

Toxicity Assessment and Control in California's Surface Waters *Providing a Clear, Consistent and Transparent Approach*

The State Water Resources Control Board (State Water Board) is developing an updated approach to assess the potential for chemicals to cause toxicity to aquatic life in surface waters. Toxicity testing is a vital component of the State and Regional Water Boards' regulatory programs. It is used to determine the toxic effects of pollutants in a water sample, and is useful when the interaction of specific pollutants may be unknown.

This draft Policy, entitled "*Policy for Toxicity Assessment and Control*," is intended to improve testing of water samples and monitoring and reporting requirements in a consistent and cost-effective manner. The draft Policy is designed to provide a uniform cost-effective approach to water quality protection and may reduce routine monitoring costs.

Better Testing, Reporting and Compliance are the Goals

This Policy proposes to: establish clear and transparent water quality objectives for toxicity in water; standardize how data is analyzed, including how monitoring and reporting requirements are established; and, include any necessary steps to ensure responsible entities are complying with the Policy. The draft Policy is being developed to protect aquatic life beneficial uses, and provide regulatory consistency and equitable enforcement. As proposed, the draft policy is consistent with existing State Water Board program goals and can be uniformly applied to a variety of state programs.

- ***Use of numeric toxicity objectives which are clear and transparent.*** Present inconsistencies between different State and Regional Water Boards' toxicity testing requirements provide uneven protections for aquatic life and an unequal playing field for waste dischargers. Numeric toxicity objectives improve implementation efficiency by establishing a clear, consistent definition of toxicity. Existing narrative toxicity objectives are flexible and can be subject to a vast range of interpretation. As a result, they are difficult to implement. The draft Policy restores the responsibility of demonstrating compliance to the discharger, rather than the Regional Water Boards.
- ***Use of U.S. Environmental Protection Agency (US EPA) endorsed Test of Significant Toxicity (TST) is an enhancement of current toxicity data analysis procedures.*** The Test of Significant Toxicity (TST) is the statistical approach the draft policy proposes to apply consistently throughout California. US EPA developed the TST approach as an additional statistical option for permitting authorities to use when analyzing toxicity test data. Development of the TST approach was based on extensive data and research, incorporates the latest statistical understanding, and benefits from extensive external peer review. It does not alter existing biological toxicity testing

methods. This approach can be consistently applied in a cost effective manner across a variety of California regulatory programs.

Draft Policy Can Be Applied Clearly and Effectively to Target Discharges:

- The draft Policy proposes to delineate discharges into three categories. National Pollutant Discharge Elimination System (NPDES) wastewater discharges, NPDES stormwater discharges, and non-NPDES “channelized discharges.” Channelized dischargers regulated exclusively under the Porter-Cologne Water Quality Control Act (channelized dischargers) include dischargers subject to the Irrigated Lands Regulatory Program and other nonpoint source discharges, directed through a channel, that are not regulated under the NPDES Permit Program.
- The draft Policy would apply only to discharges to inland surface waters, enclosed bays, and estuaries that are typically regulated through a NPDES permit, state waste discharge requirements, or conditional waivers or prohibitions of waste discharge requirements.
- The draft Policy would require the Regional Water Boards to establish enforceable effluent limitations for wastewater dischargers, but storm water and channelized discharges (including irrigated agriculture) would only be required to use the enhanced statistical method if the permitting authority requires toxicity monitoring.

Next Steps:

State Water Board staff continues to meet with the regulated community, environmental community, municipal jurisdictions and testing facilities, as well as other interested parties on this proposed approach. This draft Policy is scheduled to be considered for adoption by the State Water on October 3, 2012.

When adopted, the Policy will supersede Section 4 of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California*, and the toxicity test provisions established in some Regional Water Quality Control Board Basin Plans.

For more information on the “*Policy for Toxicity Assessment and Control*” and to *participate in the public comment process*, please visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml

This fact sheet was updated August 22, 2012