The SPARC recommendations say in part: "...BPTCP data collect to date allows for a scientifically defensible ranking of high priority sites." The SPARC said our approaches and data are scientifically defensible and sufficient for regulatory actions. The SPARC said to use all available information for evaluation of chemistry information.	No	Response to comments
121.21	Response No. 13.10 states, "At present it is not possible to use only the bioavailability fraction because these studies are generally not available". This is not correct because there are well established techniques that could and should have been used in the BPTCP to develop the kinds of information necessary to determine whether constituents present in the sediment are responsible for adverse impacts noted in those sediments.	Even though the commenter says the method to use are available, no methods are referenced or presented that we can discuss. We have used and continue to use methods and approaches endorsed by the SPARC.	No	Response to comments
121.22	Response No. 13.10 states, "The BPTCP is using the best available information to access the significance of chemicals". While the statement may be true, it is only true because the staff misdirected the whole BPTCP to focus on total concentration of constituents and did not properly address the recommended approach of focusing on toxic available forms.	Comment acknowledged.	No	Response to comments
121.23	In response to Comment 13.11 a statement was made about flipping a coin being more reliable than Long and Morgan values. Why did staff not quote NOAA staff in reviewing the matter at a 1997 multi-regional meeting in St. Louis?	Staff did not quote the NOAA staff because we do not know of any publication or written statement where this comment is presented and explained. Response to Comment 13.11 references a scientific publication that was submitted and included in the administrative record.	No	Response to comments
121.24	The response to Comment 13.12 states that "there is no reason to discuss the deficiencies ..." in the monitoring approach. The public, whose funds were spent in the monitoring approach, are entitled to	The monitoring approach was discussed in detail at the two SPARC meetings and many portions of the monitoring activities have been presented at regional, national and international scientific meetings. The	No	Response to comments

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	know the strengths and weakness of the result of this approach.	strength and weaknesses of the various approaches have been presented previously (e.g., SWRCB, 1993; DWQ/SWRCB, 1995) and are incorporated in the record.		
121.25	Response No 13.29 regarding NAS values. The NAS values have never been adopted by USEPA or anyone else. No credible organization accepts the NAS values as credible values for estimating critical tissue concentrations of various constituents.	Comment acknowledged.	No	Response to comments
121.26	Without the use of TIEs to identify whether toxic constituents are derived from a particular source, significant errors could readily occur in identifying the sources of constituents that cause THS.	Comment acknowledged.	No	Response to comments
121.27	The comment that the SPARC did not conduct a detailed peer review discussion still stands. Furthermore, Health and Safety Code Section 57004 peer review could be a highly distorted review since it is not an interactive peer review with the public. A credible peer review involves providing the peer reviewers with a complete set of information, not just the biased information developed by the staff on issues.	Please refer to the responses for Comments 121.3 and 121.18.	No	Response to comments
121.28	Staff have not provided a credible discussion of issues raised in my detailed comments.	Comment acknowledged.	No	Response to comments
121.29	Strongly urge the State Board to conduct a true independent, interactive peer review of these issues where all parties, including the State Board staff, the regulated community, environmental groups and the public have the opportunity to provide information to the peer reviewers.	Comment acknowledged.	No	
121.30	Strongly urge the State Board to reject the staff's proposed Draft Final FED.	Comment acknowledged.	No	
122.1	We appreciate the extension of the comment period granted at the June 18th workshop.	Comment acknowledged.	No	

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122.2	We are pleased that the pollutant source criterion was removed.	Comment acknowledged.	No	Policy, ranking criteria
122.3	We support the additional proposed changes to the Policy.	Comment acknowledged.	No	
122.4	We are concerned that the proposed specific definition does not achieve the goal of narrowing the sites that can be identified as THS.	Comment acknowledged.	No	Policy, definition
122.5	We believe that "preponderance of evidence" should be replaced with "substantial evidence" in the FED.	Please refer to the response for Comment 119.2c.	Yes	Policy, definition
122.6	Include volume and depth information to determine the true areal extent of a THS. This information, together with pollutant concentration is critical.	This information is called for in Item 6.A. of the contents of the cleanup plans. Please also refer to the response for Comment 5.5.	No	Policy, mandatory requirements
122.7	Expand No Remediation Alternative section on institutional or interim controls. Recommend that the measures be implemented where consumption of contaminated fish is a concern.	The RWQCBs will assess which actions are most appropriate at the toxic hot spots depending on the site-specific factors at sites. If appropriate, institutional and interim controls already implemented will be described to the extent possible.	No	Policy, mandatory requirements
122.8	Reword reference to Table 12 in the second paragraph on page xxxix. Add: interim controls are in place to maintain safety to health and environment, pollutants are underlain by low permeability strata, and pollution level at active surface in relatively low relative to areal extent.	These considerations should be addressed when RWQCBs are faced with real situations. It is impossible to say that interim controls will protect the environment in all cases or to say what concentrations will be allowed relative to areal extent. These determinations need to be made case-by-case by the RWQCBs.	No	Policy, Table 12
122.9	It is suggested that for nonpoint source BMPs, the SWRCB and the RWQCB use the Guidance Specifying Management Measures for Sources of Nonpoint Pollution to Coastal Waters.	The required use of the referenced Guidance by the Policy may circumvent efforts underway to incorporate the use of the Guidance into the NPS program. Currently the Policy does not mandate the use of this guidance and does not prevent the RWQCBs from using the Guidance in specific circumstances. For these reasons it is not recommended that the NPS Guidance be required.	No	Policy, remediation
122.10	Recommend that the words "...or delay the development of cost estimates if a THS will be	Please refer to the response for Comment 119.6 and 120.6e.	No	Policy, prevention;

