ORANGE COUNTY SANITATION DISTRICT

11/19/07 Public Hearing
Enclosed Bay/Estuaries-SQO
Deadline: 11/30/07 by 12 p.m.

November 28, 2007

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Acting Clerk to the Board
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

SUBJECT: Comment Letter – Sediment Quality Objectives

The Orange County Sanitation District (OCSD) appreciates the opportunity to review and comment on the State Water Resources Control Board's (SWRCB) proposed plan to protect enclosed bays and estuaries through the development of sediment quality objectives (SQOs).

OCSD is a public agency responsible for collecting, treating and managing wastewater for 2.4 million residents and businesses within northern and central Orange County. OCSD operates two regional wastewater treatment plants, over 650 miles of trunk and subtrunk sewer lines, sixteen pump stations and an ocean outfall disposal system. OCSD operates pursuant to an NPDES permit for discharges into a receiving water body and conducts ocean monitoring for various constituents of concern. Therefore, we are keenly aware of the SWRCB's concern about impacts from constituents of concern, such as sediment, on water quality and the aquatic environment. OCSD shares the SWRCB goal to protect the beneficial uses of California waterbodies.

OCSD wants to commend the SWRCB for all their efforts with the development process for the policy and framework of this SQOs plan. In particular, OCSD supports the inclusion of stakeholders input on technical and policy-related matters and the reliance on sound science to drive policy decisions. The process undertaken by the SWRCB to address sediment quality should ensure SQOs are developed in a scientifically-based, cost-effective and reasonable manner. OCSD has general comments and recommendations on some of the policy-related issues and seeks clarification on how this plan will be implemented and interpreted.

General Comments

OCSD supports the current approach of adopting narrative sediment quality objectives implemented through a Multiple Line of Evidence (MLOE) for sediment. The MLOE approach encompasses the development, refinement and validation of testing procedures and numeric tools to be used in the implementation of the approach. The development of these tools has only been possible to date in coastal embayments of California where adequate data has been available. This tool development process, which is fundamental to the overall MLOE approach, has required ambient sediment quality data that has itself been validated and screened.

Due to a lack of adequate data, the proposed Phase 1 SQO policy has suggested an interim approach in California estuaries. That approach requires the use of three lines of evidence and requires the determination of effect for two lines to determine that a site is "Impacted". We have reservations regarding the application of this interim approach, given the lack of adequate information to properly establish tools and metrics for these evaluations. The development and interpretation of MLOE tools in estuaries is acknowledged by the Science Team and expert panel to be significantly more difficult than the work completed to date in coastal embayments. We strongly encourage the SWRCB to devote sufficient resources to expedite data collection and tool development in other estuaries in the state. This is particularly important because the determinations used to make these interim findings may lead to future management determinations.

Regarding the implementation provisions of the proposed SQO policy, we support the application of SQOs as Receiving Water Limitations in NPDES permits. This approach is rational given the absence of causation information resulting from the initial test results that are determined in the SQO evaluation process. We advocate that the determination of whether a permitted source will cause or contribute to the violation of a sediment quality receiving water limitation should be made after the stressor identification studies are completed and toxic pollutants identified in those studies are linked to the permitted source.

We support the step-wise approach to stressor identification, target development and management actions that are prescribed in the SQO policy. The proposed approach is analogous to the whole effluent toxicity approach that is currently applied in NPDES permits as described in the State Implementation Plan. Under that approach, initial tests results lead to causation studies (i.e., Toxicity Identification Evaluations, which then lead to Toxicity Reduction Evaluations where responsible toxicants are identified).

We have specific comments that seek to clarify the steps and to ensure that Regional Board's will follow those steps in the implementation of the policy.

Regarding Section VII.C. - Exceedance of Receiving Water Limit; the policy text should indicate that the stations included in an analysis to determine compliance with a receiving water limitation must be strongly linked to the discharge in question, e.g., located along a discharge gradient in the immediate vicinity of a discharge.

Likewise, the policy should state that the determination that a discharge is causing or contributing to an SQO exceedance must only be made after completion of stressor identification studies that link specific toxic pollutants in a discharge to the SQO exceedance.

Regarding Section VII.F. - Stressor Identification; exceedance of the direct effects SQO indicates that pollutants are a "likely cause," but does not demonstrate conclusively that pollutants are the stressor driving an impact determination. The language of the policy should be modified to clarify this point.

The policy needs to address the case where stressors cannot be determined. It is anticipated that this will be the case where the MLOE analysis indicates low level impacts to sediments, e.g., "Possibly Impacted" determinations. It is recommended that the policy state that, where stressors cannot be identified and toxic pollutants cannot be ruled out, that additional sediment monitoring shall be performed to confirm the initial SQO determination. A revised work plan should then be developed and implemented to make a final attempt at stressor identification. Completion of that work should satisfy follow-up study requirements.

In closing, I would like to thank you for your consideration of our comments on the SWRCB's plan to implement SQOs for bays and estuaries. If you have any questions, please feel free to contact me at (714) 593-7450. The staff person currently working on this issue is Karen Baroldi, and she may be reached at (714) 593-7461.

Michael D. Moore
Environmental Compliance & Regulatory Affairs Manager

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