

Nitrate Permitting Strategy

Purpose and Need for the Policy

To meet Central Valley nitrate management goals, the SNMP establishes new nitrate management requirements applicable to dischargers of nitrates to groundwater. These requirements focus on three goals: (1) ensuring a safe drinking water supply is available for users relying on groundwater for their water supply; (2) establishing a nitrate balance (where reasonable and feasible); and (3) developing and implementing a long-term plan for restoration of groundwater (where reasonable and feasible) to meet the nitrate water quality objective.

For regulated dischargers, nitrate management efforts would be implemented in discharge permits. Under the current permitting programs, Waste Discharge Requirements and Conditional Waivers (WDRs/Waivers) must ensure that (a) the receiving water will meet the nitrate water quality objective; and (b) discharges do not cause or contribute to an exceedance of the nitrate water quality objective. In some Central Valley areas and for some types of dischargers, this traditional permitting approach for the management of nitrate may not be feasible, reasonable, or practicable. Accordingly, the SNMP recommends a Strategy with respect to permitting nitrate discharges in WDRs/Waivers under both existing traditional and new alternative permitting approaches.

Policy Summary

Two Pathways to Compliance – The proposed *Nitrate Permitting Strategy* (Strategy) would provide dischargers of nitrate two different pathways for complying with the SNMP nitrate management requirements:

- Path A is similar to the existing traditional permitting approach as it relies on the issuance of WDRs/Waivers to individual dischargers, or multiple dischargers through a General Order. Path A differs from the current permitting approach in several ways, including:
 - It clarifies what is considered the receiving water. Currently, it is defined as first encountered groundwater; it would now be defined as shallow groundwater, which is the uppermost portion of the groundwater upper zone (generally encompasses the shallowest 10% of the domestic water supply wells in each basin or subbasin).
 - It establishes five discharge categories and identifies the compliance requirements based on the categorization of the permittee's discharge.
 - It establishes trigger levels to limit use of available assimilative capacity above a certain level, unless it is demonstrated that the use of available assimilative capacity would not result in the groundwater exceeding the nitrate water quality objective within a 20-year planning horizon.

- Path B allows compliance with the Strategy through participation in a groundwater management zone. A management zone is a defined area, e.g., a portion of a larger groundwater basin/subbasin, that serves as a discrete regulatory compliance unit for compliance with the SNMP nitrate management requirements (see Groundwater Management Zone Policy).

Pathways to Compliance Must Ensure Safe Drinking Water – Under both Paths A and B, dischargers must assess nitrate levels in groundwater used as a drinking water source that may be affected by their discharge to ensure it is a safe, reliable source of drinking water. If affected, and where the discharger is causing or contributing to the impact, then the discharger would submit an Early Action Plan (EAP) that includes specific actions and an implementation schedule to address the immediate needs of those drinking groundwater from public water supply or domestic wells affected by their discharge.

Priority for Implementation – The SNMP nitrate management requirements apply to all dischargers of nitrate to groundwater. New WDRs/Waivers would incorporate these requirements immediately as part of the development of their discharge requirements. For dischargers with an existing WDR/Waiver, the SNMP establishes the priority and timeline to begin compliance with the Strategy, as summarized to the right.

Priority Area	Timeline to Receive a Notice to Comply
Priority 1 Area	Within one year after the Basin Plan amendments are effective
Priority 2 Area	Within 2 to 4 years after the Basin Plan amendments are effective.
Not Designated Priority 1 or 2	Phased into SNMP implementation program as resources allow.

Steps to Comply with the Nitrate Permitting Strategy

After dischargers receive the Central Valley Water Board Notice to Comply for a Priority Area, each discharger must select either Path A or B as the means to comply with the SNMP nitrate management requirements. To facilitate this decision, dischargers that desire to form a management zone (Path B) must submit their Preliminary Management Zone Proposal (PMZP) to the Board within 270 days of receiving the Notice to Comply (Priority 1 Area) or within one year (Priority 2 Area). PMZPs developed for a Priority Area are made publicly available to provide the opportunity for any discharger in the Priority Area to decide whether to participate in a developing management zone. If a discharger does not wish to participate in a management zone, then the discharger shall comply with the nitrate management requirements associated with Path A; otherwise the discharger shall meet the requirements of Path B.

The table below summarizes the steps and timelines to comply with either Path A or B, with Step 1 being the submittal of a Notice of Intent (NOI) documenting the selection of the compliance path. The SNMP and associated policies describe the specific, detailed requirements associated with each step and the minimum contents of each referenced document.

Path A	Path B
<p>Step 1 – Discharger Submits NOI (within 60 days of posting of PMZPs); NOI includes:</p> <ul style="list-style-type: none"> • Assessment of drinking water impacts from discharge. • EAP, if required to address identified drinking water impacts. • Assessment of category of discharge. 	<p>Step 1 – Discharger Submits NOI (within 60 days of posting of PMZPs); NOI includes:</p> <ul style="list-style-type: none"> • Identification of management zone in which the discharger will participate. • Acceptance of the PMZP, which includes an EAP
<p>Step 2 – Discharger Implements EAP (if required)</p> <ul style="list-style-type: none"> • Implement EAP within 60 days of NOI submittal unless the Board objects to the plan. 	<p>Step 2 – Dischargers Collectively Implement EAP and Submit Final Management Zone Proposal (FMZP)</p> <ul style="list-style-type: none"> • Implement EAP within 60 days of NOI submittal, unless the Board objects to plan. • Submit FMZP within 180 days of submittal of PMZP.
<p>Step 3 – Board Revise WDR/Waiver</p> <ul style="list-style-type: none"> • Board incorporates nitrate management requirements in revised WDR/Waiver based on the requirements of the category of discharge. 	<p>Step 3 – Board Revises Relevant WDRs/Waivers to Incorporate Compliance Requirements for Management Zone</p> <ul style="list-style-type: none"> • Continue to implement EAP. • Develop Management Zone Implementation Plan and implement upon Board approval.

More information on this policy and other SNMP recommendations may be found at:
www.cvsalinity.org