6/21/06 BdMtg Item ___
Chlorine Policy
Deadline: June 5, 2006

Heal the Bay

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Chair Doduc and Board Members
State Water Resources Control Board
Executive Office
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Comments on the Proposed Total Residual Chlorine and Chlorine-Produced Oxidants Policy of California

Dear Chair Doduc and Board Members:

On behalf of Heal the Bay, we submit the following comments on the proposed Total Residual Chlorine and Chlorine-Produced Oxidants Policy of California ("Policy"). We appreciate the opportunity to provide these comments.

In general, we support a statewide policy that establishes Total Residual Chlorine (TRC) and Chlorine-Produced Oxidants (CPO) objectives for inland surface waters and enclosed bays and estuaries. Chlorine is extremely toxic to aquatic life and its discharge should be regulated in a uniform and comprehensive manner. Having said this, Heal the Bay has some significant concerns with regard to the proposed implementation and compliance determination procedures outlined in the Policy. Specifically, the proposed procedures fail to ensure that the water quality objectives actually will be attained. Our concerns are set forth in more detail below.

- The Policy states that Part II does not apply to NPDES permits that contain best management practices in lieu of numeric water quality-based effluent limitations. Policy at 4. There is no sound rationale for this decision. If a stormwater discharger, for instance, chooses to chlorinate its discharge to meet bacteria standards, it should be subject to monitoring requirements and subsequent compliance determination for TRC and CPO. This is a substance they are *adding* to the discharge at some point when it has been collected and there is no justification for not requiring them to monitor for it and meet specific limits in the subsequent discharge to the state's waters. Furthermore, how will the Regional Boards determine compliance with TRC and CPO objectives for this category of NPDES discharger? They will not be able to measure this. We urge the Board to instead require that ***any*** NPDES discharger that uses chlorine in its process, including stormwater dischargers adding chlorine to their discharge, should be subject to the requirements of Part II of the Policy. Not only is this entirely feasible and justified, it is the only way that the Regional Boards will be able to determine attainment with water quality objectives.

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- The Policy proposes to authorize the Regional Boards to provide an exemption to continuous monitoring requirements if deemed appropriate. Policy at 6. However, both the Policy and the California Ocean Plan establish a two-hour threshold for distinguishing between continuous and intermittent dischargers. The Policy should require the Regional Boards to apply this threshold consistently to *all* NPDES dischargers of chlorine.

- To determine compliance, the Policy directs the Regional Boards to convert non-detect values to zero. Policy at 7. This approach is non-conservative; thus does not fully protect water quality. The State Board should amend the Policy to require that non-detect values be converted to ***half of the detection limit***. The State Board has utilized this more protective procedure in the past.

- The second paragraph on page 7 of the Policy is confusing. Why would one discharger be able to meet a quantification/reporting limit ("QRL") set at the effluent limit and another not? Is this intended to allow dischargers who cannot meet their effluent limits to report at a higher limit? What is the justification for this? No justification for this is provided and we urge the Board to remove this provision. However, if some justification is provided and this provision is retained in the final Policy, it should at a minimum state what a "QRL study" must include in order to qualify for consideration for a higher QRL. Policy at 7. How will these studies be evaluated? Against what requirements or benchmarks?

- The Policy states that "[a] positive residual dechlorination agent in the effluent indicates that chlorine is not present in the discharge, which demonstrates compliance with the effluent limits." Policy at 8. What is the basis for assuming that 100 percent of the chlorine will react with the de-chlorination agent? This may be an incorrect assumption, which will in turn lead to an inappropriate compliance determination. Assuming that all detectable free chlorine in this situation is a false positive is not substantiated and certainly not protective. As it is not proven, ***this assumption should be removed*** from the Policy.

- When a continuous monitoring system is off-line, the Policy provides that the discharger must use a backup system, such as monitoring for dechlorination residual, utilizing a stoichiometry method or collecting grab samples. Policy at 8. The State Board should include a cap for the maximum amount of time that a continuous monitoring system can be kept off-line before the discharger is in non-compliance. With no explicit maximum time included in the Policy, maintenance may not be performed in a timely manner. And again, as stated above, there is no basis for assuming that the presence of a dechlorination residual necessarily means compliance with the criteria, thus this may not be an adequate backup methodology.

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- The Policy provides that the Regional Boards can grant a mixing zone for a discharge of TRC or CPO if deemed appropriate. Policy at 8. It is unclear why the State Board would include this provision when the accompanying Draft Substitute Environmental Document notes that "[m]ixing zones for chlorine residual are not recommended for inland surface waters, enclosed bays, and estuaries in most cases." Environmental Document at 39. Heal the Bay strongly opposes mixing zones in inland surface waters and enclosed bays and estuaries. Unlike in ocean environments, aquatic life inhabiting inland surface waters and estuaries are less likely to avoid, or be able to avoid, toxic chlorine plumes. We strongly urge the State Board to ***remove*** the discretionary mixing zone allowance from the Policy.

- If a discharger is conducting continuous monitoring and back-up monitoring at the same time, the Policy allows for a determination of compliance if either both *or* one of the results shows compliance with objectives. Policy at 8. This approach is not protective as it assumes that the data from the monitoring system showing compliance is correct, and not vice-versa. The State Board should remove this provision from the Policy and require that compliance be determined from the results of *all* monitoring systems in use.

If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for your consideration of these comments.

Sincerely,

Mark Gold, D.Env.
Executive Director

Kirsten James, MESM
Staff Scientist