

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – CENTRAL VALLEY REGIONAL WATER BOARD
MARCH 17, 2015**

ITEM 3

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS AND THE WATER QUALITY CONTROL PLAN FOR THE TULARE LAKE BASIN TO ADD POLICIES FOR VARIANCES FROM SURFACE WATER QUALITY STANDARDS FOR POINT SOURCE DISCHARGERS, VARIANCE PROGRAM FOR SALINITY, AND EXCEPTION FROM IMPLEMENTATION OF WATER QUALITY OBJECTIVES FOR SALINITY

DISCUSSION

The Central Valley Water Board adopted amendments to both its basin plans on June 6, 2014 with [Resolution R5-2014-0074](#) to add policies for variances from surface water quality standards for point source dischargers, a multiple discharger variance program for salinity, and an exception from implementation of water quality objectives for salinity.

Regional water boards are responsible for prescribing requirements for the discharge of waste within its jurisdiction. The State Water Board's [Compliance Schedule Policy](#) allows regional water boards to include compliance schedules in National Pollutant Discharge Elimination System (NPDES) permits to allow dischargers time to implement actions to comply with more stringent permit limitations implementing new, revised, or newly interpreted water quality objectives or criteria in water quality standards. The Compliance Schedule Policy limits the duration of compliance schedules to ten years. There are cases where dischargers are making progress but require more than ten years. In addition, because re-evaluation of water quality standards that underlie effluent limitations is not an action leading to compliance with the limitations, compliance schedules are not an appropriate regulatory mechanism when the water quality standards may be revised so that the more stringent permit limitations are no longer applicable. The *Variance Policy* allows the Central Valley Water Board the authority to grant short-term exceptions from meeting water quality based effluent limitations to dischargers subject to NPDES permits where discharger compliance is demonstrated to be infeasible at the present time within the meaning of 40 Code of Federal Regulations section 13.10(g) and a compliance schedule is not appropriate or is not allowed. The Policy applies to non-priority pollutants. Issuance of an individual variance is considered to be a water quality standards action subject to approval by the U. S. Environmental Protection Agency (U.S. EPA).

The Central Valley Water Board and State Water Board, working with a stakeholder coalition, are developing comprehensive salinity and nutrient management plan(s) (SNMPs) for the Central Valley. The Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) is the stakeholder coalition working on a strategic initiative to address problems with salinity and nitrates in the surface waters and ground waters of the Central Valley. The long-term plan(s) developed under CV-SALTS will identify future management measures aimed at the regulation of major sources of salt, and could include revision of certain beneficial use designations and/or current salinity standards. Under the umbrella of CV-SALTS, implementation of the SNMPs will provide appropriate and reasonable protection of beneficial uses. The SNMPs are expected to result in basin plan amendments that may contain new or revised programs for dischargers to address salinity constituents. In addition, the State Water Board is currently reviewing the southern Delta salinity objectives included in the [Bay-Delta Plan](#)

and will consider various options, including revision of those salinity objectives. So there is a need to set permit limitations at a level that protects water quality but does not compel the irretrievable commitment of major resources in advance of the completion of these planning processes. Because of available information for publicly owned treatment works (POTWs) on the type of salinity constituents, type of controls, implementation costs of the controls, quality of the receiving water, and the anticipated quality of the receiving water after implementation of the controls, the Central Valley Water Board was able to establish the *Salinity Variance Program*, which is a multiple discharger variance for POTWs. The *Salinity Variance Program* allows the Central Valley Water Board the authority to grant variances from meeting water quality based effluent limitations for salinity constituents to POTWs in NPDES permits. The *Salinity Exception Program* will establish procedures for dischargers that are subject to WDRs and conditional waivers to obtain a short-term exception from meeting effluent or groundwater limitations for salinity constituents. The *Salinity Variance Program* and *Salinity Exception Program* supports the development and initial implementation of the SNMPs by requiring applicants to participate in the CV-SALTS efforts. The *Salinity Variance Program* and *Salinity Exception Program* will be in effect during the development and initial implementation of the SNMPs.

POLICY ISSUE

Should the State Water Board approve amendments to the Central Valley Water Board's Basin Plans to add policies for variances, variance program for salinity, and exception from implementation of water quality objectives for salinity?

FISCAL IMPACT

Central Valley Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACT

Yes, approval of this resolution will amend both the Central Valley Water Board's Basin Plans.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendments to the Basin Plans adopted under Central Valley Water Board Resolution R5-2014-0074.
2. Authorizes the Executive Director, or designee, to transmit the amendments adopted under Central Valley Water Board Resolution R5-2014-0074, as approved, and the administrative record for this action to the Office of Administrative Law and the U. S. Environmental Protection Agency for approval.