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	addressed as part of a watershed management effort" be deleted from page xliii; pp. 89-90, 99-100.			FED, prevention
122.11	Strongly recommend that the SWRCB identify the following topics for inclusion in the Consolidated Statewide Plan: guidance to the RWQCBs regarding follow up site characterizations, source determinations, and selections of remediation methods.	These determinations will be site- and Region-specific. Developing statewide guidance on these topics may interfere with RWQCBs ability to address the identified toxic hot spots.	No	Policy, SWRCB consider-ations
122.12	Recommend that the SWRCB describe the approach to be used to consolidate and compile the Regional THS cleanup Plans in the Policy .	Please refer to the response for Comment 103.7.	No	Policy, SWRCB consider-ations
122.13	The SWRCB should do more than just "consider" the issues identified under the development of the consolidated THS cleanup plan. These issues should be required to be carried out.	Please refer to the response for Comment 119.4. The SWRCB staff will develop proposals for these issues and will also develop a "no action" alternative. Making the language non-permissive removes the flexibility to consider the "no action" alternative.	No	Policy, SWRCB consider-ations
122.14	Analysis by the RWQCB of potential environmental impacts of proposed THS cleanup and environmental benefits of such cleanup does not fulfill CEQA requirements nor replace a CEQA analysis of the regional THS cleanup plans.	A comprehensive CEQA analysis will be completed as part of the development of the consolidated cleanup plan. The regional cleanup plans are not implementable until SWRCB adoption of the consolidated plan and completion of the CEQA analysis.	No	FED, checklist
122.15	Additional information should be provided in the FED to assist the RWQCBs in analyzing the potential environmental impacts of the proposed actions. Clarify that the information presented is for each toxic hot spot.	Examples of the kind of impacts are presented in the proposed Policy. The list is not exhaustive but gives the RWQCBs a general idea of the kinds of site-specific impacts that should be considered. The examples presented came from correspondence in the administrative record. The impacts at each site will be addressed as described in Item 6 which states in part "each candidate toxic hot spot with a "High" priority ranking shall be listed separately and the following information compiled for the site..." Item 6.D. presents the assessment related to the potential	No	Policy, mandatory requirements

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		environmental impacts. Since each subsection of Item 6 applies to each candidate toxic hot spot, the potential environmental impacts will be presented for each candidate.		
122.16	Any analysis of projected benefits of cleanup must include documentation regarding the basis for reasonably expecting them to occur. The RWQCBs should provide CEQA analysis.	The RWQCBs will analyze the impacts associated with the toxic hot spot as well as the potential costs to remediate the site and the potential benefits. This information will be sent to t he SWRCB so a comprehensive CEQA analysis can be completed. Please refer to the response for Comment 122.14.	No	Policy, mandatory requirements
122.17	Do not believe that the SWRCB has adequately analyzed the potential environmental impacts of the proposed policy, nor analyzed the past, present and reasonably foreseeable future projects related to the proposed action for the purpose of identifying cumulative and long-term impacts.	Please refer to the response for Comment 119.7.	No	FED, environmenta l checklist
122.18	Do not agree that no potential environmental impacts of sediment cleanup and modifications of WDRs are likely to occur, but believe that some potential significant impacts have been identified in the notes accompanying the Checklist (FED, pp. 136-137).	Please refer to the response for Comment 7.14.	No	FED, environmenta l checklist
122.19	SWRCB must analyze the potential environmental impacts due to capping, containment, dredging, transport, treatment, and ultimate disposal of contaminated sediments. As noted in the Environmental Checklist, environmental impacts could occur if wastewater or water utilities have to take compliance actions involving construction or installation of additional treatment facilities.	Please refer to the response for Comment 7.14.	No	Policy, checklist
122.20	The SWRCB must identify and analyze the environmental impacts that could occur when waste discharge requirements are modified and when cleanup plans are implemented for remediation of water sites, if some wastewater treatments must install advanced facilities to comply. These potential impacts should not be dismissed as "not expected".	Please refer to the response for Comment 7.14.	No	Policy, checklist

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122.21	SWRCB has failed to identify the cumulative and long-term environmental impacts associated with the development and adoption of seven Regional Cleanup plans, and potential cleanup actions at identified THS sites.	Please refer to the response for Comment 119.7.	No	Policy, environmental impacts
122.22	The FED should clarify that the analysis of specific issues identified at specific THS in the Consolidated Plan must consider the cumulative, as well as site specific impacts of cleanups at identified THS sites.	This analysis will take place to the extent that the unaddressed environmental impacts have been identified. The cumulative impact analysis is presented on pages 128 and 129 of the FED.	No	Policy, SWRCB considerations
122.23	The last sentence of FED issue 5, Remediation Actions and Costs, item 2, "The policy does not require that the estimate be used when the discharger voluntarily or through an enforcement action address the toxic hot spot" should be deleted because it is inconsistent with the proposed Policy language (pp. xlii-xliii) and Water Code Section No. 13394(c).	The Water Code (Section 13360) does not allow the RWQCBs to specify the methods or approaches to address an identified problem. Consequently, a discharger can not be mandated to use the estimates developed by the RWQCB or SWRCB. The statement acknowledges that the cost estimates may change during implementation of the cleanup plans.	No	FED, remediation actions
123.1	The current "program" FED does not provide enough information to identify likely environmental impacts and the individual RWQCB will be exempt from preparing an FED. The SWRCB's process avoids the intent of the CEQA requirements.	Please refer to the response for Comment 119.7 and 122.22. Since the regional plans are not implementable until the statewide plan CEQA analysis is complete, the regional cleanup plans are not a "project" as defined in CEQA.	No	FED
123.2	The Policy document should include a description of how the definition and ranking criteria will be implemented.	Please refer to the response for Comment 12.4.	No	Policy, definition and ranking criteria
123.3	The first phase of the program should incorporate a thorough sediment toxicity survey to insure that the program is addressing the major sites in the State's waterways.	Please refer to the response for Comment 12.2.	No	Policy, definition
123. 4	The Policy should incorporate cost/benefit assessment into the decision making process. This is necessary to meet the statutory requirement that designated sites impact the "interest of the state".	Please refer to the responses for Comments 12.3, 12.7, and 12.53.	No	Policy, remediation actions
123.5	Watershed management plans have been in place since Clean Water Act Section 208 plans for some time. It is still not clear how specific pollutants will	We acknowledge that the "208" plans and Basin Plans have been in place for years and we also acknowledge that watershed management will not be	No	Policy, prevention

