



# Central Valley Clean Water Association

*Representing Over Fifty Wastewater Agencies*

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***Via Electronic Mail Only***

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Central Valley  
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RE: Proposed Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Pyrethroid Pesticides Discharges

Dear Dr. Fojut:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the Proposed Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins for the Control of Pyrethroid Pesticides Discharges (Draft Amendments), as well as the Draft Staff Report that has been issued to support the Draft Amendments. CVCWA is a non-profit association of public agencies located within the Central Valley region that provide wastewater collection, treatment, and water recycling services to millions of Central Valley residents and businesses. We approach these matters with the perspective of balancing environmental and economic interests consistent with state and federal law. CVCWA has been an active participant in the Central Valley Regional Water Quality Control Board's (Central Valley Water Board) ongoing stakeholder process with respect to development of these Draft Amendments. If adopted, the Draft Amendments will impact publically-owned treatment works (POTWs) of all sizes throughout the Sacramento and San Joaquin River Basins.

As a preliminary matter, we would like to thank you for the open and transparent stakeholder process that staff have employed in regard to development of the Draft Amendments. We also appreciate the opportunities that have been provided to comment on the Draft Amendments at different stages of development. In this letter, we provide comments on the Draft Amendments and the Draft Staff Report, and the impact that the Draft Amendments will impose on POTWs.

## **I. Comments on Recommended for Implementation by Other Agencies**

CVCWA appreciates the direction to other agencies to include consideration of discharges from wastewater treatment plants and urban runoff as well as agricultural runoff. With this direction, CVCWA believes it is important for both the U.S. EPA and the California Department of Pesticide Regulation to also consider the fate and transport of pyrethroids through POTW treatment processes. Accordingly, we recommend that this be added to the considerations for both agencies.

## **II. Comments on Changes to Chapter IV, Implementation**

CVCWA generally supports the use of numeric triggers for pyrethroid pesticides rather than the adoption of such triggers as water quality objectives, or recognized water quality criteria within the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan). However, we are concerned that the language as proposed implies that all wastewater dischargers need to develop a management plan regardless of whether the numeric trigger has been exceeded. CVCWA does not support this aspect of the program if that is the intent. Rather, management plans should only be required of those that cause an exceedance of the numeric trigger in the receiving water.

We have reviewed the Proposed Amendments and believe that some additional revisions are necessary to ensure that the Proposed Amendments have clarity with respect to the application of the Conditional Prohibition, and how the program should be implemented in the future.

### **a. Suggested Revisions to Regional Water Board Prohibitions Language (Draft Staff Report, p. xxiii)**

As currently expressed, the Conditional Prohibition applies to the level of pyrethroids in the discharge – not the concentration of pyrethroids in the receiving water. Because the concern is the impact to the receiving water, the Conditional Prohibition should apply directly to the receiving water. CVCWA recommends the following sentence be modified to ensure proper application of the Conditional Prohibition:

“Beginning [3 years from OAL approval date], discharges of pyrethroid pesticides at concentrations that cause the receiving water to exceed pyrethroid triggers (Table IV-Z) to in water bodies with designated or existing WARM and/or COLD beneficial uses are prohibited unless a discharger is implementing a management plan to reduce pyrethroid levels from causing the receiving water to exceed pyrethroid triggers. in their discharges.”

The second paragraph under section X, Pyrethroid Pesticides Discharges, should be amended to provide further clarification.

“The pyrethroid triggers are intended to be used to indicate when management plans need to be developed and when management practices are to be implemented by the discharger. When the triggers are exceeded in monitoring

results or as part of a toxicity evaluation, the discharger will be required to initiate additional monitoring. These actions will provide information on achievability and costs to the Board to inform future evaluation of potential water quality objectives. The pyrethroid triggers are not water quality standards and are not for use as water quality-based effluent limitations or for reasonable potential analysis.”

**b. Suggested Revisions to Table IV-Z (Draft Staff Report, p. xxv.)**

In Table IV-Z, CVCWA suggests the following revisions:

- First paragraph (p. xxv), “Guidance on acceptable analytical methods is given in the Surveillance and Monitoring Chapter under the header Pyrethroid Pesticides Discharges (p. V-xx).”
- Second paragraph (p. xxv), “Methods for direct measurement must be approved by the Executive Officer before they are used to determine the freely dissolved pyrethroid concentrations that are used in the calculations for determining exceedances of the pyrethroid pesticides numeric triggers.”

**c. Comments/Suggested Revisions to Pyrethroid Pesticides Control Program (pp. xxx – xxxvii)**

Although CVCWA generally supports the use of triggers and the pesticides control program as proposed, CVCWA has one significant issue of concern with paragraph 3. This paragraph briefly explains what the numeric triggers represent. However, the paragraph is lacking in that it does not specify the location in which the triggers apply, which should be to the receiving water. CVCWA recommends that the first sentence of this paragraph be revised as follows:

“The pyrethroid pesticides numeric triggers represent maximum allowable levels in receiving waters above which additional management actions may be required.”

