

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

RESPONSE TO WRITTEN COMMENTS

ON THE REISSUANCE OF WASTE DISCHARGE REQUIREMENTS FOR:

Sausalito-Marín City Sanitary District
Sausalito, Marin County
NPDES Permit No. CA0038067

I. Sausalito-Marín City Sanitary District – July 11, 2007

II. Bay Area Clean Water Agencies – July 10, 2007

Note: The format of this staff response begins with a brief introduction of the party's comments, followed with staff's response. Interested persons should refer to the original letters to ascertain the full substance and context of each comment.

I. Sausalito-Marín City Sanitary District (District) – July 11, 2007

District Comment 1

For section G, Water Quality-based Effluent Limitations, the reference to "a proposed state criterion" should be removed, since proposed state criteria may not be used under state law, because to use "proposed" state criteria before formal adoption would be considered underground rulemaking.

Response 1

We have not made the change requested because we disagree with the District's contention. 40 CFR 122.44(d)(1)(vi) clearly states, "where a State has not established a water quality criterion... such a criterion may be derived using a proposed State criterion..." Additionally, the language at issue is template language developed by the State Water Board, and the District has provided no convincing reason to change it.

District Comment 2

The first and last sentences of Finding M, Stringency of Requirements for Individual Pollutants, should be removed as legal conclusions not supported by evidence in the record. There are several instances where the permit requirements are more stringent than required by the federal Clean Water Act.

Response 2

We are denying this request since we are unaware of any conditions in the draft permit that are more stringent than the federal Clean Water Act.

District Comment 3

The District requests that the chlordane effluent limit be removed because reasonable potential was based on only one detected-but-not-quantified data point.

Response 3

We are denying this request. This is because the State Implementation Policy (SIP) indicates that data should not be discarded unless there is evidence that a sample has been erroneously reported, is not representative of the effluent, or there are questionable quality control/quality assurance practices. In this case, the estimated chlordane value appears to be analytically valid. As such, there is reasonable potential for this pollutant to be discharged at levels that could adversely affect water quality. Therefore, consistent with the SIP, we must include effluent limits for chlordane.

District Comment 4

The District requests that the dioxin-TEQ numeric final effluent limit be removed because there is no approved numeric water quality objective for dioxin-TEQ, and the District cannot meet this limit. The District believes that the Regional Water Board has discretion to maintain the narrative standard. There is no value in developing a numerical standard at this time since dioxin at these levels can not be measured. The recognized source is air emissions and combustion, neither of which the District can control or prevent.

Although an optional offset provision (as described in Special Provision C.2.c.) may provide an alternative to compliance with a final effluent limit for dioxin-TEQ, such a program does not currently exist. Even though the Regional Water Board directed Regional Water Board staff to develop such a program, there do not appear to be any plans in place. Until such a program is developed with a feasible implementation strategy, the District does not believe this is a realistic alternative and it is misleading to expect that such a program would lead to compliance.

Response 4

Please see response to BACWA comment #2.

District Comment 5

The District requests that the final limits for cyanide, chlordane, and mercury be removed for the permit, because there is no indication that the District will be able to meet these limits, and there are other activities underway to amend the limits in such a way that would not have adverse impacts on water quality and so that the District would be able to comply. Any final limits should be provided for reference and should not be enforceable. The District requests removal of these final concentration limits.

Response 5

Please see response to BACWA comment #3.

District Comment 6

The District does not have a Pollution Prevention Program because it is less than 5 mgd and does not have a pretreatment program, so the District requests that the detailed requirements for the regionally-developed portion of Pollutant Minimization Program be removed from the permit. Significant pollution prevention activities are already required

as part of the compliance schedule and Cease and Desist Order, and these activities should be sufficient. The District requests that this provision be removed.

Response 6

Please see response to BACWA comment #7.

District Comment 7

A schedule with enforceable deadlines for the implementation of measures to control blending is included in the District's permit. The U.S. Environmental Protection Agency and the Office of Management and Budget are still reviewing the current draft version of a national blending policy. Although the District believes it can comply with the schedule in the tentative order, it seems premature to require such a schedule in a permit in advance of the blending policy becoming finalized. In addition, the draft regulation does not require that an enforceable schedule be placed in the permit. The District is concerned that these requirements are being developed in advance of how these significant issues are settled nationally.

Response 7

Please see response to BACWA comment #1.

District Comment 8

Chlordane was banned for use as a pesticide in the United States 19 years ago in 1988. Since then it has been banned in many other countries around the world as well. To have nine separate tasks for reducing chlordane in municipal wastewater effluent, when the effluent limit is based on only one non-quantified, non-reproducible data point, is a waste of public resources.

