California Regional Water Quality Control Board
San Francisco Bay Region

STAFF-INITIATED CHANGES

In the Revised Tentative Order for
Fairfield-Suisun Wastewater Treatment Plant and its sanitary sewer system,
Fairfield, Solano County

The Revised Tentative Order reflects the following staff-initiated changes. Revisions are shown with underlined text for additions and ~~strikethrough~~ text for deletions.

Change 1
We updated the coordinates of Discharge Points 001, 002, 003, and 005 in Table 1 as follows:

Table 1. Discharge Locations

Discharge Point	Effluent Description	Discharge Point Latitude (North-South)	Discharge Point Longitude (East-West)	Receiving Water
001	Advanced Secondary Treated Municipal Wastewater	~~38.2092°~~ 38.2090°	~~-122.0581°~~ -122.0581°	Boynton Slough
002	Advanced Secondary Treated Municipal Wastewater	~~38.2144°~~ 38.2141°	~~-122.0556°~~ -122.0663°	Duck Pond 1
003	Advanced Secondary Treated Municipal Wastewater	38.2097°	~~-122.0581°~~ -122.0592°	Duck Pond 2
005	Advanced Secondary Treated Municipal Wastewater	~~38.2333°~~ 38.2336°	~~-122.0589°~~ -122.0590°	Ledgewood Creek
006	Advanced Secondary Treated Municipal Wastewater	38.2117°	-122.0731°	Boynton Slough

Change 2
We updated the Discharger's sanitary sewer system information in Fact Sheet section 2.1.2 as follows:

> **Sanitary Sewer System**. The Fairfield-Suisun Sewer District sanitary sewer system consists of approximately ~~68~~ 71 miles of gravity sewer mains (12 inches in diameter or greater), 15 miles of pressure sewer mains, and ~~12~~ 14 pump stations. The plant also treats wastewater from three satellite sanitary sewer systems, consisting of sewer lines less than

12 inches in diameter, owned and maintained by the City of Fairfield, City of Suisun City, and Travis Air Force Base.

Change 3
We revised Fact Sheet section 3.2 to clarify that the CEQA exemptions that apply to adopting an NPDES permit also apply to state-only requirements, as follows:

> **California Environmental Quality Act (CEQA).** Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resources Code division 13, chapter 3 (commencing with § 21100). ~~This Order includes two provisions—~~Provision 5.3.4.2.1 and Attachment G Provision 1.9.1 are state law requirements that~~ under Water Code section 13389. However, the~~ are retained from the previous order ~~imposed these requirements~~. To the extent Water Code section 13389 does not apply to these state law requirements~~ As such~~, retaining them~~ these requirements~~ is not a project subject to CEQA because they will not cause a direct or indirect physical change in the environment (Public Resources Code §§ 21065, 21080).

Change 4
We revised Fact Sheet section 4.3.4.2 to remove references to receiving water limitations in accordance with the U.S. Supreme Court's ruling in *City and County of San Francisco, California v. Environmental Protection Agency* (2025) 145 S.Ct. 704:

> 4.3.4.2.5. **Produce undesirable or nuisance aquatic life.** The mixing zones will not produce undesirable or nuisance aquatic life. Cyanide and chronic toxicity are not biostimulatory substances, so they will not cause growth of aquatic nuisance species. ~~Additionally, this Order imposes receiving water limitations that prohibit bottom deposits or aquatic growths to the extent that such deposits or growths cause nuisance or adversely affect beneficial uses.~~
>
> 4.3.4.2.6. **Result in floating debris, oil, or scum.** The effluent discharged receives advanced secondary treatment and does not contain floating debris, oil, or scum. The treatment plant is equipped with scum baffles to collect and dispose of oils, grease, debris, and scum. ~~In addition, this Order imposes receiving water limitations that prohibit floating debris, oil, or scum at any place and at any time.~~
>
> 4.3.4.2.7. **Produce objectionable color, odor, taste, or turbidity.** The mixing zones will not produce objectionable color, odor, taste, or turbidity because the effluent receives advanced secondary treatment and is disinfected prior to discharge. Advanced secondary treatment generally addresses

objectionable odor, taste, and turbidity through the biological degradation of organic compounds and clarification. ~~In addition, this Order imposes receiving water limitations that prohibit alteration of color or turbidity in receiving waters beyond natural background levels.~~ The Discharger conducts regular effluent monitoring that includes standard observations to ensure that objectionable color, odor, and turbidity are not present.

