



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

Public Comment
Statewide Mercury Policy-CEQA Scoping
Deadline: 03/30/12 by 12:00 PM



MAR 29 2012

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: **Comment Letter - Statewide Mercury Policy – CEQA Scoping Comments**

Dear Ms Townsend:

Thank you for the opportunity to comment on the CEQA Scoping Document for the "Statewide Mercury Policy and Mercury Control Program for Reservoirs, Summary for CEQA Scoping Meetings, March 2012". This letter provides the U.S. Environmental Protection Agency (EPA) Region 9 comments on the CEQA Scoping Document.

1. The introductory paragraphs on page 1 state "The Policy would define an overall structure for adopting water quality objectives..." Consumption rates of subsistence and cultural groups, including Native American Tribal fisherpeople, are very important to consider in a statewide Policy. We expect that existing consumption studies will be or have been reviewed and considered in developing the baseline statewide mercury objectives included in the Policy, and that a strategy to incorporate the findings of future consumption studies will be included. In particular, we expect the Policy to include a methodology or a statement for how results of the upcoming Statewide Tribal Consumption Study, if appropriate, will be considered, to ensure that protective water quality objectives will be forthcoming for Native American fisherpeople in California.
2. The introductory paragraphs on page 1 state a control program designed to attain water quality objectives in reservoirs would likely include control actions for point and nonpoint sources, changes in approaches to reservoir management, and changes in fisheries management practices. We support this multi-pronged approach; however, changes in reservoir and fisheries management may not be permanent solutions since they may require ongoing attention (maintenance). Because of the uncertainty of continued success of solutions that require maintenance, we support these solutions when combined with permanent solutions such as reducing or eliminating pollutant sources.

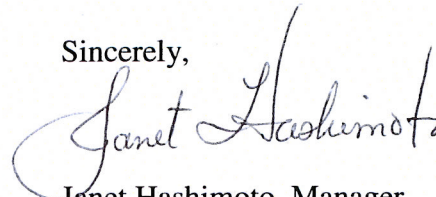
3. Under "CEQA Scoping: Project Elements Under Consideration," for Element 1, Adoption of a Statewide Mercury Policy, two Alternatives are provided: No Action and the establishment of a statewide Mercury Policy. We strongly support Alternative 2, establishment of a statewide Mercury Policy, to address the issues on a consistent and efficient statewide basis. In the discussion of this alternative, it states that establishing water quality objectives and a reservoir control program are expected to be the first two completed elements under the Policy, and that future elements could include a control program for point sources including NPDES-permitted wastewater and stormwater sources, and non-point sources (e.g., timber harvest activities, mining, and agriculture). We urge you to include a general control program description for NPDES-permitted sources (including stormwater sources) as well as for non-point sources (including irrigated lands) in the current Policy. This will assist in appropriate and consistent control of these sources across the State to reservoirs, streams and other waterbodies.
4. Under Element 2, A Statewide Control Program for Mercury in Reservoirs, Alternative 1 is No Action, and Alternative 2 is a Statewide Mercury Control Program for Reservoirs. We strongly support Alternative 2, a Statewide Program, to address this issue on a consistent and efficient statewide basis. The summary states that such a program would incorporate requirements for point and nonpoint sources. As noted in the prior comment, it is important for the statewide Mercury Policy to generally address point and nonpoint sources, so that consistent approaches for these sources are established in the control programs for all the types of waterbodies throughout the State.
5. As stated above, EPA supports a Statewide Mercury Control Program for Reservoirs. The following comments on the approach outlined in the scoping document are offered toward the development of the reservoir program.
 - a. The description of Element 2, Alternative 2 states "A reservoir control program could be designed within a TMDL framework, or could rely on other regulatory approaches. Implementation requirements would likely be similar, regardless of the regulatory framework employed." Under either the TMDL or an alternative regulatory framework (Category 4b), the program would need to include approaches for addressing common elements (e.g., identification of pollutant sources, affected beneficial uses, and loading capacity analysis), as well as a mechanism for selecting implementation action(s) appropriate for a given waterbody (e.g., a decision tree), to achieve the water quality standards.

- b. The table of "Potential Implementation Actions" has identified "Water Chemistry in reservoirs" and "Fisheries management in reservoirs" under the "Sources" column. The sources for both of these are reservoir mercury loads. "Water chemistry in reservoirs" refers to the biochemical processes making mercury bio-available to enter the foodchain; and, "fisheries management" is a proposed implementation action.

- c. In the final bullet on page 1, "changes in fisheries management practices to limit populations of the types of stocked fish that often have high levels of mercury in their tissues" is proposed. Use of such an institutional control would address exposures for the portion of the population consuming stocked fish species, including sportfishers (recreational beneficial uses). Such a measure would assist in addressing the human health issue of consumption of contaminated fish, as does a measure to educate the public about which species to consume. In the long-term, along with the above measure, we support and encourage the State Board's effort to address species other than the stocked fish species as they impact subsistence or cultural beneficial uses, and to reduce mercury sources in order to attain the tissue-based water quality objectives.

EPA appreciates the efforts of the State Water Resources Control Board and looks forward to working with staff to develop and refine the proposed Statewide Mercury Policy and the proposed mercury control program for reservoirs. If you have any questions, please contact me at (415) 972-3452 or hashimoto.janet@epa.gov, or Susan Keydel at (415) 972-3106 or keydel.susan@epa.gov.

Sincerely,



Janet Hashimoto, Manager
Standards and TMDL Office
Water Division