Likewise, the congeners detected in fish tissue samples which form the basis for the dioxin 303(d) listing, and the congeners detected in publicly-owned treatment works are different. As a result, there is nothing a municipal wastewater treatment plant could do to its effluent to reduce the concentration of dioxin congeners found in fish tissue, which is the basis for this requirement.

For these reasons, the detailed action items, including identification of "all" sources to the discharge, special efforts of pollution prevention, the development of extensive studies of alternate treatment technologies, pilot scale testing of new facilities, development of design documents, procurement of funding, and acquisition of the necessary permits for new facilities, to name a few, is all completely unrelated to obtaining any improvement to water quality for these constituents, simply because municipal wastewater treatment plants are not the source of water quality impacts for these compounds. The District does support an investigation into quality control and quality assurance of sample collection and analysis and believes basic pollution prevention activities are feasible.

Also, the District requests that the deadlines be shown as relative to the permit effective date, in the event the permit is not adopted as currently scheduled, and that the pollution

prevention report be submitted a couple of months later than proposed, to allow sufficient time for compilation of the information.

For these reasons, the District requests that language in the tentative order be revised as follows: (see District letter in Appendix B)

Response 8

See response to BACWA comment #6.

District Comment 9

The District requests that the attached Sausalito-Marin City Sanitary District WWTP Flow Schematic replace the current schematic on page C-1.

Response 9

We have no objection to this request. The flow schematic in the revised tentative order has been replaced as requested.

District Comment 10

In a letter dated March 28, 2002, the Regional Water Board approved a chronic toxicity sampling frequency of twice every five years (four sampling events in five years). The District requests that this frequency be continued in the current permit. This frequency is also consistent with requirements for other similar-sized municipal dischargers. Regional Water Board staff agreed to this change in a meeting on July 6, 2007.

Response 10

Regional Water Board staff has no objection to this request. The frequency for chronic toxicity testing in the revised tentative order has been changed as requested.

District Comment 11

The District requests that the Colilert test method be approved for use in testing for total coliform in effluent samples. This approach is consistent with the previous District permit amendment regarding bacteria indicator sampling, and it is consistent with previous permits for municipal wastewater dischargers. Language would be revised for footnote (4) of Table E-4 in the Monitoring and Reporting Program as follows:

- (4) When replicate analyses are made of a coliform sample, the reported result shall be the arithmetic mean of the replicate analysis sample. The Colilert method is approved for use by the Discharger for the total coliform determination.*

Regional Water Board staff agreed to look into the possibility of making this change at a meeting on July 6, 2007.

Response 11

Regional Water Board staff has no objection to this request. Footnote (4) of Table E-4 has been changed as requested in the revised tentative order.

District Comment 12

The study of initial dilution used by the Regional Water Board to calculate ammonia effluent limits was based on condition in the 1970s before the diffuser was installed at the outfall. Recently, the District conducted a new dilution study which represents current conditions, including the presence of a diffuser. Regional Water Board staff agreed to review and consider this dilution study in a meeting on July 6, 2007.

Response 12

We concur it is appropriate to use the new dilution study to calculate the effluent limits. The Tentative Order has been revised to use 84:1, the dilution for maximum effluent flow rate conditions (6.0 MGD), to calculate ammonia effluent limits for acute criteria, and 237:1, the dilution for average annual conditions (1.68 MGD), to calculate ammonia effluent limits for chronic criteria. The resulting effluent limits are 180 mg/L AMEL and 380 mg/L MDEL.

District Comment 13

An effluent limit was established in this permit for chlordane based on only one non-quantified, non-reproducible value. Therefore, the language should be revised in the Fact Sheet to reflect the actual conditions as follows

(g) Need for Cease and Desist Order. Since ~~it is unlikely that~~ there is uncertainty regarding whether the Discharger will be able to comply with final effluent limitations for chlordane by May 18, 2010, the Discharger ~~threatens to discharge~~ may be in violation of this Order. Therefore, a cease and desist order will be adopted concurrent with this Order. The Cease and Desist Order is necessary to ensure that the Discharger achieves compliance. It establishes time schedules for the Discharger to complete necessary investigative, preventive, and remedial actions to address its imminent and threatened violations.

Response 13

The tentative order has been revised to incorporate the first proposed language change (from "it is unlikely that" to "there is uncertainty whether"). However, the second proposed change (from "threatens to discharge" to "may be") was not incorporated because the original language more accurately establishes the basis for a Cease and Desist Order.

