

**ITEM 4****February 2, 2005 Workshop/Board Meeting****Hrd cys: Board, DI, DWQ****E-mail to: Bd, CC, KS, HMS, TH, etc.**

January 25, 2005

Ms. Debbie Irvin  
Executive Office  
State Water Resources Control Board  
1001 "I" Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

**Subject: Comments on the Draft Functional Equivalent Document for the Proposed Revisions to the Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California**

Dear Ms. Irvin:

We appreciate the opportunity to comment on the draft Functional Equivalent Document (FED) for the proposed revisions to the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (SIP). We strongly support the two substantial revisions proposed by State Water Resources Control Board (Board). The SIP should allow water effects ratios (WERs) to be established as part of the permitting process. This revision will result in more appropriate water quality objectives that are tailored to site-specific conditions, as well as significant reductions in the time and administrative costs necessary to process WERs through Basin Plan amendments. In addition, we support the elimination of the reasonable potential trigger for situations when ambient background concentrations of a pollutant are greater than a criterion.

Following is a brief discussion of our understanding of the present state policy, the proposed revisions, and our specific comments on each:

1) Currently, the SIP allows for the development of site-specific objectives (SSOs) to modify applicable priority pollutant criteria or objectives. One method for deriving SSOs is USEPA's WER procedure. The SIP does not allow discharge-specific WERs for metals to be used in permits. Rather, the SIP currently recognizes application of WERs for metals on a watershed basis only as part of SSO development.

The Board's first proposed revision would allow us to pursue the development of WERs for constituents such as copper without amending the Basin Plan, which is typically a lengthy, expensive process, after completing technical work supporting the WER. For example, the City has effluent limits and a compliance schedule for copper in its 2001 NPDES permit because the copper level in the City's discharge exceeded the water quality objectives promulgated by USEPA in 2000 in the California Toxics Rule (CTR). By developing a site-specific copper WER, we would have an opportunity to determine if the copper contained in the discharge is actually toxic or consists of the non-toxic form of copper, and would then be able to determine more appropriate water quality objectives for the City's discharge.

2) The SIP 2000 states that the Regional Water Quality Control Board shall conduct an analysis for each priority pollutant with an applicable criterion or objective to determine if a water quality-based effluent limitation is required in the discharger's permit. The information from the analysis is used to determine if a discharge may cause, have reasonable potential to cause, or contribute to an excursion above any applicable priority pollutant criterion or objective.


Section 1.3 of the SIP outlines the steps for determining if a water quality-based effluent limitation is required for a priority pollutant, a procedure known as establishing reasonable potential. There are three triggers in the reasonable potential analysis: (1) effluent versus criteria, (2) background versus criteria, and (3) best professional judgment. Step 6 is the background versus criteria trigger where the reasonable potential process requires a comparison of the ambient background concentration of a pollutant to its criterion or objective. If the ambient background concentration is greater than the criterion or objective, reasonable potential is assumed, and an effluent limitation is required.

The second proposed change is being proposed by the Board to avoid a finding of reasonable potential based only on ambient water quality. The use of background exceedances of water quality objectives to require the establishment of permit limits could lead to unnecessary effluent limits, monitoring, and source control activities and the potential for serious compliance problems even though the pollutant may not have been detected in the effluent. Eliminating this trigger will allow both regulators and dischargers to focus on pollutants in discharge effluents that are more likely to pose a risk to receiving water bodies.

We believe such revisions are very good examples of adaptive management of the SIP by the State Board and encourage additional necessary changes to the SIP to improve the efficiency of NPDES permitting in California while still protecting our state's water resources.

Please contact me at 805-875-8405 or [shalpin@ci.lompoc.ca.us](mailto:shalpin@ci.lompoc.ca.us) if I may answer any questions.

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