State Water Board action on this item will assist the Water Boards in reaching Goal(s) 3, 4 and 5 of the Strategic Plan Update: 2008-2012. In particular approval of this item will assist in fulfilling Objective 3.1 to promote implementation of water conservation consistent with the Strategic Workplan for Activities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and Objective 3.2 to promote the use of recycled water. Approval of this item also fulfills Objective 4.3 to collaborate in third-party initiated processes to achieve near-term priority Basin Plan amendment needs. The amendment will also assist in fulfilling Action 5.1.3 to implement improvements to Water Board processes that result in permits that allow for readily identified violations and prompt enforcement actions.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2015-

APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS AND THE WATER QUALITY CONTROL PLAN FOR THE TULARE LAKE BASIN TO ADD POLICIES FOR VARIANCES FROM SURFACE WATER QUALITY STANDARDS FOR POINT SOURCE DISCHARGERS, VARIANCE PROGRAM FOR SALINITY, AND EXCEPTION FROM IMPLEMENTATION OF WATER QUALITY OBJECTIVES FOR SALINITY

WHEREAS:

1. On June 6, 2014, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted [Resolution R5-2014-0074](#) amending the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and the Tulare Lake Basin (Basin Plans) to add policies for variances from surface water quality standards for point source dischargers, variance program for salinity, and exception from implementation of water quality objectives for salinity.
2. The Central Valley Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) "Substitute Environmental Documents" for the proposed Basin Plan amendment, including the CEQA Checklist, the final staff report, and the responses to comments complies with the State Water Board's regulations for the implementation of CEQA, as set forth in the California Code of Regulations, Title 23, sections 3775 through 3781. The State Water Board has reviewed the Substitute Environmental Documents for the Basin Plan amendment and concurs with the Central Valley Water Board's findings that the amendments will result in no effect on fish, wildlife or the environment and that no mitigation measures are needed.
3. The Central Valley Water Board also adopted the Basin Plan amendment pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
4. The Central Valley Water Board found the Basin Plan amendment is consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California (State Water Board [Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12), in that the amendments (i) consider maximum benefit to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. The amendments delay implementation of advanced treatment technology while planning processes are in progress which may revise the water quality standards underlying the effluent limitations. Water quality improvements that would result from implementation of

DRAFT

advanced treatment technology are expected to be very small. The potential increased greenhouse gas emissions of implementing advanced treatment technology coupled with the lack of water quality improvement are not consistent with the best interest of the people of the State. The amendment does not unreasonably affect present and anticipated beneficial uses nor result in water quality less than described in applicable policies because the amendments include requirements to maintain existing quality of water and implement pollution prevention plans, Salinity Reduction Study Work Plans or salinity-based watershed management plans that are expected to result in water quality improvement. In addition, applicants for variances or exceptions from water quality standards for salinity will be required to participate in Central Valley Salinity Alternatives for Long-Term Sustainability (CV-SALTS) to develop and implement comprehensive salinity and nutrient management plan(s) (SNMPs) for the Central Valley. The SNMPs are expected to include regulatory approaches that result in requirements which are commensurate with the water quality benefits that can be achieved through reasonable management actions by Central Valley communities and others. The amendments allow setting an interim effluent limitation at a level higher than the current level of the constituent in the effluent to account for drought, water conservation or water recycling efforts. Such efforts are of maximum benefit to the people of the state.

5. The State Water Board finds that the Basin Plan amendments are in conformance with Water Code section 13240, which specifies that the Regional Water Quality Control Board may revise basin plans, and section 13242, which requires a program of implementation for achieving water quality objectives. The State Water Board also finds that the variance policy as reflected in the Basin Plan amendment is consistent with the requirements of section 303(c) of the federal Clean Water Act.
6. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The water quality standards must also receive approval from the U.S. Environmental Protection Agency (U.S. EPA).
7. Central Valley Water Board staff determined that minor, non-substantive changes to the language of the Basin Plan amendment support documentation were necessary to correct minor clerical errors or to improve clarity and consistency. The Central Valley Water Board's Executive Officer made these minor non-substantive changes in a memorandum dated February 13, 2015 ([Attachment II](#)). The memorandum adds information to the Staff Report to explain the Central Valley Water Board's findings on changing effluent disposal method from surface water discharge to land disposal.

D R A F T

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendments to the Basin Plans as adopted under Central Valley Water Board Resolution R5-2014-0074.
2. Authorizes the Executive Director or designee to submit the amendments adopted under Central Valley Water Board Resolution R5-2014-0074 to OAL for approval of the regulatory provisions and to U. S. Environmental Protection Agency for approval of the water quality standards.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 17, 2015.

Jeanine Townsend
Clerk to the Board