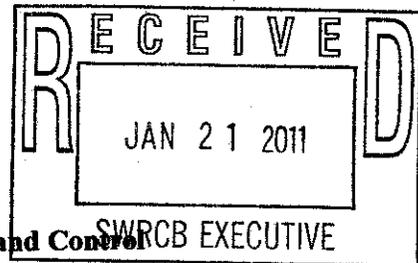




Public Comment (11/16/10 Wrkshp)
Policy for Toxicity Assessment
Deadline: 1/21/11 by 12 noon
1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

January 21, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, Sacramento, CA 95814



Subject: **Comment Letter – Policy for Toxicity Assessment and Control**

Dear Ms. Townsend,

The League of California Cities (League) appreciates the opportunity to comment upon the State's proposed draft Policy for Toxicity Assessment and Control. The League recognizes and appreciates the effort that State Board staff has put into the development of the proposed Draft Policy for Toxicity Assessment and Control (the Draft Policy). However, we have serious concerns regarding the Draft Policy as you will hear from a number of our cities. We stand behind those comments and have highlighted below some of the concerns raised by our cities:

Financial burden on cities will be large. Under this draft policy cities may be placed in the untenable position of having to conduct extensive monitoring, accelerated monitoring, and toxicity reduction evaluations, particularly for areas where there is no principal permittee for the MS4 permit. This will likely result in duplicative monitoring and unnecessary expenditures. This will also likely put additional financial burden on already financially strapped cities that are facing furloughs, and lower staffing levels.

The use of USEPA's TST method and its implementation as numeric effluent limitations are invalid. The Draft Policy requires the use of the TST method to test for WET, even though the TST method was established by USEPA as guidance in June 2010 and has not been through the public review and comment process. The TST method is scientifically unproven, and the adoption of the method will provide no additional protection for the aquatic environment.

The proposed Draft Policy should be adopted through a formal rule-making process and the State Board must comply with the requirements in California Water Code Sections 13241 and 13242. This is particularly important since the TST method upon which the Draft Policy is based has not been adopted through a public process.

We understand the need to bring some consistency to addressing toxicity issues and are willing to work with the SWRCB staff to identify a technically sound and implementable policy. However, at this time, we recommend that the State Board should not adopt the Draft Policy until appropriate studies and data collection are completed. If you have any questions about this position, please do not hesitate to contact me (916-658-8252; kross@cacities.org).

Sincerely,

Kyra Ross
Legislative Representative