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## State Water Resources Control Board

**TO:** TOXICITY PROVISIONS FILE

**FROM:** Eileen Sobeck  
Executive Director  
State Water Resources Control Board



**DATE:** January 20, 2022

**SUBJECT:** MINOR, NON-SUBSTANTIVE CHANGES TO THE TOXICITY PROVISIONS

On December 1, 2020, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2020-0044, which adopted the Toxicity Provisions. On October 5, 2021, the State Water Board adopted Resolution No. 2021-0044, which adopted revisions to the Toxicity Provisions. Both resolutions authorized the Executive Director or designee to make minor, non-substantive modifications to the language of the Toxicity Provisions, if State Water Board staff determines such changes are needed for clarity or consistency, and to inform the State Water Board and the public of any such changes. I am hereby making seven minor, non-substantive modifications to the language of the Toxicity Provisions as adopted on December 1, 2020 and revised on October 5, 2021. Two modifications are related to references in the glossary definitions, one modification is related to removing a section placeholder, three modifications are related to changing header titles to add clarity, and one modification is spelling out an acronym the first time it is used in the Toxicity Provisions.

The glossary in Appendix A of the Toxicity Provisions includes definitions of the maximum daily effluent limitation (MDEL) and the median monthly effluent limitation (MMEL). These two definitions clearly state that they apply to both chronic and acute aquatic toxicity, but the definitions include the section number reference to the chronic aquatic toxicity effluent limitations while inadvertently omitting the section number reference to the acute aquatic toxicity effluent limitations. Adding the acute aquatic toxicity references to these two definitions is a minor, non-substantive modification that does not change the intent or meaning of these definitions or otherwise alter the Toxicity Provisions in any substantive manner.

The Toxicity Provisions included reserved placeholders for future sections III.A and IV.A. However, these placeholders are no longer necessary. The placeholder for section III.A was deleted in Attachment 2 to Resolution 2021-0044; however, the

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placeholder for IV.A was not deleted. The modification to delete the reserved placeholder for section IV.A and renumber subsequent sections is a minor, non-substantive modification to the Toxicity Provisions because it does not affect the Toxicity Provisions in any way whatsoever.

The Toxicity Provisions include section titles, which provide a brief description of each section. The purpose of the section titles is to add clarity and to assist in navigating the Toxicity Provisions. The section titles for sections III, IV, and III.B are being modified to add greater clarity on the content of these sections. These are minor, non-substantive changes because they do not change the content of any of these sections.

The Toxicity Provisions include several acronyms. The first use of each acronym is immediately preceded by the full title or term to which the acronym applies. The full name of the acronym "CEQA" was inadvertently not included preceding its first use in the Toxicity Provisions. Adding the full name prior to the first instance of the acronym is a minor, non-substantive change and does not affect the Toxicity Provisions in any way whatsoever.

The minor, non-substantive changes to the Toxicity Provisions are as follows:

- In Appendix A of the Toxicity Provisions, amend the definition of MDEL to add a reference to section IV.B.2.f. of the Toxicity Provisions, so that it reads: "For the purposes of chronic and acute aquatic toxicity, an MDEL is an effluent limitation based on the outcome of the TEST OF SIGNIFICANT TOXICITY (TST) approach and the resulting PERCENT EFFECT at the IWC, as described in Sections IV.B.2.e and IV.B.2.f."
- In Appendix A of the Toxicity Provisions, amend the definition of MMEL to add a reference to section IV.B.2.f. of the Toxicity Provisions, so that it reads: "For the purposes of chronic and acute aquatic toxicity, an MMEL is an effluent limitation based on a maximum of three independent toxicity tests, analyzed using the TST, as described in Sections IV.B.2.e and IV.B.2.f."
- Delete placeholder "IV.A. *[Reserved]*" from the Toxicity Provisions and renumber subsequent sections.
- Change the title for Section III from "Water Quality Objectives" to "Aquatic Toxicity Water Quality Objectives."
- Change the title for Section IV from "Programs of Implementation" to "Aquatic Toxicity Program of Implementation."
- Change the title for Section IV.B from "Aquatic Toxicity" to "Introduction."
- In Section IV.B.5.a add the full name of "CEQA" prior to the acronym so that it reads: "The PERMITTING AUTHORITY may, after compliance with California Environmental Quality Act (CEQA) if applicable, grant a variance to the numeric

or narrative water quality objectives for aquatic toxicity in accordance with Water Quality Standards Variances provisions adopted by State Water Board Resolution No. 2018-0038.”

After the minor, non-substantive language modifications described above are incorporated into the Toxicity Provisions, staff will also renumber the sections and references and make other non-substantive revisions to the formatting of the Toxicity Provisions and Staff Report as directed by the State Water Board in paragraph number 13 of Resolution No. 2021-0044.

In accordance with the State Water Board’s direction, I will include information regarding these minor, non-substantive modifications to the Toxicity Provisions in the Executive Director’s Report for an upcoming State Water Board meeting agenda and circulate it to the public via the Toxicity Provisions email distribution list.

cc: Rebecca Fitzgerald, Water Quality Standards and Assessment Section  
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