

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2013-XXXX

AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS

TO
ESTABLISH A DRINKING WATER POLICY FOR SURFACE WATERS OF THE
DELTA AND ITS UPSTREAM TRIBUTARIES

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. The Sacramento-San Joaquin Delta (Delta) provides drinking water to more than 25 million people or about 60 percent of the population of California.
2. The Central Valley Water Board recognizes that specific treatment requirements are imposed by state and federal drinking water regulations on the consumption of surface waters, including the Delta.
3. In August 2000, CALFED issued the Record of Decision (ROD) for the Programmatic Environmental Impact Statement/Environmental Impact Report requiring the California Bay-Delta Authority (CBDA), with the assistance of the DPH to coordinate a comprehensive source water protection program. One element of this source water protection program is to “establish a comprehensive State drinking water policy for the Delta and upstream tributaries by the end of 2004.”
4. The water boards have the authority to formulate and adopt water quality control plans, establish water quality objectives, and develop implementation plans under Water Code sections 13240, 13241, and 13242. Water quality objectives are defined under State law as “the limits or levels of water quality constituents or characteristics which are established for the reasonable protection of beneficial uses of water or the prevention of nuisance within a specific area.” (Wat. Code, §13050, subd. (h).)
5. The Central Valley Water Board adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins in 1975 and has amended it as necessary. The Basin Plan has designated the drinking water municipal and domestic supply beneficial use (MUN) for most waters in the Central Valley, including the Delta.

6. The State Water Resources Control Board (State Water Board) adopted the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) which includes MUN as a beneficial use of the Delta.
7. The Basin Plan includes narrative objectives for chemical constituents, taste and odor, sediment, suspended material, and toxicity, and numeric objectives for chemical constituents and salinity. The Basin Plan incorporates by reference the primary and secondary maximum contaminant levels specified in Title 22 of the California Code of Regulations for waters designated MUN. The Bay-Delta Plan also includes numeric water quality objectives to protect MUN that apply within the Bay-Delta.
8. Although the Basin Plan addresses many constituents that threaten drinking water source waters, the 1998, 2002 and 2006 Triennial Reviews of the Basin Plan identified development of a policy for maintaining water quality for drinking water as high priority.
9. The following drinking water constituents of concern have been identified by stakeholders as high priority for study and evaluation: salt (including bromide), nutrients, organic carbon and pathogens such as *Cryptosporidium* and *Giardia*.
10. In Central Valley Water Board Resolution R5-2010-0079, the Board directed staff to develop a comprehensive drinking water strategy focused on organic carbon, *Cryptosporidium* and *Giardia*. The Board recognized other efforts that were underway were the appropriate venue for working on salinity and nutrients.
11. The Clean Water Act section 303 requires the Central Valley Water Board to review the Basin Plan at least every three years and where appropriate modify water quality objectives or beneficial uses in the Basin Plan.
12. The proposed Amendment modifies Basin Plan Chapter III (Water Quality Objectives) to clarify the existing Water Quality Objective for Chemical Constituents. The clarification will appear as a footnote stating that the existing objective applies to drinking water chemical constituents, such as organic carbon.
13. The proposed Amendment modifies Basin Plan Chapter III (Water Quality Objectives) to establish a new narrative water quality objective for *Cryptosporidium* and *Giardia* to protect the public water system component of the MUN beneficial use. This narrative water quality objective for *Cryptosporidium* and *Giardia* shall be applied within the Sacramento-San Joaquin Delta and its tributaries below the first major

dams (Figure A44-1). Compliance with this objective will be assessed at existing and new public water system intakes.

14. The State Water Board's Policy with Respect to Maintaining High Quality of Water in California (Resolution No. 68-16) incorporates the federal antidegradation policy and restricts reductions in water quality even if beneficial uses are protected. Changes in water quality are allowed only if they are consistent with maximum benefit to the people of the State, do not unreasonably affect beneficial uses, and do not result in water quality less than that prescribed in water quality control plans or policies. Administrative Procedures Update No 90-004 provides guidance for implementation of the State and federal antidegradation policies. This guidance requires an antidegradation analysis to be conducted for any new or expanded discharge with the potential to degrade water quality.
15. The proposed Amendment modifies Basin Plan Chapter IV (Implementation) to include a Drinking Water Policy and an Implementation Program for the proposed narrative water quality objective for *Cryptosporidium* and *Giardia*. Consistent with Resolution No. 68-16, the Implementation Program describes the actions that the Central Valley Water Board will take to maintain existing water quality if trigger values for *Cryptosporidium* are exceeded.
16. The proposed Amendment modifies Basin Plan Chapter V (Surveillance and Monitoring) to include support of a one-time special study to characterize ambient levels of *Cryptosporidium*, to better understand the relationship between source loading and ambient *Cryptosporidium* concentrations, and to better understand the movement of *Cryptosporidium* through the system.
17. The Central Valley Water Board has considered the factors set forth in Water Code section 13241, including economic considerations, in developing this proposed Amendment. The costs of implementing the proposed Amendment are expected to be minimal as there will be no action required unless a trend of increasing pathogen concentrations at public water system intakes would require actions according to the Implementation Plan.
18. The proposed Amendment includes an estimate of the cost of the proposed implementation program to agriculture and identifies potential sources of financing, as required by Water Code section 13141.
19. The proposed Amendment contains policy decisions and relies upon the records of USEPA, the California Department of Public Health, and individual public water systems. The proposed amendment contains no new science and therefore is not subject to the peer review requirement of Health and Safety Code section 57004.

