

[MESO](#) > [Newsletters](#) > [Table of Contents](#)

California ISWP And EBEP Update

In April 1991, the California State Water Resources Control Board submitted to the Environmental Protection Agency for review and approval the original Inland Surface Waters Plan (ISWP) and Enclosed Bays And Estuaries Plan (EBEP). Shortly after the SWRCB adopted the ISWP and EBEP, several dischargers filed suit alleging that the State had not adopted the two plans in compliance with State law. In July of 1994 the Superior Court of California, County of Sacramento, ordered the SWRCB to rescind the ISWP and EBEP. On September 22, 1994, the SWRCB formally rescinded the two statewide water quality control plans. Since then, the State of California has not been in compliance with Section 303(c)(2)(B) of the Federal Water Pollution Control Act.

The rescinded ISWP and EBEP included water quality objectives (equivalent to federal water quality criteria) for the majority of the priority pollutants. To bring California into compliance with Section 303(c)(2)(B), the Environmental Protection Agency proposed to promulgate the California Toxics Rule (CTR; see *Marine Environmental Update Bulletin*, August 05, 1997). The SWRCB is developing a new ISWP and EBEP in two phases. Phase 1 entails the development and adoption of the proposed Policy. Phase 2 will involve incorporating the Policy provisions, together with State-adopted water quality objectives, into a new ISWP and EBEP. The SWRCB released a draft of the proposed Policy for public review on September 11, 1997, and public hearings on the proposed Policy were held on November 17 and December 3, 1997.

Following the release of the September 1997 draft of the proposed Policy, several revisions are being proposed based on the review of public comments and updated analyses. The key revisions to the proposed Policy are summarized, by issue, below:

Establishing Water Quality-Based Effluent Limitations

Determining Pollutants Requiring Effluent Limitations. The proposed Policy has been revised to: (a) eliminate the condition that an effluent limitation is required when the maximum effluent concentration exceeds the ambient background concentration of the pollutant; and (b) clarify the treatment of data reported as not detected.

Calculating Effluent Limitations. The proposed Policy has been revised to: (a) eliminate the procedure for calculating mass-based limitations based on concentration-based limitations; and (b) clarify the treatment of data reported as not detected. Note that "wasteload allocation (WLA)" was renamed "effluent concentration allowance (ECA)" to avoid confusion with wasteload allocations derived from a total maximum daily load (TMDL).

Translators for Metals and Selenium. The proposed Policy has been revised to: (a) change the default translator from 1:1 to the applicable EPA conversion factors; and (b) require Regional Water Quality Control Board (RWQCB) approval of the translator study plan after consultation with the California Department of Fish and Game and prior to conducting the study.

Mixing zones and dilution credits. The proposed Policy has been revised to: (a) change

the discharged effluent flow to be used in determining dilution credits; and (b) clarify that a mixing zone may be considered for the chronic toxicity objective established by the proposed Policy.

Ambient Background Concentrations. The proposed Policy has been revised to: (a) require that the ambient background concentration be the maximum observed value (rather than the upper 99 percent confidence level of the 99th percentile of the maximum observed concentration), except that in calculating an effluent limitation based on a human health criterion/objective for a carcinogen, the ambient background concentration shall be the arithmetic mean of measured or estimated concentrations; and (b) clarify the treatment of data reported as not detected.

Intake Water Credits. The proposed Policy has been revised to allow intake water credits to be considered by the RWQCB after the end of the compliance schedule for the criterion/objective.

Determining Compliance With Water Quality-Based Effluent Limitations

Compliance Schedules. The proposed Policy has been revised to more specifically define how compliance schedules should be established.

Interim Requirements. The proposed Policy has been revised to require that, to the extent feasible, data and other information be submitted with the application for the issuance or reissuance of the permit as needed to: (a) determine which pollutants require effluent limitations; and (b) calculate effluent limitations.

Monitoring Requirements. The proposed Policy has been revised to specify that the use of methods that are more sensitive than the 40 CFR 136 methods may be required.

Reporting Requirements. The proposed Policy has been revised to: (a) clarify the relationship between Minimum Level (ML) and Reporting Level; (b) delete the procedure for estimating pollutant concentrations reported between the ML and the Method Detection Limit; (c) add the condition that there be evidence that an effluent limitation below the ML is exceeded before requiring the pollutant minimization program; and (d) clarify what does and does not constitute non-compliance.

2,3,7,8-TCDD Equivalents

The proposed Policy has been revised to change the monitoring frequencies of these compounds for major and minor POTWs and industrial dischargers.

Toxicity Control Provisions

The proposed Policy has been revised to clarify that Toxicity Reduction Requirements may be coordinated among multiple dischargers to the same water body.

Special Provisions

Site-Specific Objectives. The proposed Policy has been revised to clarify that: (a) the provisions apply to both CTR criteria and State-adopted priority pollutant objectives; and

(b) use attainability analyses may involve participants in addition to the RWQCB.

Exceptions. The proposed Policy on categorical exceptions has been revised to: (a) clarify that the applicable resource and pest management activities are conducted by governmental agencies; and (b) advise dischargers to file information required for categorical exceptions in advance of RWQCB approval, to the extent possible.

The complete text of the Proposed Implementation Policy - Inland Surface Waters Plan (ISWP) and Enclosed Bays and Estuaries Plan (EBEP) can be found at <http://www.swrcb.ca.gov/html/iswp.html>.



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