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	be addressed in the absence of water quality objectives.	easily or simply implemented. However the SWRCB and RWQCBs have made significant progress in addressing nonpoint source discharges over the past several years (e.g., NPS Management Plan) and some new point sources (e.g., stormwater permitting activities). The BPTCP have provided, in some cases, the information needed to clearly identify problems and the pollutants that cause or contribute to the problem (one example is the Region 5 work with pesticides). In these circumstances watershed management provides an approach for addressing these problems comprehensively so the most cost-effective and beneficial solutions can be developed.		
123.6	Need separate approaches for sediment and water. Separate approaches would be more effective.	Please refer to the response for Comment 12.6. In some cases, chemicals discharged to waters can become a sediment problem (e.g., DDT). Conversely, sediment pollutants can reenter water from sediments. No evidence is provided that shows that separating ways to address sediment and water problems is more effective.	No	Policy, definition
123.7	The definition of a toxic hot spot must include the required determination that the potential site affects the interests of the state. In this regard, consider an evaluation of the site in the context of the whole waterbody and the water body's sediment problems. The BPTCP has not done extensive monitoring.	Please refer to the response for Comment 12.2. The program has monitored over 1200 sites statewide.	No	Policy, definition
123.8	The Policy should describe how different programs (e.g., 303(d)/TMDL) will interact and can be optimized to address both water and sediment THS. Water and sediment remediation approaches should be separate.	Please refer tot he response for Comment 123.6. These are independent programs that the SWRCB and RWQCBs implement. One of the reasons for the Prevention section of the Policy and FED was to show the various programs and their relationships. One of the challenges for the RWQCBs is to coordinate the various mandates of the programs. The cleanup plans provide an opportunity to lay out all efforts being undertaken and to assess where further action is necessary.	No	Policy, prevention

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123.9	Need a problem-based approach. Criteria are not linked to impacts.	Please refer to the response for Comment 12.2 and 12.7. Section 304(a) criteria are estimates of the potential for impacts from certain concentrations of chemicals in water. Water quality objectives are adopted values established to provide a level where beneficial uses are reasonably protected. Water quality objectives are narrative or numeric value where impacts are expected to occur.	No	Policy, definition
123.10	The Policy needs to follow procedures in Sections 13240 through 13246 of the Water Code for the adoption of water quality control plans since this Policy provides the same function and thus must meet the same requirements.	Please refer to the response for Comment 12.8 and 12.12. The proposed Policy does not perform the same function as water quality objectives or a water quality control plan because the proposed Policy is to be used only to develop regional cleanup plans.	No	FED
123.11	The Policy should consider site-specific factors in addressing the uniqueness of specific waterways.	Please refer to the response for Comment 12.51. Notwithstanding the legal requirements, the regional cleanup plan development will allow for site- and region-specific considerations to be developed and ultimately incorporated into the consolidated cleanup plan.	No	FED, environ-mental setting
123.12	Need a more detailed description of the alternatives for addressing THS. The statewide plan should consider cumulative impacts.	Please refer to the response for Comment 119.7, 122.22 and 123.1.	No	FED, environ-mental effects
123.13	The current FED should describe the procedures for delisting a site, this should not be put off until the Statewide Cleanup plan is developed.	Comment acknowledged.	No	Policy, SWRCB consider-ations
123.14	The Policy should clearly incorporate cost/benefit assessment into the decision making process. Currently the Policy only addresses the cost-effectiveness of actions.	Please refer to the response for Comment 12.3. The proposed Policy does require a qualitative analysis of benefits and the development of cost estimates. A more detailed analysis cannot be accomplished in the time and with the information available.	No	Policy, prevention
123.15	We still believe that each Regional Board needs a discussion of the proposed policy for implementing cleanups based on the ranking, and an assessment of costs and benefits to determine interests of the State.	This comment refers to Comment 12.12. The disagreement with the response is acknowledged.	No	Policy, ranking criteria, prevention

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123.16	The Section on p. xiv (U.S. Government Sites) needs to include specifically U.S. sites such as former military bases.	Please refer to the response for Comment 12.13. It is not necessary to specifically call out whether government sites be called toxic hot spots. The provisions of the definition can be used to determine if any site in bays or estuaries are toxic hot spots. Please also refer to the response for Comment 127.1.	No	Policy, definition
123.17	THS cleanup actions should not be necessary unless there is a demonstrable significant impact on the biota (identified through a full assessment of sediment toxicity, benthic community structure, bioaccumulation, histopathology, etc.)	Agree. Please refer to the response for Comment 12.14.	No	Policy, definition
123.18	Was the SEM/AVS approach considered for possible inclusion as part of the ranking methodology for this policy?	The BPTCP began using SEM/AVS measurements after the April 1995 SPARC workshop. The proposed Policy does not prevent the RWQCBs from using this information to assess the significance of chemical measurements.	No	Policy, ranking criteria
123.19	Are all sediments with elevated concentrations of copper and nickel to be considered as potential toxic hot spots?	There is no classification for potential toxic hot spot in the proposed Policy. If Section 304(a) criteria are exceeded the site cannot be called a toxic hot spot because the values are not promulgated by EPA yet. If the California Toxics Rule is promulgated then these values could be used to establish a toxic hot spot.	No	Policy, definition
123.20	Pollutants other than those on the 303(d) list or those not indicated as exceeding criteria on the list could also be considered as violating criteria.	Please refer to the response for Comment 123.19.	No	Policy, definition
123.21	With regard to storm runoff, during some periods of the runoff cycle, storm water typically exceeds many of the existing criteria since mixing zones cannot be generally applied. It is inappropriate to automatically classify all sites receiving any amount of storm water exceeding numerical limits as "candidate hot spots."	Please refer to the response for Comment 123.19. RWQCBs would have to make a determination if the values are exceeded consistently enough to be considered a toxic hot spot.	No	Policy, definition
123.22	The definition should be made more precise and limit potential candidate hot spots to those sites where primarily anthropogenic sources cause water column	It is not practical to make the definition more precise because in doing so the SWRCB may remove flexibility from the RWQCBs in addressing	No	Policy, definition

