
Central Valley Regional Water Quality Control Board

7 June 2024

Debra Dunn
Kings River Water Quality Coalition
4886 East Jensen Ave
Fresno, CA 93725

ORDER PURSUANT TO WATER CODE SECTION 13267

You are legally obligated to respond to this Order. Please read this Order carefully.

The Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) issues this Order pursuant to California Water Code section 13267. Recent updates were made to the *State Policy for Water Quality Control: Toxicity Provisions* (Provisions), effective 1 May 2023. The Provisions establish aquatic toxicity water quality objectives to protect aquatic life beneficial uses and applies to most inland surface waters, enclosed bays, and estuaries and coastal lagoons of the state, including both waters of the United States and surface waters of the state.

The overall goal of the Provisions is to make current processes more effective and to improve water quality. To do this, the Provisions provide:

- Consistent, statewide numeric water quality objectives for acute and chronic aquatic toxicity that are protective of California's waters from both known and unknown toxicants;
- A program of implementation to control toxicity in discharges to surface water;
- A consistent, yet flexible framework for monitoring surface waters for possible toxicity;
- A statewide statistical approach for data analysis that is transparent, enhances confidence in the findings and incentivizes valid, high quality data.

In the Provisions, the Irrigated Lands Regulatory Program falls within “Nonpoint Source and Other Non-NPDES Dischargers” and has the following requirements in Section III.E:

“For all NONPOINT SOURCE and other NON-NPDES DISCHARGERS with existing chronic or acute aquatic toxicity monitoring requirements with test methods described in Section III.B.2, the PERMITTING AUTHORITY shall issue a Water Code section 13267 Order(s) within one year of the effective date of these TOXICITY PROVISIONS that requires the statistical approach, PERCENT EFFECT, and reporting to be conducted in accordance with Section III.B.3, III.B.4, and III.B.5, commencing within one year from the date of the Order.”

These Provisions apply to aquatic toxicity monitoring with the species in Table 1 of Section III.B.2. These toxicity tests include Chronic Freshwater Methods for *Ceriodaphnia dubia*, *Pimephales promelas*, and *Selenastrum capricornutum* and Acute Freshwater Methods for *Ceriodaphnia dubia*, *Daphnia magna*, *Daphnia pulex*, *Hyalella azteca*, *Pimephales promelas*, *Oncorhynchus mykiss*, and *Salvelinus fontinalis*. Sediment toxicity testing is not affected.

As an approved third-party under General Order R5-2013-0120-09 (General Order), the Coalition is responsible for conducting surface water toxicity monitoring on behalf of its enrolled members. Attachment B of the General Order, Section III.B.2, Table 1, lists the monitoring parameters required for aquatic toxicity, which include *Ceriodaphnia dubia*, *Pimephales promelas*, and *Selenastrum capricornutum*. This 13267 Order requires the Coalition to follow the Provisions for all surface water toxicity monitoring beginning no later than **1 January 2025**. More information on the Provisions, including an Excel spreadsheet to use for calculations, is located on the State Water Resources Control Board’s website at https://www.waterboards.ca.gov/water_issues/programs/state_implementation_policy/aquatic_toxicity.html. The burden, including costs, of this 13267 Order bears a reasonable relationship to the need for the 13267 Order and the benefits that are obtained through the use of this statistical approach.

If the Coalition fails to comply with this 13267 Order, the Assistant Executive Officer may issue a complaint for administrative civil liability. Failure to timely submit the required information may result in the imposition of administrative civil liability (monetary penalty) of up to \$1,000 per day under Water Code section 13268. If you require more time than allowed by this 13267 Order to follow the Provisions, please submit a written request for a time extension to the Executive Officer. The Executive Officer will review and approve requests for time extensions on a case-by-case basis.

Persons aggrieved by this Central Valley Water Board action may petition the State Water Resources Control Board (State Water Board) for review in accordance with Water Code section 13320, and California Code of Regulations, title 23, section 2050 et seq. The State Water Board must receive the petition by 5 pm on the 30th day after the date of this 13267 Order, except that if the 30th day falls on a Saturday, Sunday, or State holiday, in which case the petition must be received by the State Water Board by

5 pm on the next business day. Laws and regulations applicable to filing petitions are available on the internet (at the address below), and copies will also be provided upon request.

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

If you have any questions regarding this 13267 Order, please contact Petra Lee at (916) 464-4604 or at Petra.Lee@waterboards.ca.gov.

Sincerely,

Adam Laputz  Digitally signed by Adam Laputz
Date: 2024.06.06 14:45:27 -07'00'

Patrick Pulupa
Executive Officer