20. The Central Valley Water Board finds that the proposed Amendment is consistent with the State Water Resources Control Board (State Water Board) Resolution No. 68-16, in that the changes to water quality objectives (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. Additionally, the proposed Amendment is consistent with the federal Antidegradation Policy (40 CFR § 131.12). The proposed Amendment protects existing water quality at public water system intakes by requiring investigation of potential degradation of water quality and requiring actions be taken by controllable factors to ensure compliance with water quality objectives. Such actions are of maximum benefit to the people of the state. The proposed Amendment will not unreasonably affect present and anticipated beneficial uses nor result in water quality less than described in applicable policies because the Amendment is intended to result in compliance with water quality objectives. The actions to be taken are not expected to cause other impacts on water quality.
21. The regulatory action proposed meets the “Necessity” standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
22. The basin planning process has been certified by the Natural Resources Agency as an exempt regulatory program because its process adequately fulfills the purposes of the California Environmental Quality Act (CEQA). The Central Valley Water Board is therefore exempt from CEQA’s requirement to prepare an environmental impact report, negative declaration, or initial study (Pub. Res. Code, §21000 et seq.) for the proposed Amendment. Central Valley Water Board staff has prepared the required documentation for adoption of a Basin Plan Amendment, including a completed environmental checklist and written report (Staff Report) prepared for the Board (Cal. Code Regs., tit. 23, § 3777).
23. The Central Valley Water Board staff held CEQA scoping meetings on 25, 26, and 27 August 2008 to receive comments on the draft Amendment and to identify any significant issues that must be considered.
24. Central Valley Water Board staff has prepared a draft Amendment and a staff report dated March 2013. The Staff Report includes a description of the proposed Amendment and analysis of reasonable alternatives to the proposed Amendment. The Staff Report includes an analysis of the reasonably foreseeable environmental impacts of the methods of compliance and an analysis of the reasonably foreseeable alternative methods of compliance with the proposed Amendment. Some potential impacts that were not significant were identified based on the analysis of the reasonably foreseeable methods of compliance.

25. Central Valley Water Board staff completed an environmental checklist that concluded that the proposed Amendment does not have the potential to significantly impact the environment. Because the proposed Amendment does not have the potential to significantly impact the environment, no mitigation measures are proposed.
26. Central Valley Water Board staff has circulated a Notice of Public Hearing, Notice of Filing, a written Staff Report, response to public comments documents, and environmental checklist, and a draft Amendment to interested individuals and public agencies, including persons having special expertise with regard to the environmental effects involved with the proposed Amendment, for review and comment in accordance with state and federal environmental regulations (Cal. Code Regs., tit. 23, §3775 et seq., 40 CFR §§ 25 and 131).
27. The Central Valley Water Board held a public hearing on 12 April 2013 and xx July 2013, for the purpose of receiving testimony on the draft Basin Plan Amendment. Notice of the public hearing was sent to all interested persons and published in accordance with Water Code section 13244.
28. Based on the record as a whole, including a draft Basin Plan Amendment, the environmental document, accompanying written documentation, and public comments received, the Central Valley Water Board concurs with staff's conclusion that no actions to comply with the Amendment are expected to cause a potentially significant impact to the environment. The Central Valley Water Board finds that the record as a whole and the procedures followed by staff comply with applicable CEQA requirements (Cal. Code Regs., tit. 23, §3775 et seq., Pub. Res. Code §§21080.5, 21083.9, and 21159, Cal. Code Regs., tit. 14, §15250).
29. A Basin Plan Amendment must be approved by the State Water Board, Office of Administrative Law (OAL), and the United States Environmental Protection Agency (USEPA). The proposed Amendment becomes effective under state law after OAL approval and becomes effective under the federal Clean Water Act after USEPA approval.
30. The Central Valley Water Board finds that the Amendment to the Basin Plan was developed in accordance with Water Code section 13240, et seq.

THEREFORE BE IT RESOLVED:

1. Pursuant to section Water Code section 13240, et seq., the Central Valley Water Board, after considering the entire record, including oral testimony at the hearing, hereby approves the Staff Report and adopts the Amendment to the Basin Plan as set forth in Attachment 1.

2. The Executive Officer is directed to forward copies of the Basin Plan Amendment to the State Water Board in accordance with the requirements of section 13245 of the Water Code.
3. The Central Valley Water Board requests that the State Water Board approve the Basin Plan Amendment in accordance with the requirements of Water Code sections 13245 and 13246 and forward it to OAL and the USEPA for approval. The Central Valley Water Board specifically requests USEPA approval of all Basin Plan Amendment provisions that require USEPA approval.
4. If during its approval process the Central Valley Water Board staff, State Water Board or OAL determines that minor, non-substantive corrections to the language of the Amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Valley Water Board of any such changes.
5. The Central Valley Water Board hereby approves and adopts the CEQA substitute environmental documentation, which was prepared in accordance with Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187, and directs the Executive Officer to sign the environmental checklist.
6. Following approval of the Basin Plan Amendment by the OAL, the Executive Officer shall file a Notice of Decision with the Secretary for Resources in accordance with Public Resources Code section 21080.5, subsection (d)(2)(E), and California Code of Regulations, title 23, section 3781.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on xx July 2013.

_____/s/
PAMELA C. CREEDON, Executive Officer

Attachment 1: Amendment to Basin Plan to Establish a Drinking Water Policy for Surface Waters of the Delta and Its Upstream Tributaries