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	concentrations to become elevated above criteria or objectives.	important water quality problems in their Region. If beneficial use impacts are related to chemical concentrations then the source is not relevant when the toxic hot spot is identified.		
123.23	The Policy must specify the criteria for determining an appropriate reference site.	Please refer to the response for Comment 12.15. Establishing reference sites statewide is a difficult task that is more efficiently done regionally. Even though we have developed informal guidance on the factors to be considered (SPARC, 1997), it is more appropriately completed at the RWQCBs in consultation with BPTCP scientists (e.g., Hunt et al., 1998).	No	Policy, definition
123.24	Regarding de minimus sites, is there an impact zone cutoff below which the contamination does not "affect the interest of the State." Would such sites be ranked lower with the proposed ranking factors?	Please refer to the response for Comment 12.16. If a site does not meet one of the factors in the specific definition it is not a candidate toxic hot spot. Overall site ranking is a function the RWQCBs will perform based on the five ranking criteria.	No	Policy, definition
123.25	Clarification is needed on the methodology for determining if the tissue contamination is associated with sediment or water or both.	The tissue contamination can be associated with either water or sediment.	No	Policy, definition
123.26	Comment 12.18 does not make sense. If pollutants are impacting then the sources are irrelevant.	Actual communities of organisms would probably not be impacted if they are adapted to the naturally occurring substances. Natural sources are most likely not controllable.	No	Policy, definition
123.27	Numerical exceedances should be considered as "triggers." Thus, a potential site should not be considered a "candidate" until a significant end-point impact has been demonstrated to be clearly associated with the site sediment.	This proposal is contrary to the requirements of the Water Code. If water quality objectives are violated then a site is a toxic hot spot.	No	Policy, definition
123.28	Examples should be provided of values to be assigned to the criteria at typical sites. General assessment of the application of this policy to actual sites is required by the Water Code Section 13241(b).	Please refer to the response for Comment 12.20.	No	Policy, ranking criteria
123.29	The revised FED response to Comment 12.20 indicates that examples are available in the existing RWQCB draft plans. If these regional plans are, in	The regional plans will be re-developed through a public process and will incorporate any new information to comply with the SWRCB policy. It is	No	Policy, environmental effects

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	effect, part of and support this FED, then the cumulative impact of these plans should be assessed as part of this "program" CEQA-type process.	premature to consider the cumulative impacts of the regional plans that are yet to be completed.		
123.30	The proposed Policy needs to clarify how it distinguishes between the overlapping classifications such as health advisory and water quality objective exceedances so that general water quality problems are separated from local sediment issues during the implementation of the policy.	Please refer to the response for Comment 12.21. No change is necessary.	No	Policy, definition
123.31	The three tables (NAS, FDA, EPA values) are not consistent. The intended and appropriate use of Table 1 should be clarified. The NAS values are of questionable value.	Please refer to the response for Comment 12.22 and 13.29.	No	Policy, definition
123.32	For sediments, toxicity and other biological assessments should carry more weight than sediment chemistry. While sediment chemistry is important, it should not be determinate in the ranking, but rather, it should be used as a trigger. All chemistry based values should be used as triggers.	Comment acknowledged.	No	Policy, definition
123.33	Clarify the distinction between the use of water quality criteria and water quality objectives.	The description of the water quality objectives criterion has been clarified. Only adopted water quality objectives or promulgated EPA should be used.	Yes	Policy, definition
123.34	The intended application of the water quality objectives ranking criterion should be explained by reference to typical examples in California waters.	The justification of this criterion is explained in the FED. This criterion will be most useful in San Francisco Bay because of the availability of numeric water quality objectives in the Region 2 Basin Plan.	No	Policy, ranking criteria
123.35	Use numerical criteria as triggers rather than as final ranking criteria. EPA developed sediment quality advisory levels for their national survey of sediment contamination. The Policy and FED should specifically address EPA's alternative for setting priorities and indicate why it was not selected.	The RWQCBs are allowed to use any and all guideline values to show the association with beneficial use impact. This was a SPARC recommendation. EPA's values and approaches were not available until early 1998. The EPA approaches do not provide any additional benefit or advantage over the proposed approaches.	No	Policy, ranking criteria
123.36	The Water Quality Objective section should be expanded to include sediment quality objectives as	Please refer to the response for Comment 12.26.	No	Policy, ranking

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	placeholders for when sediment quality objectives are developed.			criteria
123.37	The ten year cutoff for data is fairly arbitrary. Regional Board staff should be able to use their judgment is evaluating the validity of the data.	Please refer to the response for Comment 12.27.	No	Policy, ranking criteria
123.38	The acreage groupings for determining areal extent for THS are too small. The Policy should include a de minimus value.	Please refer to the responses for Comments 12.29 and 12.16.	No	Policy, ranking criteria
123.39	Consider using one grouping option for sediment sites and a separate one for water sites.	Please refer to the response for Comment 12.6.	No	Policy, ranking criteria
123.40	The Policy discussion on areal extent should also address depth and edge determinations.	Please refer to the response for Comment 122.6. The specific dimensions of the polluted sites is a site-specific consideration.	No	Policy, ranking criteria
123.41	A discussion in the FED of acceptable approaches on how to determine the edge of a site is necessary. It's essential for the statewide policy.	Please refer to the response for Comment 12.31.	No	FED, remediation
123.42	Need a discussion in the proposed Policy for implementing cleanups based on ranking.	This information will be addressed in the Statewide consolidated toxic hot spot cleanup plan. It is premature to discuss implementation before the basis for the statewide plan is developed.	No	Policy, ranking criteria
123.43	The Policy functions as a statewide water quality control plan and therefore must contain a "program of implementation needed for achieving water quality objectives" according to Water Code Section 13050(j). This should be discussed in the Policy.	Please refer to the response for Comment 12.33 and 12.34.	No	
123.44	Evaluate cost/benefit in the sediment cleanup methods section.	Please refer to the response for Comment 12.3.	No	Policy, remediation
123.45	Do not believe that soil washing is a mature technology with respect to marine sediments. What is the source for this classification? Knowing the source does not correct the misclassification.	Please refer to the response for Comment 12.37.	No	Policy, remediation
123.46	How does confined disposal facility option differ from contained aquatic disposal or from landfills? Put he explanation in the Policy.	Please refer to the response for Comment 12.38. The explanation is not needed to clarify the proposed Policy.	No	Policy, remediation

