

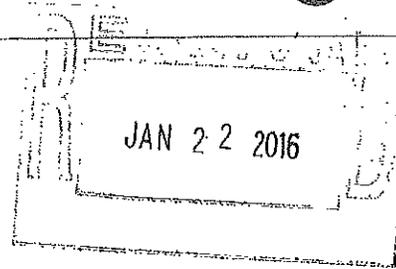


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## Central Valley Regional Water Quality Control Board

21 January 2016



James Anderson, General Manager  
Malaga County Water District  
3580 South Frank Avenue  
Fresno, CA 93725

### **PRETREATMENT PROGRAM COMPLIANCE, MALAGA COUNTY WATER DISTRICT, WASTEWATER TREATMENT FACILITY, W DID 5D100124001, NPDES NO. CA0084239, RM 402804, FRESNO COUNTY**

Central Valley Water Board Staff received on 9 November 2015 your comments (dated 26 October 2015) in response to our 10 September 2015 Notice of Violation (NOV).

Following review of correspondence between Central Valley Water Board staff and Malaga County Water District (District) staff regarding pretreatment program modifications, we believe some clarification regarding the regulatory definition of a significant modification and actions taken by the District may be helpful.

Title 40 of the Code of Federal Regulations (CFR) part 403.18(b) defines substantial modifications to publicly-owned treatment works (POTW) pretreatment programs. 40 CFR 403.18(b)(2) specifies the following as a substantial modification:

"Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of this section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under §403.5(c)".

On 25 February 2014, the District adopted a new Ordinance Code as Ordinance No. 2013-1. The District correctly notes that the removal of the iron local limit guideline and the increase of various metal local limit guidelines did not constitute a substantial modification as these numbers were noted in the Ordinance as guidelines rather than enforceable limits or prohibitions. The Ordinance Code did, however, relax the local limit (referred to in the Ordinance as a prohibition on wastewater discharges) for oil and grease from 100 mg/l to 200 mg/l for the District's POTW pretreatment program. This limit relaxation constitutes a substantial modification pursuant to 40 CFR 403.18(b)(2).

40 CFR 403.18(c) sets forth the approval procedures for substantial modifications and is included below for reference:

"(1) The POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description (see §403.9(b)), or such

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other documents the Approval Authority determines to be necessary under the circumstances.

(2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority.

(3) The Approval Authority need not publish a notice of decision under §403.11(e) provided: The notice of request for approval under §403.11(b)(1) states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(4) Notices required by §403.11 may be performed by the POTW provided that the Approval Authority finds that the POTW notice otherwise satisfies the requirements of §403.11."

Note that unlike the approval procedures for non-substantial modifications specified in 40 CFR 403.18(d), there is no timeframe within which the Approval Authority (here, the Central Valley Regional Water Quality Control Board) must act or provide notification.

The District's responses to Requirements 12 and 18 of the NOV suggest that the District may have overlooked the central point of the requirements. The District must inspect each Significant Industrial User (SIU) at least once a year (Requirement 12 of the NOV) and the District must analyze reports it receives from industrial users (Requirement 18 of the NOV).

We hope an improved understanding of the regulatory definitions and requirements will lead to an improved record of compliance for the District's pretreatment program.

If you have any questions regarding this matter, please contact me at (559) 445-5128 or at Warren.Gross@waterboards.ca.gov.



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cc: Naomi Kaplowitz, OE (e-mail only)