



# CVCWA Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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January 15, 2010

Danny McClure  
Water Resources Control Engineer  
Central Valley Water Quality Control Board  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-6114

Submitted via email to [dmclure@waterboards.ca.gov](mailto:dmclure@waterboards.ca.gov)

**RE: Draft Cyflurthin Criteria Derivation**

Dear Mr. McClure:

The Central Valley Clean Water Association (CVCWA) has reviewed the *Draft Cyflurthin Criteria Derivation (draft criteria)* developed by the University of California, Davis (UCD).<sup>1</sup> CVCWA is a non-profit organization of agencies that own and operate wastewater treatment facilities throughout the Central Valley. CVCWA represents its members in regulatory matters that affect surface water discharge and land application with a perspective to balance environmental and economic interests consistent with applicable law. Accordingly, CVCWA has a keen interest in the development of draft water quality criteria that may be used by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to interpret narrative water quality objectives and/or that may be adopted as water quality objectives.

CVCWA is concerned with the proposed draft Cyflurthin criteria. Our comments mirror our concerns in our January 15, 2010 comment letter on the draft Bifenthrin criteria and with the draft Lambda-Cyhalothrin criteria. Our concerns include:

- The lack of good toxicity data;
- The lack of established and available analytical methods, and issues surrounding this such as:
  - The absence of laboratories with analytical methods available to monitor down to the proposed acute and chronic levels in a clean matrix,
  - Not having analytical methods that can monitor complex matrixes to detection levels,
  - Unanswered questions about interferences and not having available methods to confirm interferences,

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<sup>1</sup> *Draft Cyflurthin Criteria Derivation*: Palumbo, A.J., S. Chang, and R.S. Tjeerdema, Environmental Toxicology Department, U.C. Davis, for the Central Valley Regional Water Quality Control Board

- The extreme level of concentration of the sample in order to measure for the constituent.
- Lack of a standard USEPA methodology for monitoring pyrethroids.
- The apparent recommendation to use the whole water concentration to assess compliance even though it is a poor indicator of toxicity because some problematic aspects of measuring the freely-dissolved fraction of Cyflurthin;
- The lack of consideration of site/sample specific requirements for water quality factors affecting toxicity in determining appropriate criteria for the waterbody;
- The likelihood that the proposed criteria are overprotective, especially the extremely conservative chronic criteria.
- The need for a better understanding of fate and transport, chronic toxicity, and effects of dissolved solids and suspended particles.

CVCWA continues to be concerned with the Central Valley Water Board's proposed use of the *draft criteria* to interpret narrative water quality objectives and potential use of the criteria to set water quality based effluent limitations in NPDES permits, as it will create liability for POTWs in the Central Valley. Considering the liability associated with complying with such effluent limitations, the Central Valley Water Board should take care in using only criteria that are well-developed and well-founded.

Moreover, we continue to be concerned with the use of the draft criteria to interpret narrative objectives because it creates de facto water quality objectives that have *not* been adopted in accordance with the law. Under Porter-Cologne Water Quality Control Act (Porter-Cologne), the Central Valley Water Board is required to regulate water quality in a manner that attains the highest level of water quality which is reasonable, considering all demands being made and to be made on those waters. (See Wat. Code, § 13000.) Porter-Cologne requires that water quality objectives be established to ensure *reasonable* protection of beneficial uses, considering a number of different factors and requires the Regional Water Board to adopt a program of implementation for achieving water quality objectives at the time of adoption. (See Wat. Code, § 13242.) In other words, when adopting water quality objectives, the Central Valley Water Board must determine if the objective is necessary to provide for *reasonable* protection of the beneficial uses, and the Central Valley Water Board must balance all of the competing demands on the water and consider the economic implications associated with adoption of water quality objectives.

In general, CVCWA is opposed to the Central Valley Water Board's use of any draft criteria in this manner. Thus, CVCWA respectfully requests that the Central Valley Water Board refrain from using the *draft criteria* for cyflurthin at least until the criteria are properly adopted as water quality objectives pursuant to all requirements in Porter-Cologne.

Thank you for your considerations. Please contact me at (530) 268-1338 if you have any questions.

Sincerely,



Debbie Webster