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123.47	Dredged material disposal to an offsite location, either in bays or the ocean is unlikely. The policy should assess realistic alternatives. No cases exist for some of the technologies.	Comment acknowledged, see also response to comment No. 12.39. If no cases exist then those portions of the Policy will not be applied.	No	Policy, remediation
123.48	Is contained aquatic disposal facility option feasible in California given the restrictions on non-RCRA wastes or "special" wastes? Give examples.	Please refer to the response for Comment 12.40 and 123.47.	No	Policy, remediation
123.49	Critical component missing in the discussion of no remediation alternative is the criteria for evaluating costs and benefits.	Please refer to the response for Comment 12.3.	No	Policy, remediation
123.50	Item D. lists the proofs that must be given when the no-remediation alternative is selected. Very few sites, if any, will be able to make all the required demonstrations.	Please refer to the response for Comment 12.42.	No	Policy, remediation
123.51	Proof of why the no-remediation alternative was selected will be difficult to achieve. Compliance is a matter of degree. Does pollutant discharge have to be 100% controlled?	This is a RWQCB determination but if a discharge is under WDRs, the appropriate chemicals are addressed, and the discharger is in compliance then it is probable that the RWQCB will consider the discharge controlled.	No	Policy, remediation
123.52	The revised FED did not address the main issue that once listed, a site is almost surely on the road to excavation (or capping) regardless of whether this makes sense from a common sense standpoint of costs and benefits.	Please refer to the response for Comment 12.42. If the conditions are satisfied then the "no remediation" alternative can be implemented.	No	Policy, remediation
123.53	Selection of the alternative for sediment cleanup is obviously a critical part of this Policy. Much more explanation is needed on how this selection will take place.	Please refer to the response for Comment 12.43.	No	Policy, remediation
123.54	This policy should show typical California disposal costs for contaminated sediments (in Table 13) based on the present regulatory and tax structure.	Please refer to the response for Comment 12.44. Some site-specific cost estimates from projects in San Francisco Bay are presented in Table 20 of the FED. These were not included in the Policy because they may not apply in other bays.	No	Policy, remediation
123.55	The section on prevention of toxic hot spots appears to focus on water column hot spots. This section	The prevention section applies to both water and sediment. No change is necessary.	No	Policy, prevention

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	should also describe prevention of sediment hot spots.			
123.56	We still do not see any current regulatory mechanisms to address the serious problems being caused by toxicants for which neither EPA nor the state has promulgated criteria/objectives.	Comment acknowledged.	No	Policy, prevention
123.57	The Template for Regional Plans is missing a section on application of the plan (i.e., how will the criteria be implemented?).	Please refer to the response for Comment 123.42.	No	Policy, template
123.58	The policy should address how the reevaluation of WDRs will take place.	Please refer to the response for Comment 12.48.	No	Policy, SWRCB consider-ations
123.59	The FED section (p.7) on sediment quality objective should indicate the current status of the sediment quality objectives.	Please refer to the response for Comment 12.50.	No	FED, background
123.60	The FED section (p.17) on environmental setting should include more information regarding sediment quality and known impairment in California waterways.	Please refer to the response for Comment 12.51. The proposed regional plans show where the candidate toxic hot spots are. EPA documents do not show toxic hot spots or describe them.	No	FED, environ-mental setting
123.61	The FED should explain the relationship between the EBE, 303(d)/TMDL and the BPTCP.	Please refer to the response for Comment 123.8.	No	FED, prevention
123.62	We believe that the term "interests of the state" means that cost/benefit concerns must be included in the FED.	Please refer to the response for Comment 12.53.	No	FED, definition
123.63	We understand now that the loss of beneficial use indicates that the use is no longer available (e.g., a health advisory). This explanation should be in the document.	The FED contains this explanation. Please refer to the response for Comment 12.54.	No	FED, definition
123.64	The section on human health (p.31) should indicate whether a human health advisory issued for a waterbody affects all individual sediment sites within that waterbody.	Please refer to the response for Comment 12.55. It depends on the water body and the chemical. Therefore, the RWQCBs should be given latitude to evaluate the precise interpretation of the available data.	No	FED, definition
123.65	There may be situations where the interests of the state are not affected and it does not make sense to	Please refer to the response for Comment 12.16.	No	Policy, mandatory

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	list the site based on elevated chemistry for such a de minimus site.			requirement
123.66	It is not appropriate to simply list the various values developed by different researchers as potentially appropriate values to be used to assess sediments because there is great natural variation in soil and rock types and constituents.	Comment acknowledged. As encouraged by SPARC, the RWQCBs should use their best professional judgment in evaluating chemistry data.	No	FED, chemical measures
123.67	PCBs are clearly contaminants of concern because of bioaccumulation in fish tissue in San Francisco Bay. Should a site be cleaned up if PCBs in the sediments are twice that of general background? There needs to be consistency among the regions with respect to developing appropriate approaches for dealing with these types of key pollutants. Address this problem statewide.	A site meeting any one of the conditions in the specific definition would be considered a THS. Cleanup would depend on the RWQCB's assessment of the actions necessary to address the pollutants or contaminants at a site. Remediation for PCBs and other pollutants should be developed on a Region-specific basis. If watershed management is ineffective the RWQCBs will have to look into other approaches to address these problems.	No	FED, chemical measures
123.68	It may not make sense to clean up a site with elevated inorganic constituents if the levels are within the range of natural variation even though the constituents may have changed the nature of the biota present.	Please refer to the response for Comment 12.59. The only way to effectively address this type of issue is on a case-by-case basis.	No	FED, chemical measures
123.69	Explain in the FED why the Florida screening levels were used as opposed to the Washington Sediment Management Standards (Section 520) that may be more appropriate for comparison with West Coast sites.	Please refer to the response for Comment 12.61 and 123.66.	No	FED, Table 3
123.70	Provide examples of application of the general ranking approach.	Ranking examples have been developed by the RWQCBs in the proposed regional plans. After the RWQCBs redevelop these plans there will be a compilation of the plans with ample examples of the ranking. A comprehensive CEQA analysis will then be completed for the consolidated cleanup plan.	No	FED, general ranking approach
123.71	For remediation actions and costs, more effort should be made to address the options that are more likely to be used in California, as opposed to the NAS examples that were used.	Please refer to the responses for Comments 12.39 and 12.40. The amount of effort used to describe the various alternatives was based on the information available (NRC, 1997).	No	Policy, page xli, Table 13, sediment cleanup costs

