



December 21, 2018

Jeanine Townsend, Clerk to the Board
 State Water Resources Control Board
 1001 I Street, 24th Floor
 Sacramento, CA 95814



Transmitted via E-mail: commentletters@waterboards.ca.gov

Subject: Comment Letter – Toxicity Provisions

Dear Ms. Townsend:

The City and County of San Francisco's Public Utilities Commission (SFPUC) appreciates the opportunity to comment on the Establishment of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California; and Toxicity Provisions (proposed Toxicity Provisions). Like many NPDES permit holders around the state, SFPUC has extensive experience with toxicity testing. We have been conducting Whole Effluent Toxicity (WET) testing in-house since the late 1980s and estimate that we have conducted over 250 chronic and over 1,300 acute tests since 1990. We thank State Water Resources Control Board staff for their efforts to develop provisions that will achieve consistent statewide regulation of toxicity testing.

SFPUC supports the comments being submitted by the Bay Area Clean Water Agencies (BACWA) and the California Association of Sanitation Agencies (CASA) on the proposed toxicity provisions. In addition, we would like to bring one specific issue to your attention.

MREL Compliance Tests: Requiring three tests in a one calendar month (or 30-day period) is infeasible for SFPUC.

As detailed in BACWA's comments, when routine monitoring results in a "fail" at the instream waste concentration, initiating two follow-up tests within the same calendar month (or 30-day period) will be difficult, if not impossible. This is particularly true during wet weather conditions, which uniquely affect SFPUC's combined sewer system. SFPUC is extremely concerned that wet weather conditions will prevent staff from conducting three tests in one month.

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In-house testing requires advanced planning. SFPUC staff typically schedule chronic toxicity testing several weeks in advance. This lead time is necessary for obtaining the test organisms, setting up testing apparatus, preparing testing environments, accommodating plant shutdowns needed for maintenance and construction, and scheduling staff. In the upcoming NPDES permit for the Southeast Water Pollution Control Plant, SFPUC expects a requirement for a 7-day chronic toxicity Mysid test. As articulated in the BACWA comments, conducting three 7-day static renewal tests within a calendar month will be immensely difficult. Under the proposed toxicity provisions, obtaining three batches of organisms, completing three 7-day tests, and interpreting the results would all be required within one month. These tasks would need to be completed without interruption, which is not feasible during wet weather, as explained below.

Wet weather interrupts testing. SFPUC owns and operates a combined wastewater treatment system, which collects both wastewater and stormwater. Our NPDES permit for the Southeast Water Pollution Control Plant currently contains a dry weather chronic toxicity effluent limit and requires dry weather chronic toxicity testing. This dry weather requirement ensures that the test results reflect the quality of secondary wastewater treatment from our plant rather than the quality of stormwater inflow that enters our collection system.

During the wet weather season (typically October – April), there is a high probability that the monthly 7-day chronic test and potential follow-up compliance tests would be interrupted by precipitation, invalidating our tests prior to completion. For instance, major storms recently occurred every week from November 19, 2018 through December 9, 2018. If the proposed MMEL testing requirements had been in effect, three 7-day compliance tests during the months of November and December would have been required, but impossible to schedule. The 3-test requirement coupled with the potential impact of forecasted precipitation would require that the initial monthly test be started even when forecasts indicate a strong likelihood that wet weather would invalidate the test. This would result in many more test starts and invalidations than would otherwise be required. The use of limited public resources to conduct tests that are repeatedly invalidated is a waste of public funds. SFPUC needs the flexibility to schedule and prepare for tests when precipitation is not forecasted, which comes into conflict with the currently proposed MMEL compliance testing requirements.

For the reasons described above, SFPUC requests that the State Water Resources Control Board provide the Regional Water Quality Control Boards with flexibility to set an appropriate length of time allowed to complete the three required tests on a permit-by-permit basis, where necessary. In SFPUC's case, this would be a 3-sample median that requires initiating compliance tests as

soon as possible rather than completing three tests within a specific timeframe. The suggested change to the proposed Toxicity Provisions, Section IV.B.2.c.iv is shown below. Similar language allowing discretion at the regional level is already included in the routine monitoring section of the Toxicity Provisions (Section IV.B.2.c.i.A).

iv. MMEL Compliance Tests

If an acute or chronic toxicity ROUTINE MONITORING test results in a “fail” at the IWC, then NON-STORM WATER NPDES DISCHARGERS shall conduct a maximum of two MMEL COMPLIANCE TESTS. The MMEL COMPLIANCE TESTS shall be initiated within the same CALENDAR MONTH that the first ROUTINE MONITORING test was initiated that resulted in the “fail” at the IWC. If the first chronic MMEL COMPLIANCE TEST results in a “fail” at the IWC, then the second MMEL COMPLIANCE TEST is waived. The PERMITTING AUTHORITY has discretion to specify a longer period for completion of the MMEL COMPLIANCE TEST in cases where completion of all three tests within a CALENDAR MONTH is not feasible. For the purposes of MMEL COMPLIANCE TEST, for dischargers that conduct ROUTINE MONITORING at a less than monthly frequency, the CALENDAR MONTH begins from the initiation of the ROUTINE MONITORING test.

When there is no effluent available to initiate an MMEL COMPLIANCE TEST, the MMEL COMPLIANCE TEST shall not be required, and ROUTINE MONITORING continues in the frequency specified in the permit.

SFPUC supports toxicity testing as an important aspect of determining whether effluent has the potential to harm aquatic life, and encourages the development of a well-designed toxicity policy. We greatly appreciate your time and attention and hope this comment is helpful to you for developing effective and implementable toxicity provisions.

If you have any questions or concerns, please do not hesitate to contact our Regulatory Manager, Amy Chastain, at 415-554-1683 or AChastain@sfwater.org.

Sincerely,



Gregory J. Norby
Assistant General Manager, Wastewater Enterprise