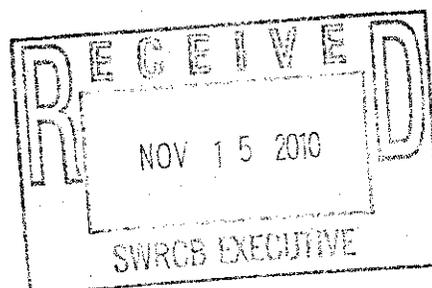




15 novembre 2010

**Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)**

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



**Subject: Draft Policy for Toxicity Assessment and Control**

Dear Ms. Townsend:

The City of Burlingame Wastewater Treatment Facility appreciates the opportunity to comment on the Draft Policy for Toxicity Assessment and Control. The Discharger owns the wastewater treatment facility and Veolia West Operating Services, Inc. operates the WWTF, which provides secondary level treatment of wastewater from domestic, commercial and industrial sources within the City of Burlingame (present population of about 37,000). The treatment process consists of bar screening, vortex grit removal, two primary clarifiers, and biological secondary treatment via activated sludge, secondary clarification, and chlorination. Treated effluent flows via pipeline to the North Bayside System Unit (NBSU) de-chlorination facility. In transit or at the NBSU de-chlorination facility, treated effluent is combined with effluent from the cities of Millbrae, South San Francisco, and San Bruno and industrial and sanitary wastewater from San Francisco International Airport. The combined effluent is de-chlorinated prior to discharge to San Francisco Bay. The WWTF effluent comprises approximately 25 percent of the combined NBSU flow. The WWTF has an average dry weather flow design capacity of 5.5 million gallons per day (MGD), an average dry weather flow of 3.56 MGD, an annual average flow of 4.08 MGD, and a maximum wet weather flow of 14.17 MGD. Treated wastewater is discharged through the NBSU outfall to waters of San Francisco Bay through a submerged deepwater outfall (lat. 37°39'35", long. 122°21'41"). The U.S. Environmental Protection Agency (the U.S. EPA) and the Regional Board have classified the WWTP as a major Discharger and a deep water discharge.

The City of Burlingame WWTF is very concerned about the State Water Quality Control Board's Draft Policy for Toxicity Assessment and Control. This draft Policy, if adopted in its current form, will have significant impacts on our agency. For example, we understand that the Policy will result in required monthly chronic toxicity testing and new test evaluation procedures, which will cost an additional \$275,000 over a 5-year permit term for our agency, even though we have had excellent compliance with chronic toxicity testing over the last 9 years. The WWTF contracts with Aqua Science for chronic toxicity testing. A new phase screening to determine the most sensitive species for our Chronic Toxicity testing requirements as outlined in our NPDES permit placed in effect April 1, 2008 was initiated at a cost of \$30,000. The facility submitted a *Chronic Toxicity Screening Study Plan* that was found to be acceptable to the Water Board with the following schedule:

- *Submission of Study Plan* August, 2008
- *Approval of Study Plan by Board* September, 2008
- *Initiation of Screening Study* October, 2008
- *Estimated Completion of Screening Study* December, 2008
- *Submission of Final Report* January, 2009

The following results were reported after the completion of the screening study testing in December 2008:

#### Screening Study

Species	Endpoint	NOEC (%) (TUs)	EC <sub>25</sub> (%) (TUs)	EC <sub>50</sub> (%) (TUs)	Sensitivity Rank <sup>a</sup>
<i>Ceriodaphnia</i>	Survival	50 (2)	51.5 (1.9)	73.5 (1.4)	1
	Reproduction	<5 (>20)	4.1 <sup>b</sup> (24.4)	> 50 (< 2.0)	
Abalone	Fertilization	10 (10)	13.8 (7.2)	17.5 (5.7)	2
Mysid	Survival	50 (2)	57.1 (1.8)	71.4 (1.4)	3
	Growth	10 (10)	30.6 (3.3)	59.7 (1.7)	
	Fecundity	c	c	c	

<sup>a</sup> Rank (1 = most sensitive) based on EC<sub>25</sub> TUC (100/EC<sub>25</sub>)

<sup>b</sup> EC estimate is less than the lowest concentration

<sup>c</sup> Fecundity in the control mysids was <50%, therefore endpoint was not evaluated

Chronic toxicity testing with our contract laboratory takes a minimum of 45-day to schedule. As this is a highly specialized test, we are unable to perform chronic toxicity in-house as we do with acute toxicity. We have a major concern that if increased frequency as proposed, would overwhelm Aqua Science and we would have to "wait in line" for a scheduled vacancy to conduct the 7-day chronic toxicity testing that could put the agency at risk of late reporting.

This new policy is unnecessarily stringent because there is no evidence that the water quality objectives and effluent limits are necessary. The draft Policy includes findings regarding toxicity that are qualified with "may be," "might be," or "could be" throughout the document. There are no concrete examples provided, only vague statements that "the potential for ecological harm would likely increase" without the Policy (for example see Staff Report at p. 45).

Under this proposed Policy, exceedence of acute and chronic toxicity limits are Clean Water Act violations subject to State penalties of up to \$10,000 per day or \$10.00 per gallon, and federal penalties of up to \$37,500 per day per violation. In addition, our agency would be subject to third party lawsuit and attorney fee liability, particularly if regulators decide to take no enforcement actions (the City of Burlingame is currently under a consent decree agreement with an NGO). Costs associated with conducting Toxicity Reduction Evaluations (TRE's) can be high and long lasting, not to mention implementation of unnecessary treatment upgrades in response to false positive toxicity exceedence. The City of Burlingame WWTF is very concerned that the costs associated with coming into compliance in instances of actual or apparent toxicity were not considered by your staff because these costs were determined to be "too speculative." We are very concerned that the California Water Code section 13241 and economic analysis are inadequate.

The City of Burlingame Wastewater Treatment Facility hopes that the State Water Resources Control Board will take these comments under serious consideration. We further request that the Water Board allow an additional 60 days for the comment period and direct staff to allow stakeholders to develop an alternative policy, and that an additional workshop on a draft Policy be held in 2011. Thank you for your consideration of our comments.

Sincerely,



William E. Toci  
Plant Manager  
City of Burlingame Wastewater Treatment Facility