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123.72	The FED does not appear to discuss the cumulative impacts of disposal of sediment excavated from hot spots. It is essential that the FED present at least order of magnitude estimates of the volume and costs of sediment disposal.	Please refer to the response for Comment 12.64. These estimates will be best assessed when the information is submitted by the RWQCBs.	No	FED, environ-mental effects
123.73	The discussion on Watershed management planning is too general. A general discussion should be included.	Please refer to the response for Comment 12.65. The discussion of watershed management is general and is not intended to present approaches for addressing specific water quality problems.	No	FED, prevention
123.74	The CZARA section is too general. The program land use powers should be explained and used.	Please refer to the response for Comment 122.9.	No	FED, prevention
123.75	More discussion is needed on the storm water program and how this alternative is a realistic approach for hot spot prevention.	Please refer to the response for Comment 122.67. As with all prevention programs, if pollutants are controlled the discharge will no longer contribute to the toxic hot spot.	No	FED, prevention
123.76	Statewide cumulative environmental impacts of the program must be further addressed.	Please refer to the response for Comment 12.68. Cumulative impacts cannot be addressed until the regional plans are compiled.	No	FED, environ-mental effects
123.77	All items are checked "no impact" In the Environmental checklist. It is untenable to imply that the Policy implementing a statewide cleanup of toxic hot spots will have no impacts.	Please refer to the response for Comment 12.69. The proposed Policy does not implement statewide cleanup of toxic hot spots. The consolidated cleanup plan will have the information needed to begin to address toxic hot spots. With respect to identifying and ranking toxic hot spots the Policy will have no adverse impacts.	No	FED, environ-mental checklist
124.1	Received the agenda for the July 8,1998 SWRCB meeting on June 29, 1998. It was rather upsetting that the deadline for comments was 5:00 P.M. on Monday. Transmitted my previous comments package under protest.	Comment acknowledged. Response to previous comments submitted are presented for Commenter 5 and 117.	No	
125.1	The timeline of this process will cause the Consolidated statewide plan to be preliminary.	Please refer to the response for Comment 18.1.	No	
125.2	The guidelines section entitled " Issues to be considered in the development of the Consolidated Toxic Hot Spot Cleanup Plan" could address this issue by including guidance that requires appropriate	The RWQCBs are developing the cleanup plans with appropriate technical information and analysis; the proposed Policy requires this.	No	Policy, SWRCB consideration s

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	analysis and technical data prior to implementing the RWQCB's cleanup plans.			
125.3	The RWQCB should base remediation decisions on a comprehensive analysis of the risks and benefits associated with each cleanup option.	Please refer to the response for Comment 121.5.	No	Policy, remediation
125.4	The RWQCB must provide an assessment which concludes that only the natural remediation alternative is feasible at the site. It should be recognized that that there may be many feasible alternatives for a specific site, however after considering the risk /benefits for a site the no action /natural remediation alternative may be the most appropriate.	Please refer to the response for Comment 18.7.	No	Policy, remediation
125.5	If a no action/natural remediation alternative is considered, the policy requires proof that burial or dilution process are rapid and that sediment will not be remobilized by human or natural activities. These requirements may be impossible to satisfy given that "rapid" has not been defined and that catastrophic natural activity could temporarily remobilize sediments.	The definition of "rapid" will undoubtedly be based on the best professional judgment of the RWQCB where they consider foreseeable conditions. It is not the intent that the evaluation be impossible to meet nor is it the intent that all sites be addressed using only the natural remediation alternative.	No	Policy, remediation
125.6	The SWRCB and RWQCBs should provide enough flexibility to potential responsible parties so that the most appropriate remediation methods for a site can be selected.	Agree. Consistent with Water Code Section 13360, the potential responsible parties will be allowed to select the most cost-effective alternative that addresses the toxic hot spot.	No	Policy, remediation
125.7	TMDLs should be highlighted as the preferred option to address water-related hot spots in the prevention of THS section.	No reason is given why the federal TMDL efforts should be selected over the State's cleanup plans. While there are several similarities, the BPTCP has the distinct advantage of providing planning early in the process of addressing the worst sites in California bays and estuaries.	No	Policy, prevention
125.8	The language in the guidance policy should be strengthened to say that the SWRCB must address and resolve the issues of removing locations from and reevaluating the list of known THSs.	Please refer to the response for Comment 122.13.	No	Policy, SWRCB considerations

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125.9	With regard to the specific definition, a site should not automatically lose its "candidate" status after adoption of the statewide-consolidated cleanup plan. The state must adopt more definitive parameters for listing a site as a THS. The parameters should be consistently based on the relative risk the site poses to human health and the environment.	The proposed Policy would require what this comment states; the toxic hot spot designation would be based on the relative risk the site poses to human health and the environment as defined in the specific definition. It is unclear from the comment what additional information is needed or what finding would be necessary to warrant a site being called a known toxic hot spot.	No	Policy, definition
125.10	The response to Comment 12.43 counters our position that the RWQCBs may not adopt an alternative as proposed if there are feasible alternatives that would substantially lessen any significant environmental effect it creates.	The RWQCBs will identify remediation techniques that could be used, but the actual selection of a remediation method will be done in concert with responsible parties.	No	Policy, remediation
125.11	The SWRCB is prohibited from removing or disturbing polluted sediments under the BPTCP unless the Board determines that doing so will not cause significant impacts upon a federal sanctuary, recreational area or other waters of significant national importance (Water Code Section 13396(c)).	This is a general restatement of State law. This Section will be used when any action at a toxic hot spot is implemented. Because this Section addresses implementation activities, it is not appropriate to address it in the proposed Policy.	No	Policy, remediation
125.12	The SWRCB is prohibited by the legislature from waiving water quality certifications in connection with Army Corps of Engineers dredging permit.	This statement is only true if the location is a toxic hot spot. Otherwise, for sites that are not toxic hot spots, the statement is not correct. CWA Section 401 requires an applicant of a federal permit (including a 404 permit) to obtain a certification from the State that the operation will comply with all established water quality standards. No permit shall be granted until certification has been obtained or waived.	No	Policy, remediation
125.13	We believe that the guidance policy does not sufficiently address potential state/federal regulatory duplication as required under Executive Order No. W-144-97.	This order applies to the development of regulations. The proposed Policy is not a regulation and therefore this order does not apply to the proposed Policy.	No	
125.14	Executive Order W-144-97 also provides for the development of an economic impact statement that must be used as a basis for applying the statutory disclosure and analysis requirements. We believe	Please refer to the response for Comment 125.13.	No	

