

Response to Comments on July 2020 Administrative Draft of the Basin Plan Amendment Revisions to the Salt and Nitrate Control Program

Red = Central Valley Water Board (CVWB) staff response

CVCWA Comments 20 July 2020:

Edit	Question or Concern	Commenter Suggestion/ CVWB Response
<p>Page 5 <u>Achieve Balanced Salt and Nitrate Loading</u> <u>Reduce salt and nitrate loading so that ongoing discharges neither threaten to degrade high quality waters absent appropriate findings by the Central Valley Board nor cause or contribute to exceedances of water quality objectives</u></p>	<p>As written, this reads as point by point rather than collaboratively meeting these goals.</p> <p>The language on Page 22 concerning the nitrate program seems more reasonable in that it refers to the receiving waters rather than the discharge.</p>	<p>Add Page 22 language: ... the SNMP identified the need for a Nitrate Control Program that included s the following management goals of: <u>safe drinking water supplies, balanced nitrate loadings, and managed aquifer restoration.</u></p> <p><u>These goals served as the bases for the three overarching goals of the Salt and Nitrate Control Program (see Section #), which also recognizes in Goal 2 that ongoing discharges of nitrate must ultimately cease causing or contributing to exceedances of applicable water quality objectives in receiving waters.;</u> where reasonable, feasible and practicable.</p> <p>No change to revision language, to be more consistent with State Board directive.</p>
<p>Page 5 <u>The Central Valley Water Board will take all appropriate actions to protect all designated or existing beneficial uses of surface waters and groundwater unless the Central Valley Water Board amends the applicable Basin Plan to de-designate some or all beneficial uses of the relevant waterbody and the State Water Board approves the de-designation.</u></p>	<p>This reads as if a dedesignation is required in all cases rather than the use of site-specific criteria, which can be done by a permitting action.</p> <p>On page 18, the paragraph seems more appropriately placed, however, how is that to be implemented during the P&O Study? Will discharges be afforded the ability to use offsets, participate in the P&O study etc., or does this signify enforcement?</p>	<p>Remove</p> <p>No change to revision language because the de-designation of beneficial uses is the appropriate long-term approach to addressing areas that do not support those uses. This does not preclude the use of site-specific criteria, offsets, or alternative compliance mechanisms, as applicable.</p>

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<p>Page 5 For goals 2 and 3, the Salt and Nitrate Control Program recognizes that in some circumstances meeting these goals may not be reasonable, feasible or practicable.</p>	<p>How are we conveying this reality in the Basin Plan? The SWB order applied to nitrate rather than salt. I think on page 22 the Nitrate Control Program better describes the uncertainty, but this is not mirrored in the salt program. Resolved 1.B of the SWB resolution has cost considerations. Where is this mirrored.</p>	<p>No change to revision language. This language is already inherent in the water code as ‘reasonable’ protection of BUs, and practical (i.e. feasible) is included in the Anti-Degradation Policy. The way State Board applied this revision to nitrate, it applies to salt as well. Removal of this language does not change Central Valley Water Board’s commitment to the CV-SALTS goals of “reasonable, feasible, or practicable” during regulation and implementation.</p>
<p>Page 13 For discharges where a site-specific numeric value objective has been developed and for adopted into the Basin Plan previously applied to the discharge for the protection of the AGR beneficial use, the Board shall continue to apply that value, as appropriate.</p>	<p>This edit is contrary to the discussions and agreements of CV-SALT which allow for site specific criteria.</p>	<p>No change to revision language in main section, but added a footnote for the acceptable, science-backed site-specific objectives that have been developed for specific permits (Woodland, Davis, Dixon POTWs).</p>
<p>Page 23 Removal of offset in the alternative compliance</p>	<p>The SWB order only qualified that the offsets for nitrate result in a net improvement in water Quality and did not specify removal.</p>	<p>Made revision to leave offsets in.</p>
<p>Page 27 <u>If the request is for a basin, sub-basin or portion of a sub-basin that is in a Priority Basin, then the Central Valley Water Board will decide the request.</u></p>	<p>These sentences are awkward. Is it saying that the Board itself will be deciding? Or is it just saying that the Board will decide only if it is in a priority basin??</p>	<p>Language revised to provide more clarity.</p>
<p>Page 35 <u>Permittees who do not submit a response to the Notice to Comply by the due date are subject to enforcement action, but may still be eligible to elect Path B and join a Management Zone. Permittees who pursue this option will</u></p>	<p>I don’t have issue with this section but was wondering if the ability to join a management zone is there for those that comply by submitting materials for Pathway A but are “encouraged” to pursue a management zone</p>	<p>Language revised to address the change of pathways.</p>

