Delta Mercury Control Program

Regulatory Overview

30 January 2009

Regulatory Requirements

- Clean Water Act
- Porter-Cologne Water Quality Control Act
- Other State and Federal laws, Endangered Species Acts, California Environmental Quality Act, State and Regional Board Policies

Clean Water Act - TMDLs

- States develop 303d list to identify impaired water bodies
  - Delta on 303d list since 1990
- States develop Total Maximum Daily Load (TMDL) control program to address impairment
  - TMDL completion date for Delta 2004

Porter-Cologne Water Quality Control Act

- State Act regulating water quality and discharges of wastes
- Water Quality Control Plan (Basin Plan)
  - Establishes beneficial uses and water quality objectives to protect beneficial uses
    - Hg Impacted Delta Beneficial Uses: MUN, REC1, WILD
  - Requires implementation programs to achieve objectives
- TMDL enacted through amendment to the Basin Plan

Total Maximum Daily Load

- Determines the maximum load of a pollutant that a water body can receive and still meet water quality objectives (assimilative capacity)
- Allocates how much pollutant can be discharged from all point and non-point sources
- Margin of safety

TMDL Technical Report

- Source Analysis
- Targets (Fish Tissue Objectives)
- Load Allocations (non-point sources)
- Waste Load Allocations (point sources)
- Linkage between Targets and Sources
- Margin of Safety

Basin Plan Amendment Staff Report

- Draft Basin Plan amendment language: fish tissue objectives, allocations, adaptive Implementation Plan
- Evaluation of:
  - Fish tissue objective alternatives
  - Implementation Plan alternatives
  - Environmental impacts (CEQA)

Mercury-Methylmercury Strategy

1. Clear Lake and Cache Creek TMDLs
   - Major source of inorganic Hg
2. Delta Mercury Control Program
   - Mercury and methylmercury
3. Tributary watersheds
   - Mercury and methylmercury

Delta Mercury Control Program*

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Fish Tissue Objectives

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Allocations, margin of safety (TMDL)

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Implementation Plan Framework

*(mercury and methylmercury)

Summary of TMDL Process

Technical TMDL report

Basin Plan amendment staff report

Approval Process:

- Central Valley Water Board- adoption
- State Water Board- approval
- Office of Administrative Law-approval
- USEPA- approval

Bifurcated process

Part 1

Technical TMDL elements

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Adaptive Implementation Plan Framework with general schedule

Part 2

Detailed Implementation Plan and Schedule

Constraints

What are the bounds of the Delta Mercury Control Program?

Constraints

The Delta Mercury Control Program must be considered by the Central Valley Water Board by October 2009.

The stakeholder process for the first part of the control program must be complete by May 2009.

Constraints

The Delta Mercury Control Program must comply with the Clean Water Act and Porter Cologne and be approvable by the State Water Board and USEPA.

Constraints

The Delta Mercury Control Program must include:

- Fish Tissue Objectives
  - Methylmercury load and waste load allocations and a margin of safety to meet FTOs
  - Or other scientifically defensible allocations to meet FTOs and assimilative capacity
- Implementation Plan framework with time schedule

Constraints

The fish tissue objectives must protect both human health and threatened and endangered wildlife.

Constraints

The Delta Mercury Control Program must include inorganic mercury load reductions to meet requirements established by the San Francisco Bay Water Board.

Constraints

The Delta Mercury Control Program must include interim limits and a compliance schedule for NPDES facilities

- consistent with State Water Board Policy for Compliance Schedules for NPDES Permits

Constraints

The long-term Delta Mercury Control Program must include inorganic mercury (Hg) and methylmercury (MeHg) reduction activities. The Implementation Plan Framework must include both Hg and MeHg reduction evaluations.

Constraints

The Delta Mercury Control Program must include:

- near-term actions to begin to reduce levels of MeHg and Hg

- measures to reduce the risk to people who are eating contaminated Delta fish.

Constraints

The Delta Mercury Control Program must have a 2030 compliance date for meeting allocations.