

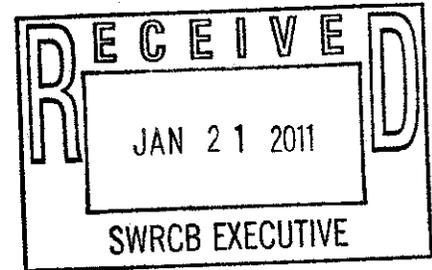
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West County Wastewater District
and
City of Richmond Municipal Sewer District

January 20, 2011

Via Electronic Mail

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



Subject: Comment Letter - Policy for Toxicity Assessment and Control

Dear Chairman Hoppin and Members:

West County Agency (WCA) is a Joint Powers Agency whose members are West County Wastewater District (WCWD), the City of Richmond, and Richmond Municipal Sewer District No.1 (RMSD). The Dischargers own and operate two municipal wastewater treatment facilities which provide secondary level treatment for domestic and industrial wastewater from the City of Richmond and surrounding areas. WCA appreciates the opportunity to submit comments on the State's draft Policy for Toxicity Assessment and Control. WCA is a member of the Bay Area Clean Water Agencies (BACWA) and the California Association of Sanitation Agencies (CASA) and agrees with and incorporates their comments by reference. As written, WCA cannot support the Draft Policy. Specifically, WCA believes that results from multiple tests should be used for assessing compliance, does not support the establishment of numeric limits for whole effluent toxicity (WET), and believes that point estimates for toxicity are more appropriate. A detailed presentation of these concerns is provided below.

Multiple Test Results versus Single Exceedance

WCA believes that results from multiple tests should be used for assessing compliance rather than a single exceedance. As written in the Draft Policy, any failed test result for major wastewater treatment facilities, including episodic toxicity and non-toxic samples identified as toxic as a result of the statistical procedure, are considered an exceedance of effluent limitation and an excursion above the toxicity objectives. A single exceedance (and the subsequent actions that are triggered) can lead to an ineffective utilization of the limited resources available to wastewater agencies. Episodic

toxicity is difficult to investigate and address, and false positive results may never be identified. Instead, the Policy should manage persistent toxicity by triggering actions when two of three samples are demonstrated to be toxic; thus avoiding action on episodic events or false positive results. To be successful in reducing and/or eliminating toxic discharges, identification of the cause of toxicity is essential. Therefore, the Policy should focus subsequent TRE efforts only in instances where the effluent was actually toxic and subsequent samples are toxic.

Narrative Limits versus Numeric Limits

WCA does not support the establishment of numeric limits for whole effluent toxicity. Narrative limits (with triggered actions) provide better motivation for compliance and control of toxicity in effluent. Interpretation of toxicity data is a complex undertaking because of the inherent variability and anomalies associated with biological data. Toxicity is not a pollutant, but an effect, and therefore test results only provide an indication that an effluent may cause toxicity in receiving waters but do not identify the exact cause. Additional studies (such as accelerated monitoring, TIEs and TREs) are needed to establish the persistence and magnitude of the toxicity and the toxicant(s) causing the toxicity. Under the Draft Policy, the numeric objectives must be implemented as numeric effluent limitations for wastewater dischargers. Using numeric limits will require an immediate finding of violation by the Regional Water Board, despite the fact that the additional studies needed to confirm toxicity and establish the cause and remedy have yet to be performed. The ultimate intent of a toxicity policy - reduction of toxicity in receiving waters - would be more effectively reached if a toxicity test was used as a starting point to identify the cause(s) rather than as a regulatory endpoint. Narrative objectives (with required follow-up activities) provide more flexibility to appropriately address the complex issues associated with toxicity testing.

Point Estimates versus TST

WCA believes that point estimates for toxicity are more appropriate than the TST (test of significant toxicity) approach. The point estimate methods allow for interpretation of results, rather than just pass/fail. The TST method has not been vetted as well as the other available toxicity assessment methods and, as a result, the impact of the TST on compliance is unknown. The TST approach has not been formally reviewed, nor has it been promulgated as part of 40 CFR Part 136. One concern is the false positive rate. Until additional testing is conducted (such as validating the false positive rate with non-toxic, blank water samples), the actual false positive rate is unclear and may trigger inconclusive, costly actions by WCA.

Additionally, the proposed approach will increase toxicity testing costs for WCA considerably. Currently, WCA monitors chronic toxicity quarterly. If a 3-sample median exceeds 10 TUC or a single sample exceeds 20 TUC, monthly accelerated monitoring must begin. If the 3-sample median and single sample limits are met during the accelerated testing, routine monitoring may resume. If the limits are exceeded during accelerated monitoring, a TRE must be started. Under the Draft Policy, chronic toxicity samples will be required monthly. If one sample "fails" under the TST, accelerated monitoring must begin. The accelerated monitoring must be conducted with a 5-sample dilution series every two weeks for twelve weeks (6 samples). If one of these samples fails the TST at the Instream Waste Concentration (IWC), a TRE must be started. A simple cost comparison of the proposed changes and how they will affect WCA is provided below. If a TRE is triggered, the TRE costs will not change between current and proposed practices. However, it is not possible in this basic summary to take into account the overall costs due to the increased probability of needing a TRE under the Draft Policy (due to false positives and single sample exceedance triggers).

Annual Chronic Toxicity Testing Costs for West County Agency - Comparison of Current and Proposed Requirements (assuming 1 round of accelerated monitoring)

	Current Requirements	Proposed Requirements
Annual cost of routine monitoring	\$4,200	\$10,800
<i>Frequency:</i>	<i>quarterly w/5-dilution</i>	<i>monthly w/TST</i>
Cost of 1 round of accelerated monitoring, assuming all accelerated samples pass	\$3,150	\$6,300
<i>Frequency:</i>	<i>3 samples</i>	<i>6 samples</i>
Total Annual Cost:	\$7,350	\$17,100

WCA supports the proposed alternatives to the Draft Policy that are detailed in the Clean Water Association's (CWA) comment letter. Specifically, the preferred alternative approach would define a consistent narrative objective; include an accelerated testing trigger based on samples identified as "toxic" using the EC/IC25 approach; use two samples identified as "toxic" out of six accelerated tests for the TRE trigger; and define specific, enforceable actions that would result in violations if not conducted.

We feel this approach will address our concerns with the Draft Policy and result in a consistent, environmentally protective toxicity policy. This approach provides an incentive to aggressively identify and control the constituents causing the toxicity since inaction will result in a violation. The Draft Policy causes dischargers to be in violation regardless of whether or not measures are taken to address the toxicity. As a result, there is a potential disincentive to spend money to identify and control the toxicity if violations occur regardless of whether or not you are taking actions. Additionally, efforts will be focused on identifying and controlling persistent toxicity and resources are not wasted on situations that are unlikely to be controllable, such as episodic events or non-toxic samples erroneously identified as toxic. Finally, we feel the identification of clear, specific, enforceable requirements in the policy along with a narrative objective will provide a clear method for determining compliance.

WCA has a strong interest in developing a toxicity policy that will maintain our commitment to improving the water quality in the San Francisco Bay without presenting unreasonable costs and compliance risks for our operation. Please contact me at (510) 222-6700 or eshalaby@wcwd.org if you have any specific questions regarding this comment letter.

Sincerely,



E. J. Shalaby
Agency Manager

Cc. WCA Board of Directors
Chad Davisson, City of Richmond
Brian Hill, West County Wastewater District
WCA General Counsel