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<p><u>need to obtain approval from the applicable Management Zone governing body to join late and will be subject to additional requirements of that Management Zone governing body for late entrance, including providing the appropriate level of financial support.</u></p>	<p>pathway instead. Is there a need for this in another section?</p>	
<p>Page 69 <u>The Central Valley Water Board has set a maximum of 50 years as a goal for restoring basins that are designated with the MUN beneficial use to achieve nitrate water quality objectives throughout the Central Valley.</u></p>	<p>The SWB order says, “throughout the basin” instead of “throughout the Central Valley”. What impact does this have for lower priority basins or just areas with higher nitrate?</p>	<p>Revised language to clarify that the timeline for the 50 year goal is per basin, sub-basin or portion of a sub-basin, and begins when a Management Zone Implementation Plan is approved by the Central Valley Water Board</p>
<p>Page 69 When authorizing an exception to discharge requirements from the implementation of water quality objectives for nitrate and/or boron imposed as limitations in either waste discharge requirements and/or conditional waivers that are not also NPDES permits, the term for the exception shall generally not exceed 10-years,; however, the Central Valley Water Board shall have the discretion to adopt an exception for up to <u>35 years</u> 50 years if the applicant(s) can demonstrate that it is necessary to further the management goals of the Salt and Nitrate Control Program.</p>	<p>The SWB order was specific to nitrate, however the edit includes boron. What is the reason for this?</p>	<p>Referenced boron separately as a footnote for the 50 years.</p>

Central Valley Salinity Coalition Comments, 20 July 2020:

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<p>Page 13, Salt Control Program</p> <p>a. AGR Beneficial Use Protection – ...For discharges where a site-specific numeric value <u>objective</u> has been developed and for<u>adopted</u> into the Basin Plan previously applied to the discharge for the protection of the AGR beneficial use, the Board shall continue to apply that value, as appropriate.</p>	<p>For the conservative permitting pathway, the Central Valley Water Board staff proposes to change reference to site-specific salinity values already developed and applied by the Water Board to discharges to mean that these are site-specific objectives adopted into the Basin Plan. This would then be the conservative value for protection of the AGR beneficial use. The proposed change is not consistent with what was agreed on during the Executive Committee negotiations between CVSC stakeholders, the Water Board and other stakeholders. Significant discussion ensued between the POTW community, Water Board staff and others as to how to address interpretations of narrative criteria that had been put forward by certain dischargers many years in advance of CV-SALTS. Specifically, the Cities of Davis and Woodland prepared a study to show what would be protective of the most sensitive agricultural crop in the area to interpret the narrative criteria. This came after the State Water Board issued a precedential opinion on this issue, directing the Central Valley Water Board to consider numerous factors when interpreting the narrative chemical constituent objective for protection of AGR. Importantly, and as directed by the State Water Board, certain POTWs conducted studies to properly translate the narrative chemical constituent</p>	<p>Because this change is not part of the State Water Board’s negotiated revisions, and is directly contrary to previous Executive Committee agreements, we suggest this revision be eliminated or better clarified if that is not the intent.</p> <p>Notably, the MUN beneficial use protective value (i.e., 900 microsiemens per centimeter) may then become the more sensitive beneficial use – if the beneficial use applies.</p> <p>See above, page 13 comment from CVCWA</p>

