

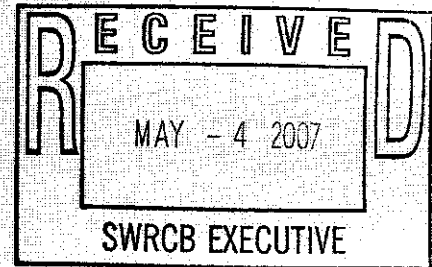


Construction General
Permit - Stormwater
Deadline: 5/4/07 5pm

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May 4, 2007

Ms. Song Her, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Dear Ms. Her:

We appreciate the opportunity to provide feedback to the State Water Resources Control Board regarding the draft NPDES General Permit for Storm Water Discharges associated with Construction Activity.

In the Fact Sheet provided for Water Quality Order 2007-XX-DWQ, a problem statement is presented. Part of the statements reads, "It is critical to recognize that the BMP solution to storm water problems has been inadequate, based on 15+ years of experience..." With over 2,100 impaired water bodies in California today (and the list is growing), we agree it is time to revisit the issue of construction storm water pollution prevention.

The Fact Sheet also goes on to state, "Currently in California, no regulatory or toxicity requirements have been established for operating and monitoring an ATS (Active Treatment System)." It is important to note, as the Preliminary Draft does, that these systems are known to reliably treat construction storm water to levels of less than 10 NTU. The Fact Sheet goes on to explain and the Preliminary Draft notes that the new General Permit will establish NEL's for turbidity (10 NTU) for ATS. It is our understanding, however, that NEL's for turbidity will generally not be required for sites not using ATS. We believe that NEL's for turbidity should be applied consistently, whether or not ATS will be used. Otherwise, it seems that an unintended consequence might be undesirable opposition to a known and reliable solution to storm water pollution prevention (ATS) and a motivation to rely on the existing BMP framework that has been found to be inadequate.

The preliminary draft also addresses the State Water Board's concern about the potential acute and chronic impacts that polymers and other chemical additives may have on fish and aquatic organisms if released in sufficient quantities or concentrations. Three citations are given to support this concern beyond anecdotal evidence. At least two, if not all three of the citations reference chitosan. We believe this is unfortunate given the wide variety of synthetic and/or petroleum-based polymers and other chemical additives that are currently being used in the state as coagulants/flocculants that exhibit seriously higher levels of toxicity than chitosan.

Chitosan, a natural biopolymer made from the shells of shrimp and crab has proven, in independent reports from other jurisdictions, to not only be a reliable solution but a safe one. Independent toxicity testing shows that the toxicity safety factor, calculated as the toxic threshold for the most sensitive species divided by the maximum expected residual chitosan concentration, is greater than 12 and as high as 48 (depending on the type of chitosan employed). EPA considers a safety factor of greater than 3 to be adequate. To our knowledge, no other polymer or chemical additive being used as a storm water coagulant/flocculant can achieve anywhere near this level of safety.

HALOPURE 

SeaKlear 

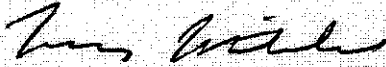


HALOSHIELD 

The ATS Monitoring requirements in the Draft General Permit for toxicity have the potential to be quite onerous. Rather than testing *project-specific effluent*, we recommend the Board establish *polymer/additive-specific* effluent limitations based on toxicity testing of individual *polymer/additive* (vs. effluent). This will require the Board to require toxicity test data from the manufacturers of polymers/chemical additives that wish to provide their product(s) to customers in California instead of from a contractor trying to manage a site. (Manufacturers are accustomed to providing tox data to regulators/others.) The contractor's responsibility will be to regularly test the effluent for the level of residual (post-treatment) polymer/additive and ensuring it is below the effluent limitation set by the Board based on its keen understanding of the specific polymer/additive being used. While this process will require more upfront effort on the part of the Board to individually review specific polymers/additives for toxicity, it will allow the Board greater (and needed) flexibility to ensure that toxic effluent is not being released because the Board will better understand the individual (and differing) toxicity characteristics of each polymer/additive (for example, the most sensitive species). It will also significantly reduce the cost of such treatment, making this known, reliable and safe option more likely to be used to protect the waters and wildlife of California.

We appreciate the opportunity to provide feedback to the Board, both at the public workshops and in writing. We are encouraged by the efforts of the Board thus far to improve the General Permit for all parties involved. Lastly, we stand by to provide the Board with any assistance it may require as it evaluates the use of chitosan applications to prevent construction storm water pollution.

Best Regards,



Trevor Mitchell
HaloSource, Inc.