Similarly, and consistent with the comments above, CVCWA is concerned that the triggers would be applied to POTW effluent at the end of pipe. By applying the trigger to effluent directly, it eliminates consideration of mixing zones and/or dilution that may otherwise be available in the receiving water. Further, it is our understanding that proposed water quality triggers will be used to require implementation of management practices and/or monitoring. In other words, exceedances of triggers are of concern because this may mean that there are impacts to aquatic life beneficial uses, which apply in the receiving water. In light of the fact that concerns are related to potential impacts to beneficial uses in receiving water, CVCWA believes it is appropriate for triggers to apply in the receiving water – not at the end of pipe. Moreover, an exceedance of a trigger in effluent does not mean that the trigger would be exceeded in the receiving water immediately downstream of the discharge. Yet, POTWs will be required to expend resources on implementing management practices and monitoring even though there is no potential impact to

aquatic life beneficial uses. Further, since many CVCWA members are cities or districts with both stormwater and wastewater responsibilities, CVCWA recommends that the development, implementation, and reporting of management actions/plans be allowed to be completed with one plan that applies to both entities, rather than requiring two separate plans. Accordingly, CVCWA recommends that the Proposed Amendments be further revised to ensure that we are looking to protect the receiving water.

Additional revisions are as follows:

- Municipal and Domestic Wastewater Discharges (p. xxxiv), "Dischargers subject to the conditional prohibition of pyrethroid pesticides discharges are required to develop and implement management plans to reduce pyrethroid levels from causing the receiving water to exceed pyrethroid triggers."
- Municipal and Domestic Wastewater Discharges (p. xxxv), "The pyrethroid triggers are intended to indicate when management practices are to be implemented by the discharger; the pyrethroid triggers are not water quality standards and are not criteria for interpreting the narrative toxicity objective, and are not for use as water quality-based effluent limitations or for reasonable potential analysis."
- Municipal and Domestic Wastewater Discharges (p. xxxv), "If the management practices are inadequate to result in pyrethroid discharge concentrations in the receiving water at or below the numeric triggers in Table IV-Z, then the modification of the management plan will be required to identify additional actions to be taken to reduce pyrethroid concentrations in the receiving water discharges if reasonable and feasible actions are available or a justification for why current practices will result in achieving the applicable triggers within a reasonable timeframe."
- Municipal and Domestic Wastewater Discharges (p. xxxv), "Management plans are completed when it can be demonstrated that the Acute and Chronic Pyrethroid Triggers are not exceeded in discharges or in the receiving waters, and the demonstration is approved by the Executive Officer."

Further, the control program seeks to make POTWs responsible for mitigating the potential use of replacement products. This is not a task or responsibility that can be assigned to POTWs. Accordingly, this reference must be deleted, as shown here.

"A management plan must identify a set of management practices that taken as a whole, may be reasonably expected to effectively reduce pyrethroid levels in their discharges, ~~and to mitigate the potential for replacement pesticide products to cause additional water quality impairments.~~"



### III. Comments on Changes to Chapter V, Surveillance and Monitoring

CVCWA has concerns with several components of the Surveillance and Monitoring provisions in the Draft Amendments. The specific issues of concern are expressed here in the order in which they appear in the proposed language.

#### a. Baseline Monitoring Needs to Be Timed With Permit Waste Characterization Requirements

The Draft Amendments would require baseline monitoring to be completed 2 years following approval of the Basin Plan changes by the Office of Administrative Law (OAL), with trend monitoring occurring 3 years after OAL approval. This would mean that for many POTWs, baseline monitoring would need to be conducted on a different schedule than other effluent characterization monitoring, which is usually required once per permit cycle. Rather than requiring that baseline monitoring occur within 2 years from adoption, CVCWA recommends that baseline monitoring for POTWs be allowed to be conducted concurrently with effluent characterization monitoring, with trend monitoring commencing thereafter if necessary. To facilitate this change, we recommend the following revisions.

- First paragraph (p. xxxix), "The Board will require baseline monitoring to be completed by [2 years following OAL approval] and continued trend monitoring to occur after [3 years following OAL approval], except for Municipal and Domestic Wastewater which is set forth below."
- Second paragraph under *Municipal and Domestic Wastewater*, (p. xliii), "The baseline pyrethroids monitoring and reporting program for municipal or domestic wastewater discharges shall be conducted concurrently with effluent characterization monitoring and be designed to collect information necessary to:"
- First paragraph (p. xliii), "The pyrethroids trend monitoring and reporting program for municipal or domestic wastewater discharges shall commence after the effluent characterization monitoring has been completed and after being directed to start such monitoring by the Executive Officer. The trend monitoring and reporting program shall be designed to collect information necessary to meet the above goals for baseline monitoring, as well as:"

#### b. Monitoring and Reporting Requirements Need to Be Adjusted for Small and Very Small POTWs

CVCWA is concerned that the baseline and trend monitoring for very small and small POTWs will be costly and burdensome. Further, the volume of discharges from such small entities is unlikely to have any significant impact on aquatic life beneficial uses from pyrethroid pesticides. To avoid the unintended economic impact on small POTWs, CVCWA recommends that POTWs with a permitted discharge volume of 1 million gallons per day (mgd) or less be exempted from the baseline and trend monitoring requirements. For POTWs with a permitted discharge volume

between 1 mgd and 5 mgd, CVCWA recommends that monitoring be limited to once per permit cycle.

