

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-0136

AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS
TO REVISE
WATER QUALITY OBJECTIVES FOR pH AND TURBIDITY

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

1. In 1975 the Central Valley Water Board adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan), which has been amended occasionally.
2. The Basin Plan may be amended in accordance with the California Water Code section 13240, et seq.
3. California Water Code section 13241 authorizes the Central Valley Water Board to establish water quality objectives.
4. The Federal Clean Water Act (CWA) section 303 requires the Central Valley Water Board to develop water quality objectives which are sufficient to protect beneficial uses designated for each water body found within its region.
5. The CWA 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.
6. The current water quality objectives for pH and turbidity, which are not supported by current science regarding the effects of pH and low-level turbidity on beneficial uses, create regulatory compliance problems for some municipal wastewater treatment plants.
7. The current pH objectives both maintain pH within a safe range (6.5 to 8.5) and limit changes from background conditions within that safe range. The 1986 U. S. Environmental Protection Agency (USEPA) Quality Criteria for Water does not limit the amount of change when the pH ranges from 6.5 to 9, which is generally considered a safe range for freshwater aquatic life. There are no known aquatic life impacts when pH varies but is maintained within the safe range.
8. The current general objective for waters with 0-5 Nephelometric Turbidity Units (NTUs) turbidity limits the change to one turbidity unit. There are no known aquatic life impacts when turbidity is below 3 NTUs. There are no aesthetic difference in streams between 0 and 2 NTUs.

9. The Central Valley Water Board has prepared draft amendments which resolve the regulatory problem and are consistent with current science and with Federal and State criteria and policies.
10. The proposed amendments will revise Chapter 3 "Water Quality Objectives" of the Basin Plan to delete the portion of the pH objectives regarding allowable change and averaging periods. The proposed amendments will also revise the portion of the turbidity objectives by dividing the category for natural turbidity between 0 and 5 NTUs into two categories, covering the ranges from 0 to 1 NTUs and from 1 to 5 NTUs. This adds one bullet-point category to the turbidity objectives.
11. The Central Valley Water Board has considered the factors set forth in California Water Code section 13241, including economic considerations, in developing this proposed amendment. There are no costs associated with implementing the proposed amendment.
12. Central Valley Water Board staff developed a draft staff report and a draft Basin Plan Amendment for independent, external scientific peer review in February 2005 in accordance with Health and Safety Code section 57004. The draft final staff report and amendment have either been changed to conform to the recommendations of the peer reviewers or staff has provided sound rationale for why individual recommendations were not adopted.
13. The Central Valley Water Board finds that the scientific portions of the Basin Plan Amendment are based on sound scientific knowledge, methods, and practices in accordance with Health and Safety Code section 57004.
14. 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, and that the proposed amendment is consistent with the federal Antidegradation Policy (Code of Federal Regulations, title 40, section 131.12). The proposed amendment is based on studies and criteria for requirements that protect aquatic life and other beneficial uses. 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.
15. The regulatory action proposed meets the "Necessity" standard of the California Administrative Procedures Act, Government Code section 11353, subdivision (b).

16. The basin planning process has been certified by the 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 requirements to prepare an environmental impact report, negative declaration, or initial study (Public Resources Code section 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 (California Code of Regulations, title 23, section 3777).
17. The Central Valley Water Board staff held a CEQA scoping meeting on 19 August 2004 to identify any significant issues that must be considered. A notice of the CEQA Scoping hearing was sent to interested parties including cities and/or counties with jurisdiction in or bordering the Sacramento and San Joaquin River Basins.
18. Central Valley Water Board staff has prepared a draft amendment and a staff report dated September 2007. The staff report included a description of the proposed amendment and analysis of reasonable alternatives to the proposed amendment. The staff report included 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. No environmental impacts were identified based on the analysis of the reasonably foreseeable methods of compliance.
19. Central Valley Water Board staff completed an environmental checklist that concluded that the proposed amendment results in no effect, either individually or cumulatively, on fish, wildlife or the environment.
20. 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 proposed 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 (California Code of Regulations, title 23, section 3775; Code of Federal Regulations, title 40, sections 25 and 131).
21. Responses to all comments have been prepared and the draft amendment, staff report and environmental checklist have all been revised as appropriate in response to comments.
22. The Central Valley Water Board held a public hearing on 25 October 2007, 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 California Water Code section 13244.

23. Based on the record as a whole, including the draft Basin Plan amendments, the environmental document, accompanying written documentation, and public comments received, the Central Valley Water Board concurs with staff's conclusion that the amendments will result in no effect on fish, wildlife or the environment and therefore no mitigation measures are proposed.
24. A Basin Plan amendment must be approved by the State Water Board, Office of Administrative Law (OAL), and the USEPA. The proposed amendment becomes effective under State law after OAL approval and becomes effective under the federal Clean Water Act after USEPA approval.
25. The Central Valley Water Board finds that the amendment to the Basin Plan was developed in accordance with California Water Code section 13240 et seq.

THEREFORE BE IT RESOLVED:

1. Pursuant to California 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 California Water Code section 13245.
3. The Central Valley Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of California Water Code sections 13245 and 13246 and forward it to OAL and the USEPA. 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. 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.

ATTACHMENT 1
RESOLUTION NO. R5-2007-0136
AMENDMENT TO BASIN PLAN
TO REVISE WATER QUALITY OBJECTIVES
FOR pH AND TURBIDITY

Text additions to the existing Basin Plan language are indicated by underline and text deletions are indicated by ~~strikethrough~~. Revise Basin Plan sections as follows:

Revise Chapter III (Water Quality Objectives), pH, as follows:

The pH shall not be depressed below 6.5 nor raised above 8.5. ~~Changes in normal ambient pH levels shall not exceed 0.5 in fresh waters with designated COLD or WARM beneficial uses. In determining compliance with the water quality objective for pH, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.~~

The following site-specific objectives replace the general pH objective, above, in its entirety for the listed water bodies.

For Goose Lake (2), pH shall be less than 9.5 and greater than 7.5 at all times. ~~For Deer Creek, source to Cosumnes River, pH shall not be depressed below 6.5 nor raised above 8.5~~

Revise Chapter III (Water Quality Objectives), Turbidity, as follows:

Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to controllable water quality factors shall not exceed the following limits:

- ~~Where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU.~~
- Where natural turbidity is less than 1 Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed 2 NTUs.
- Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU.
- Where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent.
- Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.
- Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.