

Attachment A-10

Guidelines for Developing Alternative Compliance Projects for Nitrate Discharges

When an individual or group of dischargers is unable to demonstrate that their discharge is not causing or contributing to nitrate degradation above the triggers identified in the Central Valley SNMP, they have an opportunity to request either allocation of available assimilative capacity or an exception. In most cases, the request for the granting of assimilative capacity or an exception in these circumstances will trigger the need for submittal of a proposed Alternative Compliance Project (ACP). This request may be made as an individual discharger (which includes a third party group subject to a general order) or dischargers working collaboratively as part of a management zone. While the Central Valley Water Board has the discretion to deny such a request, any proposed Alternative Compliance Project(s) must contain the following components in order to be considered.

1.0 Findings from an Initial Evaluation

- Proposed preliminary boundary areas that include:
 - Anticipated zone of influence of the individual discharger (or third party group subject to a general order), or group of dischargers under a management zone, over a 20-year planning horizon; and
 - Stakeholders that may be affected within the zone of influence.
- Initial assessment of water quality conditions based on existing data and information. For groundwater, dischargers should use default information in, or referenced by, the Central Valley SNMP or provide supplemental information that includes water quality conditions in the upper, lower and production zones over the anticipated zone of influence.
- Any constituents of concern the individual discharger/group of dischargers intends to address besides nitrate (not required but is an optional available); and
- Identification of current best efforts/Best Practicable Treatment and Control (BPTC) and need for assimilative capacity or an approved exception from meeting the nitrate water quality standard.

2.0 Components of a Proposed Alternative Compliance Project(s)

- Be consistent with the management goals of the Central Valley SNMP, including addressing short-term and long-term drinking water needs affected by nitrates (Management Goal 1), plan for achieving balanced nitrate loadings within the proposed boundaries of the project, where feasible and reasonable (Management Goal 2), and a plan for establishing a managed aquifer restoration program to restore nitrate levels to concentrations at or below the water quality objectives to extent reasonable and feasible (Management Goal 3).

- Prioritize assurance that drinking water that meets drinking water standards is available to all drinking water users within the zone of influence where there are significant nitrate water quality concerns in groundwater. This component may be met through the development and implementation of an Early Action Plan, as may be required by the SNMP (see SNMP Groundwater Management Zone Policy, Attachment A-1; SNMP Nitrate Permitting Strategy, Attachment A-2; and SNMP Section 4.3.2.2).
- Describe the outreach that will occur to insure that stakeholders or affected communities within the zone of influence are informed of, and given opportunity to participate in, the development of any ACP proposal as well as ongoing activities designed to resolve their drinking water concerns.
- For a management zone, contain a governance framework that, at a minimum, establishes the following: (a) roles and responsibilities of all participants; (b) involvement of an entity with authority to manage water use within the zone of influence, if applicable or as necessary; (c) funding or cost-share agreements to implement the ACP, and short and long-term nitrate management projects/activities; and (d) a mechanism to resolve disputes among participating dischargers.
- Identify how nitrate conditions will be characterized for use as the basis for demonstrating how nitrate will be managed over short and long-term periods to meet the nitrate management goals established in the Central Valley Region SNMP.
- As needed, prioritize management activities based on factors identified in the Central Valley SNMP and the results of the characterization of nitrate conditions. Prioritization provides the basis for allocating resources with resources directed to the highest water quality priorities first.
- Identify short (< 20 years) and long-term (> 20 years) projects and/or planning activities that will be implemented as part of the ACP to make progress towards attaining each of the water quality-related management goals established by the Central Valley SNMP within the zone of influence. For management zones, projects/planning activities may be prioritized to better allocate resources. Over time as water quality improves in prioritized areas, updates to the ACP may shift the priorities.
- Identify mechanism(s) to support achievement of the overall Central Valley SNMP's long-term strategy to achieve balanced nitrate loadings and managed aquifer restoration, where reasonable and feasible. Mechanisms may include, but not be limited to:
 - Use of offsets to help mitigate potential localized impacts, while improving overall basin or subbasin-wide water quality (see SNMP Offsets Policy, Attachment A-7);
 - Implementation of management practices that will reduce current nitrate loading to groundwater; and
- Include a short and long-term schedule for implementation of nitrate management activities with interim milestones and performance measures to assess progress.
- Identification of triggers for the implementation of alternative procedures or measures to be implemented if the interim milestones are not met.

- A water quality surveillance and monitoring program that is adequate to assure that the ACP when implemented is achieving the expected progress towards attainment of water quality-related management goals (coordination with the SNMP's surveillance and monitoring program may be considered as part of efforts to comply with this element).
- The ACP may be modified periodically to incorporate changes that will benefit water quality. Any modifications to an ACP that impact or change timelines, milestones or deliverables identified must be approved by the Central Valley Water Board.
- The ACP shall identify the responsibilities of each regulated discharger, or groups of regulated dischargers if participating in a management zone, to manage nitrate within the Zone. The Central Valley Water Board shall incorporate the responsibilities of each discharger, or groups of dischargers if within a management zone, into their respective Individual or General WDRs.
- Before the Central Valley Water Board may modify any WDRs to incorporate the use of assimilative capacity on a management zone basis or to adopt an exception to meeting a water quality standard in a WDR for a discharger participating in the management zone, the Central Valley Water Board's Executive Officer must approve the establishment of the management zone and its ACP after providing public notice and opportunity to comment. Executive Officer approval of the management zone in no way changes the requirement that any modifications to WDRs must be approved by the Central Valley Water Board after public notice and hearing.

3.0 Requirements for Granting Assimilative Capacity

The SNMP Groundwater Management Zone Policy (Attachment A-1) and Nitrate Permitting Strategy (Attachment A-2) provide the requirements for granting assimilative capacity for individual dischargers or dischargers working collaborating through a management zone. These documents are also summarized in Section 4 of the SNMP.

4.0 Requirements for Granting a Exception to a Water Quality Standard

The SNMP Exceptions Policy (Attachment A-4) provides the existing requirements for granting an exception and proposed recommendations to revise these requirements through a Basin Plan amendment. The Nitrate Permitting Strategy (Attachment A-2) and SNMP Section 4.2.2.3 provide summaries of the use of exceptions.