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	that the guidance policy does not sufficiently address the economic issues and should use Form 399 as a basis for that disclosure.			
125.15	While the Executive Order W-144-97 is applicable to regulations. We believe that it should be applicable to the guidance policy since the guidance policy will have the effect of regulations.	Comment acknowledged. Please refer to the response for Comment 125.13.	No	
126.1	Chevron Products Co. joins in WSPA's comments (Commenter 125) on the Final Draft Regional Toxic Hot Spot Cleanup Plans and adopts them fully as Chevron's Comments.	Comment acknowledged.	No	
127.1	If agricultural land is listed as a toxic hot spot and is subject to remedial action, this will cause an economic hardship.	Toxic hot spots are locations in bays estuaries or the ocean where chemicals have accumulated in water or sediment to levels that impact beneficial uses. Agricultural lands, storm drains, industrial discharges, POTWs, etc. are not and can not be designated as toxic hot spots. Discharges can be identified as current, intermittent or historical sources of pollutants. The proposed Policy has been clarified to reflect these distinctions.	Yes	Policy, definition
127.2	Any farm operation listed as a toxic hot spot or that uses chemicals that can create a THS will find it difficult, if not impossible to obtain financing.	As discussed in the response to Comment 127.1 farm operations will not be listed as toxic hot spots. Any operations on farmland or the application of chemicals on such lands, are under the authority of DPR. The use of any specific chemical will not be restricted by the RWQCBs.	Yes	Policy, definition
127.3	By including nonpoint source discharge within the context of THS cleanup plans, performing loans could turn into non-performing loans.	Comment acknowledged.	No	Policy, definition
128.1	We have explored the potential impact of the new policy with agricultural lenders and find that their fiduciary obligations will require them to conduct an environmental hazard evaluation of any lands that would be listed under this policy.	Agricultural lands cannot be identified as toxic hot spots. Please refer to response to Comment 127.1. The BPTCP applies to water bodies not to lands. No land-related hazard assessment is required to identify a toxic hot spot. This point has been clarified in the proposed Policy.	Yes	

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128.2	Lenders foresee broad implications should farm or ranch land or a watershed due to nonpoint source discharges, become listed under the Policy.	Please refer to the responses for Comment 127.1 and 128.4.	Yes	
128.3	Including agricultural land in THS lists ignores how pesticides will be handled. Need better collaboration between DPR, regional board and other state and local agencies. Only DPR and the county agricultural commissioner have direct regulatory authority in this area and they currently have an enforcement program for all 60,000 farmers through pesticide use permits and 100% use reporting.	Agricultural land is not included in the listing of toxic hot spots. The Policy acknowledged the role and jurisdiction of DPR, the agricultural commissioners, the SWRCB and RWQCBs. Please also refer to the response for Comment 127.1.	Yes	Policy, definition
128.4	We believe that it would be inappropriate and would create significant new costs and major consequences to include agricultural nonpoint source discharges, especially from the regulated use of pesticides, under this Policy.	Nonpoint source discharges that impact beneficial uses of the waters of the State are under the jurisdiction of the RWQCBs and the SWRCB. To the extent that agricultural chemicals are found in waters of the State at levels that impact beneficial uses, bays or estuaries near agricultural lands can be identified as a toxic hot spot. The SWRCB acknowledges that any land-based control of pesticides will be addressed by DPR.	No	Policy, definition
129.1	Agree with Chris Foe's June 18 comment that organophosphate pesticides are occurring in the State's waters at sufficient concentrations to kill aquatic life.	Comment acknowledged.	No	
129.2	Chlorpyrifos does tend to sorb in sediments. Diazinon and Chlorpyrifos accumulate in the water and possibly the sediments to a sufficient extent in the vicinity of aquatic life to be toxic.	Comment acknowledged.	No	
129.3	Organophosphate pesticide toxicity is causing significant water quality impairment. Pesticide use must be severely restricted to control these effects.	Comment acknowledged. The use of pesticides is under the authority of DPR.	No	
129.4	An expert panel should be appointed to develop guidance on how to develop the site-specific information needed to determine whether pesticide toxicity associated with storm water runoff is a significant threat to beneficial uses.	Comment acknowledged.	No	Policy, definition

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130.1	Scientific evidence indicates that the half life of chlorpyrifos in water ranges from several hours to several days, a characteristic that would prevent accumulation of the material from labeled, appropriate use patterns.	Comment acknowledged.	No	
130.2	The FED information and the referenced SPARC report indicate that the focus of the scientific justification and program development was related to sediment toxicity issues, not the unique characteristics of pesticides.	This is not true. The BPTCP has focused on scientifically defensible data, not only for sediment toxicity, but for water column toxicity issues as well. Both SPARC meetings specifically dealt with these issues including reference to pesticides in the Central Valley.	No	
130.3	Disappointed that a program with the potential to impact our businesses has been developed without our involvement. The Advisory Committee was intended to provide a forum for affected businesses, but this has not happened with respect to pesticides.	Since the inception of the BPTCP Advisory Committee, all meetings have been publicly noticed, and there was agricultural interest involvement. The Advisory Committee has a member from a Resource Conservation District that was selected by the agriculture interests present at the 1994 organizational meeting of the Advisory Committee. The studies performed under the auspices of the BPTCP were presented to the Advisory Committee (including studies that addressed toxicity problems associated with pesticides).	No	
131.1	The Policy should provide guidance for the interpretation of "have accumulated".	The SWRCB directed the staff to meet with the staff of DPR to discuss and perhaps resolve issues related to the definition of "accumulated". The meeting was held July 15, 1998. Both staffs agreed to several points. DPR staff disagreed that water should be addressed under the BPTCP. Consistent with the discussion at the July 15 meeting, the proposed Policy was changed to give guidance on the approach to address pesticide residues in the waters of the State.	Yes (a change is proposed on the approach to address pesticide residues)	Policy, prevention and definition
131.2	The definition of hazardous substance as described in Section 13050 should apply to all sections in Division 7 including Chapter 5.6 of the Water Code,	Chapter 5.6 requires that a specific definition of hazardous substance be used. Please refer to the response for Comment 115.7 and 115.8.	No	Policy, definition