4.3.4.2.8. **Cause objectionable bottom deposits.** The discharged effluent receives advanced secondary treatment, which biologically degrades and removes suspended particles that could contribute to receiving water bottom deposits. ~~Moreover, this Order imposes receiving water limitations that prohibit bottom deposits or aquatic growths to the extent that such deposits or growths cause nuisance or adversely affect beneficial uses.~~

We also revised Fact Sheet section 6.1.4 to remove references to receiving water limitations as follows:

6.1.4. **Receiving Water Monitoring.** Receiving water monitoring is necessary to evaluate compliance with this Order~~'s receiving water limitations~~ and to support future reasonable potential analyses. The Discharger is also required to continue participating in the Regional Monitoring Program, which involves collecting data on pollutants and toxicity in San Francisco Bay water, sediment, and biota.

Change 5
We removed repetitive wording and an extraneous sentence from Fact Sheet section 5.3.3 as follows:

This provision is based on Basin Plan section 4.13.2 and SIP section 2.4.5. ~~section 2.4.5. The Discharger submits an annual pollution prevention report under NPDES Permit CA0037869 that includes copper and cyanide action plans based on Basin Plan sections 7.2.1.2 and 4.7.2.2.~~

Change 6
We corrected the effluent monitoring frequency of dioxin-TEQ in, and added receiving water monitoring frequencies for pH, temperature, and total ammonia to, Fact Sheet Table F-9:

Table F-9. Monitoring Requirements Summary

Parameter [1]	Influent INF-001 [2]	Effluent EFF-001D [2]	Effluent EFF-001 and EFF-005 [2]	Effluent EFF-002 and EFF-003 [2]	Biosolids BIO-001 [2]	Receiving Water [2]
⋮	⋮	⋮	⋮	⋮	⋮	⋮
pH	-	Continuous/D	-	-	-	-2/Year
Turbidity	-	Continuous/D or 1/Day	-	-	-	-
Temperature	-	Continuous/D or 1/Day	-	-	-	-2/Year
Dissolved Oxygen	-	Continuous/D or 1/Day	-	-	-	2/Year
Ammonia, Total	-	1/Month	-	-	-	-2/Year
Copper, Total Recoverable	-	1/Month	-	-	-	-
Cyanide, Total	1/Month	1/Month	-	-	2/Year	-
Dioxin-TEQ	-	~~2/Year~~ Once	-	-	-	-
⋮	⋮	⋮	⋮	⋮	⋮	⋮

Change 7
We revised Fact Sheet section 3.3.5 to provide additional background and applicability of the *State Policy for Water Quality Control: Toxicity Provisions* (Toxicity Provisions) as follows:

3.3.5. **Toxicity Provisions.** The State Water Board adopted the *State Policy for Water Quality Control: Toxicity Provisions* (Toxicity Provisions) on December 1, 2020, and confirmed it as state policy for water quality control on October 5, 2021. The Office of Administrative Law approved the Toxicity Provisions on April 25, 2022. U.S. EPA approved the Toxicity Provisions on May 1, 2023. Toxicity Provisions sections II.C.1 and II.C.2 establish numeric chronic and acute toxicity water quality objectives that apply to all inland surface waters, enclosed bays, and estuaries in the ~~State~~ state with aquatic life beneficial uses. The Toxicity Provisions include related implementation provisions and require that compliance with the chronic toxicity water quality objectives be assessed using U.S. EPA's Test of Significant Toxicity (TST) (U.S. EPA, *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* [EPA/833-R-10-003], June 2010). ~~This Order implements the Toxicity Provisions.~~ In accordance with Water Code sections 13146 and 13247, the Regional Water Board must include the requirements specified in the Toxicity Provisions for NPDES permits issued, reissued, renewed, or reopened after the effective dates of the

Toxicity Provisions for non-stormwater NPDES dischargers, unless otherwise directed or authorized by statute or where contrary to a binding judicial order or decision.

