



CVCWA Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies

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April 21, 2017

Via Electronic Mail Only

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
Division of Drinking Water
1001 I Street
Sacramento, California 95814
commentletters@waterboards.ca.gov

SUBJECT: 1,2,3-Trichloropropane Maximum Contaminant Level

Dear Ms. Townsend:

The Central Valley Clean Water Association (CVCWA) appreciates this opportunity to provide comments on the Proposed Rulemaking for 1,2,3-Trichloropropane Maximum Contaminant Level. CVWA is a nonprofit association of Publicly Owned Treatment Works (POTWs) throughout the Central Valley of California whose primary mission is to represent wastewater agencies in regulatory matters while balancing environmental and economic interests. CVCWA members have a strong commitment to the protection of municipal and domestic beneficial uses in Central Valley waters. The Proposed Rulemaking will inadvertently impact POTWs because maximum contaminant levels (MCLs), once adopted, become water quality objectives per incorporation by reference language in the Central Valley Water Quality Control Plans. Accordingly, it is imperative that the Division of Drinking Water consider such impacts when it adopts MCLs. CVCWA provides the following comments on the Proposed Rulemaking because of this impact.

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I. Adoption of New MCLs Must Comply with Water Code Section 13241

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) has two adopted Water Quality Control Plans for its region (Sacramento-San Joaquin River Basins and Tulare Lake Basin) (collectively referred to as "Basin Plans"). Both Basin Plans include the following water quality objective for chemical constituents.

At a minimum, water designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCLs) specified in the following provisions of Title 22 of the California Code of Regulations, which are incorporated by reference into this plan: ..., Table 64444-A (Organic Chemicals) of Section 64444, *This incorporation-by-reference is prospective, including future changes to the incorporated provisions as the changes take effect.*

(See, e.g., Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin (July 26, 2013), pages III-3.00 and III-10.00, emphasis added.) The prospective "incorporation-by-reference" language means that any time the Division of Drinking Water adopts a new MCL, it automatically becomes a water quality objective applicable to all receiving waters with the municipal beneficial use (MUN) designation. This includes both surface and ground waters.

The California Water Code requires regional water quality control boards, when adopting water quality objectives, to ensure reasonable protection of beneficial uses, and requires consideration of the following factors:

- (a) Past, present, and probable future beneficial uses of water.
- (b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.
- (c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.
- (d) Economic considerations.
- (e) The need for developing housing within the region.
- (f) The need to develop and use recycled water.

(Wat. Code, section 13241.)

Because adoption of the MCL will become a water quality objective, the Division of Drinking Water shall consider the factors as specified in Water Code section 13241. Review of the Proposed Regulation indicates that no analysis per Water Code section 13241 has been conducted.

II. Proposed Rulemaking Needs to Consider Economic Impact to POTWs and Others

Second, the Proposed Rulemaking needs to be revised to specifically consider the impact that adoption of the new MCL will have on POTWs and others that are then mandated to comply with the MCL as a water quality objective. Once adopted, the MCL for 1,2,3-TCP becomes a water quality objective, which is a limit or level of a water quality constituent for the protection of beneficial uses and for the prevention of nuisance. (Wat. Code, §13050(h).) This means that discharges subject to waste discharge requirements under the Porter-Cologne Water Quality Control Act and discharges subject to National Pollutant Discharge Elimination System Permits under the Clean Water Act (*i.e.*, Central Valley POTWs and others) will be required show that their discharges will not cause or contribute to a violation of this standard. If a discharge does, then a POTW may be required to provide some form of treatment to remove the constituent from its effluent. This may be required even if the discharge in question would not impact an MUN water supply for a public water system.

Attachment A to the Proposed Regulation claims that the regulation only directly impacts public water systems that are not considered businesses or individuals. This statement is false because the Proposed Regulation may actually impact many entities beyond public water systems when the 1,2,3-TCP MCL is applied as a water quality objective. These impacts need to be considered as part of the Proposed Regulation. Moreover, the cost estimates are greatly underestimated, as they do not consider treatment or source control costs to POTWs and others that may result from 1,2,3-TCP being a water quality objective.

III. Statement of Results of the Standardized Regulatory Impact Assessment Is Flawed as It Fails to Consider Impacts to Dischargers

Similar to the comments in Section II above, the analysis conducted by the Division of Drinking water to comply with Government Code section 11346.3(c) is flawed, as it fails to consider or recognize the impacts to dischargers. The Statement of Results of the Standardized Regulatory Impact Assessment needs to be revised in its entirety to consider the impacts that the adoption of the MCL may have on POTWs and other discharges, and costs that dischargers may be required to bear to meet the MCL in effluent and in receiving waters.

IV. Conclusion

The Division of Drinking Water needs to recognize that adoption of MCLs impact more than just public water systems. As the Division of Drinking Water considers adoption of the MCL for 1,2,3-TCP and any other constituent, it needs to consider the factors in Section 13241 of the Water Code, and to include impacts to dischargers in its fiscal and regulatory impacts analysis. Otherwise the Proposed Rulemaking is flawed and likely greatly underestimates the total cost of the regulation on all types of ratepayers and businesses. Thus, CVCWA recommends that the Proposed Rulemaking be substantially revised to address the concerns stated in these comments.

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 eofficer@cvcwa.org.

Sincerely,



Debbie Webster,
Executive Officer

cc: Darrin Polhemus