



Ventura Countywide Stormwater Quality Management Program

August 21, 2012

Participating Agencies

Charles R. Hoppin, Chairman and Members
State Water Resources Control Board
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, Sacramento, CA 95814
commentletters@waterboards.ca.gov

Camarillo

County of Ventura

**Subject: COMMENT LETTER – JUNE 2012 DRAFT POLICY FOR TOXICITY
ASSESSMENT AND CONTROL**

Fillmore

Dear Chairman Hoppin and Members:

Moorpark

The Ventura Countywide Stormwater Quality Management Program (Program) appreciates the opportunity to provide comments regarding the Draft Policy for Toxicity Assessment and Control, dated June, 2012 (Draft Policy). As currently drafted, the Policy will apply to discharges from the municipal separate storm sewer systems (MS4) permitted under the Ventura Countywide NPDES Permit. This letter supports the comments provided by the California Stormwater Quality Association (CASQA) on the previous versions of the Draft Policy, and their comments on the June 2012 Draft Policy.

Ojai

Oxnard

Port Hueneme

The Program supports the need to establish a policy to control toxicity in our receiving waters. Toxicity is a critical environmental issue for aquatic life beneficial uses and must be addressed through a progressive and technically sound approach. However, the Draft Policy should recognize that toxicity monitoring for stormwater discharges present specific challenges. Stormwater discharges in Ventura County are infrequent, short term events. Ventura County averages only 22 days a year with greater than 0.1 inches of rain, and those storm events generally are only a few hours. Therefore any occurrence of toxicity in outfalls and receiving waters due to stormwater discharges is brief and the potential for follow-up monitoring is limited. With this in mind please accept our comments below.

San Buenaventura

Santa Paula

Simi Valley

Stormwater should be addressed through a separate policy and Appendix E should be issued as a separate guidance document from the Draft Policy.

Thousand Oaks

Ventura County
Watershed Protection
District

While we do agree that there are specialized studies or investigations where targeted toxicity sampling is highly useful, our concern is that the Draft Policy and attached guidance will lead to routine but expensive data collection that does not add to our understanding of stormwater composition. Considering the resources required to identify and manage toxicity, and the limited resources currently available to many of our public agencies, we believe that the State should focus the toxicity policy on addressing the occurrences and causes of recurring toxicity. Given these factors, we recommend that stormwater discharges (Part III B) be removed from the Draft Policy, and a separate policy be drafted to appropriately address toxicity related to stormwater.



For example, a concern with the guidance is that monitoring questions on page 33 of Appendix E mimic the Southern California Monitoring Coalition (SMC) efforts to use questions to drive monitoring efforts. However, the questions presented in Appendix E begin with an assumption of toxicity in the receiving water, and initially target urban runoff for evaluation of toxicity. CASQA suggests that Appendix E begin its monitoring questions by evaluating whether toxicity exists in the receiving water *before* moving to the subsequent procedures outlined to assess the source of the water quality issue.

Furthermore, Appendix E fails to identify the locations for the monitoring. Whether the locations are to be discharges or receiving waters is key to answering the first question. We suggest that the guidance policy base its monitoring suggestions on the goal of characterizing toxicity in the receiving water, and then identify follow-up procedures for characterizing urban runoff once toxicity is identified.

The Program recommends that stormwater be addressed through a separate policy issued as a separate guidance document, and the guidance to indicate that monitoring for toxicity assessment of stormwater should initially occur in the receiving water and subsequently, and only if necessary, move to the stormwater outfalls.

The numeric objective in the Draft Policy is potentially problematic, while a narrative objective would be protective of aquatic health.

The numeric objective and implementation procedures established by the Draft Policy could be applied to dischargers subject to toxicity TMDLs. There is currently no discussion about how a numeric objective should be used in the context of TMDLs and no implementation procedures that prevent the application of the numeric objective as an instantaneous, single sample exceedance.

The numeric objectives in the Draft Policy will lead to inappropriate impairment listings based on the acknowledged best-case 5% "false positive" rate, the numeric objective calculation, and the existing 303(d) listing criteria. Ultimately, many of these inappropriate impairment listings will lead to unnecessary focus and use of resources for regulating agencies and the regulated community. These agencies do not have the resources to waste on misleading information while real threats to water quality exist.

The use of a narrative objective will make it possible for the Regional Boards to apply the Draft Policy to identify an appropriate numeric target, while providing them with the flexibility to include implementation procedures that are consistent with the implementation procedures in the Draft Policy for all types of dischargers.

The Program recommends that the State Board establish narrative toxicity objectives, which will be fully protective and allow for flexibility in regulating discharges.

The Draft Policy should provide justification for requiring chronic toxicity testing for stormwater dischargers over acute toxicity testing.

The short term, intermittent nature of stormwater runoff presents unique challenges in accurately identifying potential receiving water impacts due to toxicity. The application of methods derived for continuous wastewater discharges, such as the standard EPA whole

effluent toxicity (WET) test methods, are not appropriate as the applicability of the WET method for use on intermittent stormwater samples has never been properly validated.

Of primary concern is the mismatch between the exposure periods for toxicity testing, typically lasting four to ten days, and the duration of stormwater discharges, typically lasting several hours, and rarely exceeding one full day. Part B.2 of the Draft Policy recommends "...stormwater dischargers implement a chronic toxicity monitoring program," but does not provide justification for a chronic exposure period. Mandating toxicity tests for chronic exposure periods that can be seven days or more is overly conservative for assessing stormwater events.

The Program recommends that an appropriate technical approach to characterizing toxicity for stormwater discharges be developed for the State of California.

In closing, the Program appreciates the opportunity to comment on the Draft Policy and we hope that our comments will assist you in improving the Policy as it applies to stormwater. Please contact me at (805)654-5051 if you have any questions or would like to discuss our comments further.

Sincerely,



Gerhardt Hubner, Chair

Ventura Countywide Stormwater Quality Management Program

cc: Brian Ogg, State Water Resources Control Board
Ventura Countywide Stormwater Quality Management Program Management Committee