



Heal the Bay

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July 14, 2006

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



Re: Comments on the Revised 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 revised proposed Total Residual Chlorine and Chlorine-Produced Oxidants Policy of California ("Policy"). We appreciate the opportunity to provide these comments.

Heal the Bay strongly supports 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. As USEPA's 304(a) water quality criteria for chlorine were established in 1985, a statewide policy incorporating these objectives is long overdue. Specifically, we support several of the revisions made to the latest draft of the Policy. We strongly support the decision to remove intermittent chlorine residual discharge criteria from the Policy and apply 304(a) water quality criteria for chlorine to all discharges. In addition, we concur with the assessment that compliance with the Policy is fully feasible as suitable treatment technologies are currently available for dischargers.

Having said this, Heal the Bay has some remaining 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 on revisions to the Policy and issues that were not adequately addressed in the State Water Board's Response to Comments are set forth in more detail below.

- The Policy states that when the salinity is between 1 and 10 ppt, the more stringent of freshwater and saltwater criteria apply unless it is demonstrated that the water body is dominated by either saltwater or freshwater species. Policy at 5. This is inappropriate. Even if freshwater or marine species dominate a water body at these salinity levels, both types of species may exist and should be protected. Thus, the



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more conservative criterion should be employed whenever salinities are between 1 and 10 ppt.

- 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 or in cases where the State Water Board determines that numeric effluent limits are infeasible. 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. Currently, the MWD of Southern California owns and uses portable dechlorination devices for their potable water discharges. Other dischargers use sodium thiosulfate to dechlorinate potable water discharges. These dechlorination devices are readily available and may be deemed Best Available Technology (BAT) or Best Conventional Technology (BCT) and eliminate the need for a "Stationary Treatment System" which is the defense for the 5 year compliance schedule. There is no sound reasoning for noncompliance with an NPDES MS4 permit for 5 years when the appropriate portable dechlorination technology exists and is in use already!
- 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 Response to Comments references an EPA guidance that converts a non-detect to zero; however, in the past the State Board has utilized the more protective procedure of converting the value to half of the detection limit.
- 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. Also the revised monitoring requirements require monitoring of chlorine residual *or* the dechlorination agent. Policy at 6. The Response to Comments did not provide the basis for assuming that 100 percent of the chlorine will react with the de-chlorination agent. This may be an incorrect



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assumption, which will in turn lead to an inappropriate compliance determination. 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. In the Response to Comments, State Water Board staff conclude that there is not sufficient information on maintenance times to 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. At a minimum, the State Water Board should include some general language in the Policy to ensure that maintenance is performed in a timely manner. For instance, it seems reasonable that the Policy specify that a monitoring system shall not be offline for more than 24 hours unless the Regional Board is notified that a major repair is needed.
- 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. 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 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,

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