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	regardless of the different definition as contained in Chapter 5.6 of the same division.			
131.3	The lawful application of agricultural use pesticides is outside the scope of the BPTCP.	Agree. However, if agricultural chemical concentrations are found to impact beneficial uses in receiving waters, it is not a lawful application of pesticides and the SWRCB and RWQCBs have an obligation to address the problem. Any source control would be dealt with through the implementation of the MAA between DPR and the SWRCB.	No	Policy, definition
131.4	In respect to currently registered pesticides and their affects on water quality, the BPTCP is unnecessary.	Please refer to the response for Comment 131.3.	No	
132.1	Board staff has chosen to interpret "accumulated" in such a way as to include the finding of pesticide residues (minimum threshold of two) in water which exceed water quality objectives.	This statement is inaccurate. The toxic hot spot definition focuses on whether chemicals have accumulated in waters or sediment to levels which have posed a substantial hazard to aquatic life as determined through appropriate, scientifically defensible toxicity tests that are linked to chemical concentrations. There are no water quality objectives for many pesticides.	No	Policy, definition
132.2	It is our belief that it was and is not the intent of the Legislature to include agricultural pesticides within the definition of "hazardous substances" for the purposes of the Toxic Hot Spots Program. Section 13050 specifies that legally pesticides shall not be regarded as hazardous substances.	Please refer to the response for Comment 115.7. The legislative intent presented in Chapter 5.6 of the Water Code (Section 13390) does not exclude agricultural pesticides from the BPTCP.	No	Policy, definition
132.3	Board staff has introduced the concept of "Candidate Toxic Hot Spots" and it seeks to also define this term. We believe that in creating a new category Board staff is improperly seeking to regulate beyond the scope of the authority and direction contained in the statute.	Please refer to the responses for Comments 35.3 and 115.10.	No	Policy, definition
132.4	Pesticide residues are best managed in the three-tier Nonpoint Source Management Plan developed in	It is the intent of the SWRCB and the RWQCB to honor and comply with the MAA developed in	Yes	Policy, prevention

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	coordination with DPR according to the provisions of the MAA.	coordination with DPR. The proposed Policy and the SWRCB resolution will be revised to reflect that the MAA should be used when applicable.		
132.5	Commenter is greatly disappointed that to date the proposed draft Guidance Policy does not utilize the MAA as intended.	In a public meeting held between the staffs of SWRCB and DPR, held on July 15, 1998, the SWRCB staff agreed to include text in the final guidance policy related to use of the MAA. DPR staff and Central Valley RWQCB staff cooperated extensively on the development of the draft cleanup plans.	Yes	Policy, definition and prevention
132.6	Need to ask the question: "What is the ecological significance of a short-lived and transient "spike" as may occur after a heavy rain?"	"Ecological significance" is a very difficult term to define. Organism response in acceptable toxicity tests is an indication that beneficial uses are impacted. Toxic responses are of concern to the RWQCBs and the SWRCB. A single spike of toxicity and high chemical concentrations would not be appropriate to call a site a toxic hot spot. We have received testimony that pesticides can be found in waters of the Delta for 100 days per year (Commenter 111). This occurrence is not a single "spike".	No	Policy, definition
132.7	Inclusion of pesticides would result in actions being taken by the Regional Boards that would compromise the effectiveness of the PMP.	Please refer to the response for Comment 102.3.	Yes	Policy, definition
132.8	Concerned that extensive listings of so-called hot spots will be attributed to agricultural pesticide use and give the agricultural industry an undeserved black eye.	Comment acknowledged.	No	Policy, definition
133.1	Agriculture's concerns extend well beyond the pesticides Chlorpyrifos and Diazinon.	Comment acknowledged.	No	Policy, definition
133.2	It is important to understand that these pesticides have rapid breakdown rates in the environment.	Comment acknowledged.	No	Policy, definition

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	Admit that there is a problem worthy of redress, and that the SWRCB has authority, but wish to clarify that the "extent of the problem" is limited.			
133.3	In the BPTCP, the only applicable pesticides are those which have been accidentally discharged or disposed of, and have thereby accumulated.	If chemicals are found in bays and estuaries at concentrations that impact beneficial uses then these locations can be considered to be toxic hot spots. Legal application of pesticides is not and cannot be considered a toxic hot spot.	No	Policy, definition
133.4	It is inappropriate for the SWRCB to ignore the limitations of this program and inappropriately apply it to the agricultural use of pesticides.	Comment acknowledged.	No	Policy, definition
133.5	The agricultural community joins DPR in expressing dismay over the SWRCB staff's rejection of the CalEPA's MAA. The SWRCB staff have indicated that they would promise that the MAA would be invoked in the BPTCP. Even though the MAA should be operate in all instances of joint responsibility, the present issues are of a global nature and must be resolved now consistent with the MAA.	The SWRCB has not rejected the MAA between the SWRCB and DPR, in fact it has promoted its use and has included it in the resolution for the proposed Policy. SWRCB and DPR staff have worked together to resolve these issues. Please refer to the response for Comment 131.1.	Yes	Policy, definition and prevention
133.6	At the workshop (June 18), there was extensive reference to the fact that DPR has limited authority to take action once a pesticide has moved off-site into drain water. That is true, with the exception of aquatic applications.	The Commenter is correct that once pesticides end up in drainage water, then the SWRCB and RWQCBs have jurisdiction to address these types of problems.	No	
133.7	Clearly there is extensive authority in DPR and the County Agricultural Commissioner to get at the source of pesticide problems. The SWRCB has little power to directly deal with these pesticide issues, which is why the NPS Management Program and the MAA were developed.	The statement is true. DPR has full jurisdiction in matters pertaining to pesticide problems at the point of application. The SWRCB has no authority with respect to application of pesticides. The MAA was established to cooperatively work towards solutions to the problems caused when pesticides get to receiving waters of the State and impact beneficial uses. See also response to Comment 133.6.	No	

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133.8	Not only is the program wrongfully applicable to agricultural pesticides, but it adds nothing to the mix to cure these problems other than to compel the SWRCB to use its regulatory authority rather than pursue its own NPS program. Also, it is doing so inconsistently with the MAA.	The cleanup plans add a significant amount of planning and priority setting that would otherwise not be available. The proposed Policy calls for the use of the NPS management plan and the MAA between DPR and the SWRCB. The BPTCP is a Water Code-mandated program that is being implemented in concert with other SWRCB efforts to address point and nonpoint problems.	No	Policy, definition

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