District Comment 14

The tentative order indicates that the driver for conducting a reasonable potential analysis for ammonia was the adoption of State Water Resources Control Board Order WQ 2007-0004 on May 1, 2007. In that order, the language regarding the establishment of reasonable potential for ammonia which forms the basis for the ammonia effluent limits analysis in this tentative order is as follow:

"...the effluent can appropriately be characterized as having reasonable potential to exceed the ammonia objective."⁹⁰ [Footnote 90: See U.S.EPA's Technical Support

Document for Water Quality-based Toxics Control (March 1991), EPA 505 2-90-001, 3.2 at page 50.J"

So the State Water Resources Control Board used the Technical Support Document (TSD) method for establishing reasonable potential for ammonia. However, the Regional Water Board has opted to use the State Implementation Policy, or SIP, which is more stringent. Given that ammonia is not a water quality concern in San Francisco Bay, the TSD, a USEPA-supported and SWRCB-supported approach, should be used.

Response 14

See response to BACWA comment #5.

District Comment 15

The District requests that if a chlordane effluent limit is included in the permit, the value be expressed as 0.1 µg/l, not 0.10 µg/l. It appears that the incorrect number of significant figures were used for the chlordane limit in Table 7, Effluent Limits for Toxic Substances. The limit should be equivalent to the Minimum Level (ML), expressed as 0.1 µg/l in the SIP, and also in the tentative order Fact Sheet at page F-40 and in the Cease and Desist Order. Regional Water Board staff agreed to this change in a meeting on July 6, 2007.

Response 15

Regional Water Board staff has no objection to this request. The tentative order has been revised to reflect the correct number of significant digits as requested.

District Comment 16

(Comments on Cease and Desist Order) Detailed action plans for mercury, cyanide, selenium, and chlordane are not consistent with other activities in the region designed to address these constituents.

Mercury – The Regional Water Board has been in the process of developing a mercury total daily maximum load (TMDL) for about 10 years now (at least). The TMDL by and large contains requirements for mercury that have been developed in a thoughtful and meaningful way throughout the process of its development and deliberation. This is in contrast to the requirements in the Cease and Desist Order of this permit, which requires extensive actions, including the significant expenditure of public funds, is a mercury TMDL permit is not adopted within the next three to six months. This timeline is completely unreasonable given the history and uncertainty of the TMDL timing and process, and the insignificant contribution of mercury by municipal wastewater treatment plants, and the District in particular, to San Francisco Bay. Moreover, the approach bypasses due public process by forcing POTWs to undertake certain actions in the NPDES permit if they don't support the mercury permit regardless of the conditions it contains.

Cyanide – The Regional Water Board has adopted a site-specific objective for cyanide. Its approval by the State Water Resources Control Board, which must happen before approval by Office of Administrative Law and USEPA, is currently stalled because staff

have been pulled off of it to work on other initiatives. Cyanide is recognized as not a significant water quality issue for San Francisco Bay. Yet the Cease and Desist Order requires significant outlay of public funds on all kinds of activities to reduce cyanide from municipal wastewater effluent. These requirements are a waste of public resources.

Selenium – The District believes that selenium values in the effluent may be due to quality control concerns with sampling and analysis. It would be prudent and appropriate to investigate this situation, and if the actual levels in the effluent are lower than the final effluent limits, then further action is not warranted.

Chlordane – As stated above in Comment No. 8, chlordane was banned for use as a pesticide in the United States 19 years ago in 1988. Since then it was banned in many other countries around the world as well. To have nine separate tasks for reducing chlordane in municipal wastewater effluent, when the effluent limit is based on only one non-quantified, non-reproducible data point, is a waste of public resources.

For these reasons, the District requests that the language be revised as shown on the following pages: (see District letter in Appendix B)

Response 16

See response to BACWA comment #6. The deadlines for Tasks b-e have been moved back two months for each task to allow the District adequate time to comply. As indicated in our response to BACWA comment #6, cyanide related requirements were removed from the Cease & Desist Order. While the District should be able to immediately comply with revised effluent limits for cyanide, its data have varied considerably over the past five years. Therefore, Provision VI.C.8 of the Revised Tentative Order will also require that the District investigate sample collection, sample handling, and analytical laboratory quality assurance and quality control practices to ensure that analytical results for cyanide are accurately determined and reported. The District will be required to submit a report by March 1, 2008, that describes the results of the investigation and any changes in quality assurance and quality control practices implemented.

Editorial Changes

Please note the change below in the language to Section IV.4.d (page 11) regarding acute toxicity. This change was made to be consistent with the Fact Sheet.

- d. If the Discharger can demonstrate to the satisfaction of the Executive Officer that toxicity exceeding the levels cited above is caused by ammonia and that the ammonia in the discharge is ~~not adversely impacting receiving water quality or beneficial uses in compliance with effluent limits~~, then such toxicity does not constitute a violation of this effluent limitation.

II. Bay Area Clean Water Agencies (BACWA) – July 10, 2007

See attached Consolidated Response to BACWA Comments for Item Nos. 8, 9, and 10.