**c. Requiring Monitoring for Alternatives Is Inappropriate (p. xliii)**

The Draft Amendments would require municipal and domestic wastewater dischargers to determine if monitoring for alternative pesticides to pyrethroids is necessary, and to identify those alternative pesticides for which monitoring would be appropriate. Then, if monitoring for an alternative pesticide is determined appropriate, the discharger would be required to monitor for the alternative to see if it is causing or contributing to an exceedance of an applicable water quality objective. CVCWA has multiple concerns with this requirement.

First, it is inappropriate and unreasonable to require municipal wastewater dischargers to be responsible for the potential use of alternative pesticides in the future. POTWs do not have control over pesticide registrations or consumer use patterns. Thus, POTWs are being made responsible for something over which they have no control.

Second, it is highly likely that there are no available criteria or water quality objectives for the alternative pesticides, thus making it difficult to determine if a water quality objective is being exceeded.

Third, this provision is akin to requiring POTWs to conduct research monitoring, which again is inappropriate and unreasonable.

Accordingly, CVCWA recommends that this paragraph be deleted in its entirety.

**d. There Is No Definition for “Reliable Commercial Analytical Methods”**

CVCWA remains concerned that the Draft Amendments fail to define what constitutes a “reliable commercial analytical method.” For CVCWA, and wastewater in particular, there are concerns with current analytical methods for these chemicals as well as *Hyalella* in toxicity tests. CVCWA believes that this definition needs to incorporate the concepts that multiple laboratories can provide a reproducible and reliable method over time that is comparable at several public-access laboratories, and that the method has been certified by California’s Environmental Laboratory Accreditation Program (ELAP) for a wastewater matrix. For example, there is not a U.S. EPA approved methodology for toxicity tests using *Hyalella*. A recent study by the Southern California Stormwater Monitoring coalition, conducted by the Southern California Coastal Water Research Project (SCCWRP) using Surface Water Ambient Monitoring Program protocols for *Hyalella* showed that lack of an approved method for *Hyalella* resulted in low comparability and incorrect determinations of toxicity (i.e., reporting known non-toxic samples as toxic) amongst various laboratories. After constraining aspects of testing protocols, greater consistency and accuracy was found in a single repeat inter-laboratory analysis in this study.<sup>1</sup> It is our understanding that there have been no inter-laboratory comparisons done over time that have

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<sup>1</sup> Stormwater Monitoring Coalition Toxicity Testing Laboratory Guidance Document. 2016. KC Schiff, et al., Technical Report 0956. Southern California Coastal Water Research Project Authority.

tested comparability between *Hyalella* sources. Thus, we do not know if this test is at a level of reliability to use for regulatory determinations or its impact on the reliability of prior studies, including those relied on by UCD in development of these criteria. Until there are consistent and approved reliable methods, CVCWA believes that all monitoring requirements as imposed on municipal and domestic dischargers should be suspended.

#### **IV. 1<sup>st</sup> v. 5<sup>th</sup> Percentile**

CVCWA supports the Draft Amendments and Draft Staff Report's recommendation to use 5<sup>th</sup> percentile concentration goals in the numeric trigger calculations. The 5<sup>th</sup> percentile has been stated to be appropriately protective by two of the peer reviewers, and is consistent with U.S. EPA's approach for establishing water quality criteria using the Species Standard Deviation. There is insufficient reliable data and information available to support the need for the 1<sup>st</sup> or 2.5 percentiles at this time. When the Central Valley Water Board reviews the triggers as proposed in the Draft Amendments, it can then at that time determine if it is necessary to use the 1<sup>st</sup> percentile or another appropriate value as a trigger.

Moreover, because reasonable protection will be better assessed in phased implementation, as is being proposed, CVCWA recommends that the Central Valley Water Board consider multiple factors moving forward. Specifically, future evaluations should consider the type of surface water (e.g., estuary, river, urban creek, agricultural drain), the flow conditions (e.g., wet weather, dry season, wet season, irrigation season, etc.), and other factors that can affect ambient toxicity.

#### **V. Other General Comments**

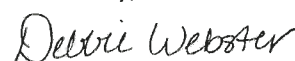
With respect to the Draft Amendments, CVCWA appreciates the Central Valley Water Board's efforts to propose a reasonable, phased approach. As stated previously, CVCWA supports the use of triggers versus the adoption of water quality objectives. CVCWA further supports triggers that are based on the bioavailable fraction as compared to the total concentration of a pyrethroid.

#### **VI. Conclusion**

In summary, CVCWA encourages the Central Valley Water Board to adopt the Proposed Amendments, with the language revisions recommended above. Further, CVCWA recommends that the Draft Staff Report be revised to reflect and be consistent with the revisions recommended above.

We appreciate your consideration of these comments. If you have any questions or if CVCWA can be of further assistance, please contact me at (530) 268-1338 or [eoifficer@cvcwa.org](mailto:eoifficer@cvcwa.org).

Sincerely,



Debbie Webster,  
Executive Officer