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	<p>objective for protection of the AGR beneficial use. These studies identified appropriate interpretations rather than adopting site specific objectives. During Executive Committee negotiations, the Water Board agreed that these previously identified interpretations should continue to apply rather than the 700 microsiemens per centimeter value under the conservative pathway. The proposed revision changes this previous agreement. This was not an issue at the State Water Board and appears to be a Central Valley Water Board-derived change.</p>	
<p>Page 23, Nitrate Control Program The Nitrate Control Program provides the Central Valley Water Board with flexibility and authority to permit discharges of nitrate to groundwater using an Alternative Compliance mechanisms rather than traditional permitting determinations. The Board's options for Alternative Compliance <u>mechanism include: (1) determining availability of assimilative capacity on a volume-weighted average basis for a management zone; (2) granting is a conditional exception for meeting nitrate water quality objectives in discharges and/or in groundwater; and, (3) offsets. To authorize Alternative Compliance through one of these options, t</u>The Board must approve an Alternative Compliance Project as part of the authorization <u>to use the conditional exception.</u></p>	<p>The proposed revisions would limit Alternative Compliance to the use of an Exception only and proposes to remove reference to offsets for Alternative Compliance. While the State Water Board negotiations significantly limited the use of offsets under the Nitrate Control Program, it was not eliminated in its entirety. Accordingly we believe that offsets need to continue to be referenced here in this introductory section of the Nitrate Control Program. We understand that there is some thought that with an offset one would also need an exception. Upon review of the Basin Plan Amendment language and looking back to the development of the Offset Policy, we do not believe to be the case in all circumstances. While it may be appropriate to include an offset project as part of the Alternative Compliance Project for obtaining</p>	<p>Recommend that the Nitrate Control Program recognize offsets as a form of Alternative Compliance even though the practical use of such offsets is significantly hindered.</p> <p>See above, page 23 comment from CVCWA</p>

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	<p>an exception, that may not be necessary. For example, for nitrates, offsets are limited to 10 years. The 10-year time period could be implemented through a time schedule rather than an exception. Also, for salt-related offsets, an exception may not be necessary or appropriate.</p>	
<p>Page 35, Nitrate Control Program <u>Permittees who do not submit a response to the Notice to Comply by the due date are subject to enforcement action, but may still be eligible to elect Path B and join a Management Zone.</u></p>	<p>The proposed revisions include new language that allows Permittees to join a Management Zone even after deadlines have passed. The language overall captures discussions that have occurred at recent Executive Committee meetings. However, it states that permittees that miss a due date “are subject to enforcement action.” Because enforcement is always a discretionary action, CVSC recommends that “are subject” be amended to state “may be subject.”</p>	<p><u>Permittees who do not submit a response to the Notice to Comply by the due date may be subject to enforcement action, but may still be eligible to elect Path B and join a Management Zone.</u></p> <p>No change to revision language. The phrase “subject to enforcement action” means the permittee may be possibly or likely to be impacted by enforcement action.</p>
<p>Page 36, Nitrate Control Program</p> <p><u>2. Groundwater management zones shall evaluate potential impacts to groundwater associated with downgradient migration of nitrate from each management zone shall be assessed and clearly documented using quantitative methods;</u></p>	<p>New proposed revisions are being included to address the Central Valley Water Board’s process for delineating Management Zone boundaries in the event that the Central Valley Water Board disagrees with a boundary. Item number 2 is not a proper sentence and needs to be revised.</p>	<p>We recommend the following sentence to replace the one currently proposed: <u>“Groundwater management zones shall evaluate potential impacts to groundwater associated with downgradient migration of nitrate from discharges that occur within the management zone. The evaluation process used shall be documented using quantitative methods – to the extent feasible.”</u></p>

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		<p>Revised as follows:</p> <p><u>"Groundwater management zones shall evaluate potential impacts to groundwater associated with downgradient migration of nitrate from each management zone. The evaluation process shall be assessed and clearly documented using quantitative methods;"</u></p>