



CV-SALTS Exceptions Policy

The CV-SALTS Salt and Nitrate Management Plan (SNMP) *Revision of the Exceptions Policy for Waste Discharges to Groundwater* (Exceptions Policy) recommends that the Central Valley Water Quality Control Plans (Basin Plans) be amended to extend the existing Central Valley Salinity Exceptions Program and include conditions to address nitrate discharges.

Purpose and Need for the Policy

An "exception" allows the Central Valley Water Board to authorize a discharge to occur even where doing so may exceed applicable water quality standards in the receiving groundwater basin. Exceptions are most commonly used as a regulatory tool when there is no feasible, practicable, or reasonable means for a discharge to meet a water quality objective and it is not feasible, practicable or reasonable to prohibit the discharge. Examples include:

- Prohibiting a discharge would do more harm than good and allowing it to continue is in the best interests of the people of the state.
- Time is required to implement other regulatory solutions (e.g., developing site-specific objectives or reevaluating the applicable beneficial use).
- Time is required to support a phased implementation program and reasonable resource allocation including the planning and permitting activities required in such programs.

Exceptions are not intended to be a permanent waiver from compliance with water quality standards and are subject to specific conditions and must be reviewed periodically.

The existing Central Valley Salinity Exceptions Program expires after June 30, 2019 and is applicable only to salt-related constituents (total dissolved solids, electrical conductivity, chloride, sulfate, and sodium). In addition, the existing exceptions program does not provide guidelines for authorization of an exception from the nitrate water quality objective.

Policy Recommendations

- Remove the existing sunset provision that prohibits the granting of salinity exceptions beyond June 30, 2019.
- Add nitrate, with associated additional considerations, to the list of chemical constituents for which the Central Valley Water Board may authorize an exception.
- Expand/revise the conditions for authorization of an exception to reflect the goals of the SNMP.
- Delete the current provision limiting an exception to no more than 10 years; instead, when authorizing an exception, the Central Valley Water Board may consider terms longer than 10 years on a case by case basis.

Application for an Exception

Individual dischargers, recognized third party groups on behalf of its members, or multiple dischargers under a management zone (For more information, refer to the separate overview of the Groundwater Management Zone Policy) may apply for an exception. Terms and conditions associated with the granting of an exception would be incorporated into the relevant waste discharge requirements (WDRs) for each discharger; failure to comply with such terms and conditions may result in the termination of the exception and/or an enforcement action.

Authorization of an Exception

Authorization of an exception is subject to certain conditions and performance obligations by the discharger(s) and generally would include:

- Dischargers shall continue to make reasonable “best efforts” to comply with applicable WDRs. What is reasonable is determined as part of the exception proposal/authorization process.
- To reauthorize/renew an exception, dischargers must periodically reassess best management practices and survey available treatment technologies to determine if feasible, practicable, and reasonable options to comply with the relevant water quality objective have become available.
- Where exceptions are sought to provide time to establish a more appropriate water quality standard (uses and/or objectives), there must be a well-defined work plan (with milestones) and a commitment by dischargers to provide the resources needed to complete the proposed process.
- Where existing water quality standards are unlikely to change, dischargers must explain how the proposed exception facilitates the greater long-term strategy designed to ultimately attain those standards in the area where the exception would apply while, in the interim and where applicable, allocating available resources to address more urgent water quality priorities (e.g., providing safe drinking water).
- When authorizing an exception, additional considerations would apply that are specific to nitrate:
 - An exception would not be considered unless an adequate supply of clean, safe, reliable and affordable drinking water is available for those living in the area where the exception would apply, i.e., the area where the nitrate water quality objective would not be met, at least in the short-term.
 - There must be no feasible, practicable, or reasonable means for the discharger to comply with their discharge requirements for nitrate under a traditional permitting approach, and/or use of an exception as part of implementing a proposed Alternative Compliance Project (ACP) would further the goals of the SNMP more effectively than the traditional permitting approach. For example, the discharger, or group of dischargers, may propose to implement an ACP in lieu of

An Alternative Compliance Project (ACP) is a program or project(s) designed to provide the same or higher level of intended protection to water users that may be adversely affected by a discharge. For example, where a discharge is unable to comply with the nitrate water quality objective, the discharger may seek an exception and offer to provide a safe and reliable alternative water supply for nearby drinking water wells that exceed or threaten to exceed the nitrate water quality objective. In this instance, the ACP would result in a higher level of public health protection than is likely to occur if the discharge were prohibited.

meeting the relevant WDRs for nitrate because the ACP provides appropriate wellhead treatment or an alternative drinking water supply to down-gradient groundwater users affected by the discharge(s).

- The discharger must continue to make reasonable best efforts, where feasible and practicable, to further reduce nitrate concentrations in the discharge.
- The discharger is participating in efforts towards implementing a long-term nitrate compliance plan.
- Allowing the discharge is in the best interests of the people of the state.

More information on this policy and other SNMP recommendations may be found at:

www.cvsalinity.org