



County of San Diego



RICHARD E. CROMPTON
DIRECTOR

DEPARTMENT OF PUBLIC WORKS
5510 OVERLAND AVE, SUITE 410
SAN DIEGO, CALIFORNIA 92123-1237
(858) 694-2212 FAX: (858) 694-3597
Web Site: www.sdcountry.ca.gov/dpw/

December 14, 2017

Ms. Jeanine Townsend,
Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000

Dear Ms. Townsend,

COUNTY OF SAN DIEGO COMMENTS ON SEDIMENT QUALITY OBJECTIVES

The County of San Diego (County) appreciates the opportunity to provide comments on the *Draft Amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries of California, Sediment Quality Provisions* (Provisions) and the accompanying *Draft Staff Report Including Draft Substitute Environmental Documentation Amendments to the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (Sediment Quality Provisions)* (Draft Staff Report) both dated October 23, 2017.

The Provisions are well presented, researched, and documented in both documents. Care was taken to explain the rationale and process for selection of numerous decisions, each required to develop the sediment quality objectives (SQOs) for human health.

The following specific comments include several points of clarification and/or requests for justification.

Specific Comments

1. Receiving Water Limits Monitoring Frequency

In Section 6.7.3., the Staff Report recommends reducing the monitoring frequency from a minimum of twice per Permit cycle (5 year cycle) to once. However, the Provisions still require sampling twice per permit cycle (IV.A.4.c.2.a). Please correct this inconsistency.

Recommendation 1: Modifying existing language in Staff Report Section 6.7.3 as follows: Phase I Stormwater Discharges and Major Discharges - Sediment Monitoring shall not be required less than once per permit cycle.

2. Protective Condition

The State Water Board defines the Protective Condition for the direct effect SQOs as categories Unimpacted or Likely Unimpacted. Additionally, Possibly Impacted may also be considered as meeting the Protective Condition based on the result of stressor identification studies (Provisions, Section IV.A.1. i.4). However, the indirect effect SQO site assessment (Provisions, Section IV.A.2. d.8) states that only the Unimpacted and Likely Unimpacted categories meet the Protective Condition. The Protective Condition when implementing the direct effects SQOs has been defined by the State Water Board as categories Unimpacted or Likely Unimpacted. Section 6.5.8, Page 100 of the Staff Report, final sentence, states that "for consistency, the proposed amendments rely on the same delineation of impact that is applied in the approach used to evaluate direct effects." Please provide additional justification as to why the Possibly Impacted category is not included as a protective condition for the human health SQOs, which would be consistent with the direct effects SQOs.

Recommendation 2: Recommend that the Possibly Impacted category for human health SQOs should be treated as in the existing direct effects SQO, and require follow-up actions to determine if an impairment is present or not prior to determining that the site is not protective of beneficial uses.

3. Sediment Category Concentration Scores for the CSI (Direct Effects SQO)

Provisions page 11, Table 6 includes the concentrations ranges and weights to score the disturbance category for sediment chemistry. The concentrations ranges have been modified in several instances, particularly for DDDs, DDEs, and DDTs. Please provide justification for the change in ranges, as some ranges have become more restricted while others are broader.

4. Fish Home Range Comments

4.1 The fish home range assumptions and requirements for both the Tier 1 and Tier 2 human health SQOs are specific for the primary species for each fish dietary guild. However, Table 17 in Section IV.A.2.c.4 of the Provisions and the associated text do not explicitly state that the guilds should be used for secondary fish species during an estimate of the sediment evaluation. The inclusion of the primary fish species in the headers of the table is also confusing, leading the reader to assume that the biota sediment accumulation factors (BSAFs) included in the table apply only to the primary fish species. Please clarify the intent and use of secondary fish species.

Recommendation 4.1: The Staff Report, Table 6.5 includes the estimated home range for the primary species from each guild. Please explain how the use of secondary species home range will be addressed. If the primary species information will be used to represent the guild, and the user has information specific to the home range of a secondary species, is it allowable to update the model with that information, instead of relying on the primary species home range?

5. Site Size Requirements

The identification of the site size is an important consideration in the development of the conceptual site model (CSM) and in conducting the human health effects SQO assessment. Page 119 of the Staff Report and Page 54 of the Provisions indicate that a minimum site size of 1km² is required. However, limited justification for this requirement is included in the text. Additionally, it is quite likely that sites less than 1km² may be required, especially at the mouths of small rivers that have an estuary or marine beneficial use, along with commercial fishing, shellfish, or aquaculture beneficial uses.

Recommendation 5.1: Please include additional justification for the establishment of a 1km² minimum site area in both the Staff Report and Provisions (Page 119, before Table 7.1 and Appendix A-5, respectively).

Recommendation 5.2: Please include the following suggested language in the Provisions (Page 54, Appendix A-5); A minimum site area of 1km² is recommended for Tier 2 assessment, as this area encompasses a large portion of the forage range for most of the primary sportfish species for the assessment. However, a smaller site may be identified based on site specific characteristics and with the approval of the local Regional Board.

6. Site Assessment and Human Health Risk Factors

In Table 7.1 of the Staff Report (Page 119) the fractional uptake from the site is noted as 1. This assumption essentially assumes that each angler or consumer of fish consumes all of their fish or seafood from that site. This assumption is highly conservative. Is a Tier 3 human health SQO required to modify this ratio? If existing data are available to justify a revised ratio (angler study or similar) can a lower ratio be used in a Tier 2 assessment? Please provide additional justification for this assumption in the Staff Report and provide the flexibility to use a lower ratio based on justifications that are approved by the local Regional Board.

7. Tissue Types used to Assess Chemical Exposures

On Page 74, Section 6.2.4 of the Staff Report, there appears to be a typo; Alternative 3 is selected as the staff recommendation. However, the associated text and Appendix A, Table A-6 include fish species with the designation of "F" or skin off and also some whole fish analyses, which matches Alternative 4, not Alternative 3.

Recommendation 7.1: Revise Staff Recommendation to Alternative 4.

Recommendation 7.2: Address the typo in the reference of the staff recommendation in Section 6.2.4, it should reference Appendix A, A-6, not C-6.

8. Conservative Assumptions for Sediment and Tissue Based Assessment

Section 6.4.1 of the Staff Report recommends the use of the 95th percent upper confidence limit (UCL) as a conservative measure of either sediment or tissue data for use in comparison with sediment and/or tissue thresholds in a Tier 1 assessment. The use of the 95th percent UCL is poorly supported, particularly as the methodology for the state of Oregon is referenced as an existing and effective program that utilizes the 90th percent UCL.

Recommendation 8: Please expand the justification for why a more conservative approach than the 90th percent UCL utilized by the state of Oregon is appropriate. Also, please include procedures to allow for the proper analysis of sediment data for outliers, data distribution, and high variability. These factors should be included and assessed prior to the estimation of the UCL, as the assumption of a normal distribution may result in incorrect estimates of risk.

The following language is proposed to supplement Section 6.4.1: The 90th (or 95th) percent UCL shall be used to conduct the Tier 1 assessment, after the data have been examined and tested for statistical outliers and tested to determine if the dataset is normally

December 14, 2017

Ms. Townsend

Page 5

distributed. If the data are not normally distributed, the data may be log transformed and tested for normality. If the data are not log-normally distributed, non-parametric measures of the UCL may be adopted as the basis for comparison with the sediment and/or tissue thresholds.

If you require any further information, please do not hesitate to call me at (858) 495-5317.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Snyder". The signature is fluid and cursive, with the first name "Todd" being more prominent than the last name "Snyder".

TODD E. SNYDER, Manager
Watershed Protection Program
Department of Public Works