



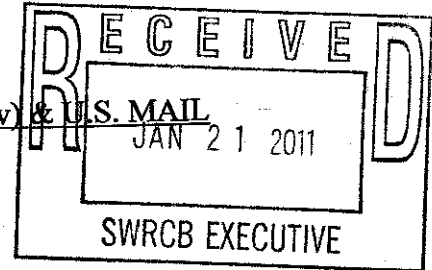
# Delta Diablo Sanitation District

Public Comment (11/16/10 Workshop)  
Policy for Toxicity Assessment  
Deadline: 1/21/11 by 12 noon

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January 21, 2011

VIA ELECTRONIC MAIL ([commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov))



Ms. Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

SUBJECT: COMMENT LETTER – POLICY FOR TOXICITY ASSESSMENT AND CONTROL

Ms. Townsend:

Delta Diablo Sanitation District appreciates the opportunity to provide comments to the State Water Resources Control Board (Water Board) regarding the draft Policy for Toxicity Assessment and Control Policy (Policy). Delta Diablo Sanitation District (the District) provides wastewater treatment for nearly 200,000 residents in the communities of Antioch, Bay Point and Pittsburg. In 2010 the District received the Platinum Peak Performance 6 award from the National Association of Clean Water Agencies for its history of compliance with its National Pollutant Discharge Elimination System permit for over six consecutive years. In addition to wastewater treatment, the District operates one of the largest industrial recycled water plants in California, performs street sweeping functions, conducts stormwater inspections, and provides household hazardous waste services to its ratepayers as well as neighboring communities. All of the services support the District's purpose to "safeguard and enhance the environment of the communities we serve."

The District is very concerned about the Water Board's draft Policy if adopted in its current form. The District is particularly concerned with the effects on compliance and laboratory testing costs. The District believes that narrative limits are more appropriate than numeric limits for whole effluent toxicity (WET) testing and that results from multiple tests should be used for assessing compliance. A more detailed presentation of these concerns is provided below.

### Narrative versus Numeric Limits

The District believes that narrative limits for whole effluent toxicity (with triggered actions) provide better motivation for compliance and control of toxicity in effluent than numeric limits. Interpretation of toxicity data is a complex undertaking because of the inherent variability and anomalies associated with biological data. Toxicity is not a pollutant, but an effect, and therefore test results only provide an indication that an effluent may cause toxicity in receiving waters but do not identify the exact cause. Additional studies (such as accelerated monitoring, toxicity identification evaluations (TIEs) and toxicity reduction evaluations (TREs)) are needed to establish the persistence and magnitude of the toxicity and the toxicant(s) causing the toxicity. Under the Draft Policy, the numeric objectives must be implemented as numeric effluent limitations for wastewater dischargers. Using numeric limits will require an immediate finding of violation by the Regional Water Board, despite the fact that the additional studies needed to confirm toxicity and establish the cause and remedy have yet to be performed. The ultimate

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intent of a toxicity policy – reduction of toxicity in receiving waters – would be more effectively reached if a toxicity test was used as a starting point to identify the cause(s) rather than as a regulatory endpoint. Narrative objectives (with required follow-up activities) provide more flexibility to appropriately address the complex issues associated with toxicity testing.

### **Multiple Test Results versus Single Exceedance**

The District believes that results from multiple tests should be used for assessing compliance rather than a single exceedance. As written in the Draft Policy, any failed test result for major wastewater treatment facilities, including episodic toxicity and non-toxic samples identified as toxic as a result of the statistical procedure, are considered an exceedance of effluent limitation and an excursion above the toxicity objectives. A single exceedance (and the subsequent actions that are triggered) can lead to an ineffective utilization of the limited resources available to wastewater agencies. Episodic toxicity is difficult to investigate and address, and false positive results may never be identified. Instead, the Policy should manage persistent toxicity by triggering actions when two of three samples are demonstrated to be toxic; thus avoiding action on episodic events or false positive results. To be successful in reducing and/or eliminating toxic discharges, identification of the cause of toxicity is essential. Therefore, the Policy should focus subsequent TRE efforts only in instances where the effluent was actually toxic and subsequent samples are toxic.

The District has been conducting regular acute and chronic WET testing for many years and has a long history of compliance. As such the San Francisco Bay Regional Water Quality Control Board has reduced the District's monitoring frequency for both acute and chronic testing (quarterly for acute and semi-annually for chronic). Monthly testing for chronic toxicity would more than quadruple the District's chronic toxicity expenses. The District believes that the Water Board should allow the Regional Water Boards the flexibility and discretion to account for historical performance and compliance.

Lastly, the District supports the proposed alternatives to the Draft Policy that are detailed in the Clean Water Association's (CWA) comment letter. Specifically, the preferred alternative approach would define a consistent narrative objective; include an accelerated testing trigger based on samples identified as "toxic" using the EC/IC25 approach; use two samples identified as "toxic" out of six accelerated tests for the TRE trigger; and define specific, enforceable actions that would result in violations if not conducted.

The District feels this approach will address our concerns with the Draft Policy and result in a consistent, environmentally protective toxicity policy. This approach provides an incentive to aggressively identify and control the constituents causing the toxicity since inaction will result in a violation. The Draft Policy causes dischargers to be in violation regardless of whether or not measures are taken to address the toxicity. As a result, there is a potential disincentive to spend money to identify and control the toxicity if violations occur regardless of whether or not you are taking actions. Additionally, efforts will be focused on identifying and controlling persistent toxicity and resources are not wasted on situations that are unlikely to be controllable, such as episodic events or non-toxic samples erroneously identified as toxic. Finally, the District feels

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the identification of clear, specific, enforceable requirements in the policy along with a narrative objective will provide a clear method for determining compliance.

The District takes seriously its commitment to protect water quality and constantly seeks to use its limited resources to effectively address the most significant issues in the environment. The District hopes that the new toxicity policy will meet the needs of the State Water Board to establish consistency without presenting unreasonable costs and compliance risk for the District's operations. Thank you again for the opportunity to comment.

Sincerely,

  
Gary W. Darling  
General Manager

FOR GARY W. DARLING

AWR/GWD:awr

cc: CORP.15.03-CORRES-XX  
Chron File