On July 18, 2022, the Camarillo Sanitary District, City of Simi Valley, City of Thousand Oaks, Central Valley Clean Water Association, and Clean Water SoCal (formerly known as Southern California Alliance of Publicly Owned Treatment Works) (Petitioners) filed a petition for writ of mandate in Fresno County Superior Court challenging the State Water Board's adoption of the Toxicity Provisions. One of the Petitioners' claims was that the Toxicity Provisions was inconsistent with the Clean Water Act. On October 9, 2023, the superior court denied the petition in its entirety.

On December 19, 2023, Camarillo Sanitary District, Central Valley Clean Water Association, and Clean Water SoCal filed a notice of appeal of the Fresno Superior Court's decision upholding the Toxicity Provisions. On August 5, 2025, the Fifth District Court of Appeal issued a published opinion finding that the TST statistical approach, which is an integral component of the Toxicity Provisions, cannot be utilized in NPDES permitting to evaluate whole effluent toxicity (WET) data because the Court of Appeal concluded that the TST is not an approved method under 40 C.F.R. Part 136. The Court of Appeal did not, however, disturb the Toxicity Provisions' use of the TST as a part of its water quality objectives. The State Water Board prevailed on all other claims in the litigation. The Court of Appeal's decision became final on September 4, 2025.

On December 19, 2024, the Second District Court of Appeal largely rejected the Petitioners' position on the TST in *Camarillo Sanitary District v. California Regional Water Quality Control Board – Los Angeles Region.*

On September 15, 2025, the State Water Board filed a petition for review of the Fifth Circuit Court of Appeal's decision with the California Supreme Court. On November 12, 2025, the California Supreme Court granted review. The issues to be briefed and argued are limited to the issues raised in the State Water Board's petition for review. Pending review, the opinion of the Fifth Circuit Court of Appeal is not binding on the Water Boards. However, the opinion may be cited, not only for its persuasive value, but also for the limited purpose of establishing the existence of a conflict in authority.

On December 14, 2023, the State Water Board applied for U.S. EPA Region IX review and approval of a limited-use alternative test procedure for the use of one-effluent concentration when conducting whole effluent toxicity (WET) testing pursuant to 40 C.F.R. section 136.5

(Aug. 28, 2017). The application is specific to acute or chronic WET tests in Table 1 of the application when using the TST statistical approach (U.S. EPA, 2010) for analyzing the data. The request is being sought for all dischargers or facilities in the State of California and their associated laboratories. The application is still pending with U.S. EPA.

In accordance with Water Code sections 13146 and 13247, the Regional Water Board must continue to comply with the portions of the Toxicity Provisions that remain in effect. The Regional Water Board must fully implement the water quality objectives and their implementation procedures in the Toxicity Provisions. The numeric water quality objectives for chronic and acute toxicity established by the Toxicity Provisions, which are based on the TST, were approved by U.S. EPA and remain in effect. As such, the numeric water quality objectives continue to serve as the applicable federal water quality standards in California.

The Regional Water Board must also continue to comply with federal Clean Water Act NPDES regulations for determining reasonable potential and establishing applicable water quality-based effluent limitations (WQBELs). NPDES regulations (40 C.F.R. § 122.44(d)(1)(vii)(A)) require that all WQBELs be derived from and comply with all applicable water quality standards. Moreover, although the Toxicity Provisions left in place narrative water quality objectives for aquatic toxicity in the Basin Plan, the Toxicity Provisions did supersede Basin Plan provisions and portions of the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (SIP) for implementing narrative water quality objectives. As such, there are currently no Basin Plan or SIP procedures in effect for implementing narrative water quality objectives to determine reasonable potential as required by 40 C.F.R. section 122.44(d)(1)(ii). As a result, the Regional Water Board must fully implement all of the Toxicity Provisions.

Change 8
We corrected the section numbering in Fact Sheet section 4.3.4 as follows:

4.3.4.4~~5~~5. **Chronic Toxicity.** This Order includes chronic toxicity limitations based on Toxicity Provisions section III.C.5. This Order grants a mixing zone for chronic toxicity corresponding to a dilution ratio of at least 4:1, equivalent to an IWC of 25 percent effluent…

4.3.4.~~5~~56. **Receiving Water Limitations.** This Order removes the receiving water limitations contained in Section V of the previous order that served as backstops for unanticipated circumstances or changes to effluent quality that could affect water quality…

Change 9
We corrected non-substantive typographical errors throughout the Revised Tentative Order.