



COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

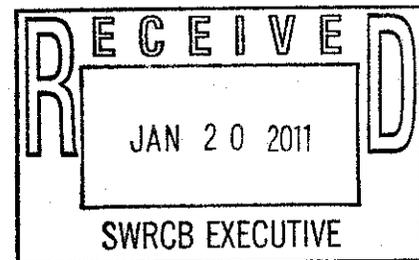
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STEPHEN R. MAGUIN
Chief Engineer and General Manager

January 20, 2011

Via Electronic and U.S. Mail

Charles R. Hoppin, Chair, and Members
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 15th Floor
Sacramento, CA 95814



Dear Chair Hoppin and Members:

Comment Letter - Policy for Whole Effluent Toxicity Assessment and Control

The Sanitation Districts of Los Angeles County (Sanitation Districts) appreciate the opportunity to provide written comments on the State Water Resources Control Board's (State Water Board's) Draft Policy for Whole Effluent Toxicity Assessment and Control (Policy). As background, the Sanitation Districts own and operate a toxicology lab consisting of twenty biologists who perform over 500 Whole Effluent Toxicity (WET) tests per year. The Sanitation Districts have also dedicated significant resources to resolving WET issues over the past fifteen years, including participation at the Society of Toxicology and Chemistry (SETAC) Pellston WET workshop of 1995, participation in the SETAC WET Expert Advisory Panel Steering Committee, teaching SETAC WET training courses nationwide, publication of several peer-reviewed articles on WET, and numerous written comments on WET issues to local, state, regional, national, and international (International Organization for Standardization) regulatory agencies. Additionally, Sanitation Districts' staff has met with regional, state, and federal regulatory agency staff numerous times independently and on behalf of the National Association of Clean Water Agencies (NACWA) to present the Sanitation Districts' perspective and recommendations on WET testing programs. In short, the Sanitation Districts have considerable experience and expertise in the implementation of the WET program.

The Sanitation Districts are fully committed to the effective and appropriate implementation of a WET program and strongly support the use of WET testing as a tool to address uncertainties associated with chemical specific monitoring and biological assessment. However, we have serious concerns with the Policy as currently proposed. These concerns are detailed in the comments submitted under a separate cover letter by the Clean Water Associations (CWA), and the Sanitation Districts fully endorse the CWA comments. Our three major concerns regarding the Policy are listed below.

- The proposed Policy does not implement a regulatory strategy based on rapid identification and control of constituents causing persistent toxicity, but rather assesses punitive violations for single sample failures of a test whose results have an acknowledged level of uncertainty and little potential to result in adverse receiving water effects.

- The proposed policy will not result in greater environmental protection and, because of the acknowledged uncertainty in the results and reliance on single test numeric limits, adoption of this Policy will likely result in a significant increase in State and Regional Water Boards' enforcement efforts with no environmental benefit. Additional efforts and expenditures would also be expected from POTWs, in the form of unnecessary testing costs and costs to address enforcement actions for violations incurred based incorrect assessments of toxicity.
- The Policy as proposed is not consistent with state, federal, and scientific guidance. Even the State Water Board's Toxicity Task Force recommended against single test numeric WET limits, and the U.S. Environmental Protection Agency and others have consistently supported a step-wise approach for addressing WET that utilizes accelerated testing and toxicity identification and reduction evaluations (TIE/TREs).

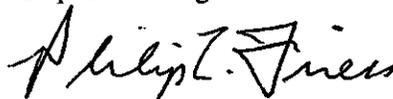
Most importantly, the Sanitation Districts strongly support the alternative approach to WET regulation as detailed in the CWA comment letter. This alternative approach incorporates strict, enforceable multiple sample numeric triggers for accelerated testing and initiation of TRE efforts. The approach is based upon the regulatory strategy for WET employed by the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Regional Board) for the past seven years. In the Los Angeles Region, this approach has led to significant improvements in effluent quality and is ultimately responsible for the low incidences of receiving water toxicity currently observed in the region. This near elimination of receiving water toxicity in the Los Angeles Region was confirmed in a Surface Water Ambient Monitoring Program (SWAMP) report released in November 2010¹.

In short, the ultimate goal of the WET testing program should be to use toxicity tests as an investigative tool to identify and control specific chemicals and/or activities that are the source of the toxicity. Compliance with toxicity objectives should be based upon the discharger's adherence to strict monitoring, accelerated testing, and TRE Plan requirements that are specifically designed to effectively identify and control the cause of toxicity. Numeric limits should be applied as appropriate to the constituents causing toxicity, once they are identified. Numeric WET limits provide no added incentive in such a paradigm, particularly when the discharger has limited control over the chemical composition of its effluent.

The Sanitation Districts again thank the State Water Board for this opportunity to provide input on the Policy and, as in the past, we continue to look forward to working with the State Water Board on its development. If you have any questions about these comments or require additional information, please contact Phil Markle at (562) 908-4288, extension 2808, or by e-mail at pmarkle@lacsds.org.

Very truly yours,

Stephen R. Maguin



Philip L. Friess
Department Head
Technical Services

PLF:PM:lmb

cc: Brian Ogg, Darrin Polhemus, and Rik Rasmussen, State Water Board

¹ Summary Of Toxicity in California Waters: 2001 – 2009. November 2010. Surface Water Ambient Monitoring Program.