

Toxicity Provisions

Proposed Toxicity Provision to the Water Quality Control Plan
for Inland Surface Waters, Enclosed Bays, and Estuaries of
California

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1. Background

- WQO 2003-0012 stated the SWRCB to include numeric effluent limitations for chronic toxicity in NPDES permits for POTWS in a regulatory setting
- Resolutions 2003-0070 and 2005-0019 directed staff to amend the SIP to address narrative toxicity control provisions
- 2012 draft Policy was released for public comment
 - Significant revisions
 - Now proposed to be included in a statewide plan: Inland Surface Waters and Enclosed Bays and Estuaries Plan (ISWEBE)

2. Goals

1. Adopt consistent, statewide numeric water quality objectives for acute and chronic toxicity
2. Adopt a program of implementation
3. Create a consistent, yet flexible framework for monitoring toxicity and laboratory analysis
4. Incorporate a statewide statistical approach to analyze test results that will provide a transparent determination of toxicity

3. Description of Provisions

Toxicity Provisions

- will establish statewide numeric water quality toxicity objectives
- will apply to waters designated to protect aquatic life beneficial uses.

Toxicity Provisions would supersede portions of Basin Plans

- which assess compliance with toxicity WQOs
- address toxicity testing and interpretation
- Toxicity Provisions will supersede section 4 of the SIP
- Toxicity Provisions will not supersede site specific WQOs, chemical specific limitations or narrative toxicity WQOs.

3. Description of Provisions

Implementation Provisions that Apply to Non-storm water NPDES Dischargers

- Species sensitivity screening
- Reasonable potential analysis
- Monitoring requirements
- Required statistical approach (TST)
- Numeric effluent limitations (MDEL and MMEL)
- Specific requirements for toxicity reduction evaluations (TREs)
- Exceptions for small disadvantaged communities and insignificant dischargers

Implementation Provisions that Apply to Storm Water and Non-Point Source Dischargers

- Required statistical approach (TST)
- Required reporting

4. Test of Significant Toxicity

- Is a statistical hypothesis test
- Data analysis approach, not a change to test methods
- Developed by the U.S. EPA
- Tests the hypothesis: “does the effluent concentration of concern (e.g., IWC) and the control differ by a biologically significant amount?”
- Produces a clear pass/fail result
- Provides greater confidence
- Incorporates a regulatory management decision (RMD) defined as the effect level that is biologically important and, therefore, considered unacceptable toxicity

4. Test of Significant Toxicity

- The validity of the TST was evaluated by the U.S. EPA TST Test Drive and the California TST Test Drive
- CA TST Test Drive
 - Test results using the TST and the current NOEC approach were generally the same overall, indicating the use of the TST is not expected to change the number of exceedances
- Experience with the TST
 - 5 of 9 Regional Water Boards use the TST in NPDES permits
 - Regions 4 and 9 establish effluent limitation similar to the proposed Provisions

5. Outreach

- Stakeholders- Focused outreach meetings
 - POTWs and Industrial Dischargers- April 11, 2017
 - Environmental Groups, NGOs and Tribes- April 12, 2017
 - Storm water and nonpoint source (ag)- April 24th, 2017
 - Water Supply Agencies- May 18, 2017
- Regional Water Boards-
 - TMDL, Basin Planning and NPDES round tables
 - Fall 2016-shared Draft Provisions
 - May 2017- shared Draft Provisions with the Regional Boards
 - July 2017 MCC
 - Aug 30, 2017 - Met to discuss comments to the April 2017 version of the Provisions

6. Timeline

Item	Projected Dates
Public Comment Period	Release on 10/19/2018 Close on 12/7/18
Staff-Hosted Public Workshop	10/29/2018 – So Cal (SCCWRP) 10/31/2018 - Sacramento
Board Hearing for Public Comment	11/27/2018
Board Consideration of Adoption	April 2019

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