



# Central Contra Costa Sanitary District

Protecting public health and the environment

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December 21, 2018

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Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
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Sacramento, CA 95814

Via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)



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## SUBJECT: COMMENT LETTER – TOXICITY PROVISIONS

Dear Ms. Townsend:

The Central Contra Costa Sanitary District (Central San) appreciates the opportunity to comment on the proposed Establishment of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California; and Toxicity Provisions (proposed Toxicity Provisions). We concur with comments made by the Bay Area Clean Water Agencies (BACWA) and California Association of Sanitation Agencies (CASA) that were submitted under separate letters.

Central San acknowledges the significant effort that State Water Resources Control Board staff has invested in these Toxicity Provisions. The primary objectives are to improve regulatory consistency and establish a uniform approach to toxicity monitoring, analysis, and remediation measures throughout the state. Central San supports these pursuits. However, the current Toxicity Provisions contain elements that could yield significantly adverse unintended consequences by directing limited public resources to respond to toxicity monitoring results that do not actually represent a potential impact to the waters of the state. With modification, these potential unintended outcomes can be avoided while ensuring that the Toxicity Provisions' primary objectives are achieved.

### The threshold for determining reasonable potential (RP) should be greater than 10 percent

As a publicly owned treatment works (POTW) with limited resources, we are concerned that RP is assigned at a percent effect that is within the inherent variability of the organism used. Objective evidence of method performance assessed by using samples of known toxicity, such as blanks, is needed to characterize test interference due to organism variability. We determined our species, *Americamysis bahia* (Mysid), variability as a percent effect by using two sets of controls in the Test of Significant Toxicity (TST) calculation. We compared the control sample for the Mysid reference toxicant test, which is run concurrently with our final effluent and with the same batch of organisms, to the control sample used for the whole effluent Mysid survival and growth test. Data provided upon request. Testing the two control

solutions produced a percent effect that is reflective of the inherent organism variability; percent effect can be as high as 17.5 percent.

Additionally, we are concerned that the Environmental Protection Agency 833-R-10-004, National Pollutant Discharge Elimination System (NPDES) TST Technical Document sets the alpha levels for each of the organisms to fail 5 percent of the time at a percent effect of 10. Effectively, a POTW testing monthly would fail once every two years and would not be allowed to reduce the monitoring frequency. For these reasons, Central San requests the following modification to the language on page 15 of the Toxicity Provisions (IV.2.B.iii):

*"A discharge has RP to cause or contribute to an excursion above the chronic toxicity water quality objective, if any of the chronic toxicity tests result in a "fail" at the IWC, or if any of the chronic toxicity tests have a percent effect greater than 10 25 percent."*

#### **Median Monthly Effluent Limit (MMEL)**

To date, considerable effort has been made to characterize the standard deviation and the correlation coefficient of control samples; however, these values are not directly relatable to percent effect. As discussed in our comment on RP, objective evidence of test performance is needed to evaluate compliance with the MMEL. Only the completion of a blank study will provide this information which is critical to the evaluation of the MMEL. We support the concerns articulated in the "White Paper" prepared for CASA in November 2018<sup>1</sup>. We propose the blank study be conducted for all species listed in Table 1 of the provision and not only for the *Ceriodaphnia dubia* reproduction endpoint. For this reason, we suggest inclusion of language to Section IV.B.2. c. iv of the Toxicity Provisions:

*"If an acute or chronic toxicity ROUTINE MONITORING test results in a "fail" at the IWC, then NON-STORM WATER NPDES DISCHARGERS shall conduct a maximum of two MMEL COMPLIANCE TESTS, unless objective evidence of test interference invalidates the fail. The MMEL COMPLIANCE TESTS shall be initiated within the same CALENDAR MONTH that the first ROUTINE MONITORING test was initiated that resulted in the "fail" at the IWC."*

*"If the first chronic MMEL COMPLIANCE TEST results in a "fail" at the IWC, then the second MMEL COMPLIANCE TEST is waived. For the purposes of MMEL COMPLIANCE TEST, for dischargers that conduct ROUTINE MONITORING at a less than monthly frequency, the CALENDAR MONTH begins from the initiation of the ROUTINE MONITORING test."*

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**Cost to implement**

Central San shares the concerns related to the economic impact of the TST expressed in the BACWA and CASA comment letters. The cost estimation methods in the Economic Analysis do not reflect the true cost of toxicity tests in the San Francisco Bay Region and the economic analysis entirely fails to account for the potential cost of increased violations from imposition of numeric limits.

We appreciate the opportunity to comment on these Toxicity Provisions. Please do not hesitate to contact Mary Lou Esparza at 925-335-7751 or at [mesparza@centralsan.org](mailto:mesparza@centralsan.org) if you have any questions.

Sincerely,



Lori Schectel *for*  
Environmental and Regulatory Compliance Division Manager

MLE:amm

cc: R. Bailey  
A. Sasaki  
J.M. Petit  
M.L. Esparza

<sup>1</sup> Larry Walker Associates, Inc. 2018. *Ceriodaphnia dubia* Short-term Chronic Reproduction Test: Understanding the Probability of Incorrect Determinations of Toxicity in Non-toxic Samples. White Paper prepared for California Association of Sanitation Agencies. November.