



CVCWA

Central Valley Clean Water Association

Representing Over Fifty Wastewater Agencies



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Via Electronic Mail Only

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov

Subject: Comments on the Draft Amendment to the Recycled Water Policy

Dear Ms. Townsend and Members of the Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the Amendment to the Policy for Water Quality Control for Recycled Water (Draft Amendment). 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 our mission with the perspective of balancing environmental and economic interests consistent with state and federal law.

As a preliminary matter, CVCWA supports the comments provided by WasteReuse California, California Association of Sanitation Agencies, Association of Clean Water Agencies, and California Municipal Utilities Association (referred to hereafter as “WasteReuse et al.”). In an effort to be more efficient, we have not repeated such comments here. However, CVCWA very much agrees with WasteReuse et al., and in particular supports their comments regarding the bioassay monitoring provisions for Constituents of Emerging Concern (CECs).

We provide additional comments here that are specific to the Central Valley and CVCWA's member agencies. Our comments pertain specifically to proposed definition for incidental runoff, a new goal regarding minimizing discharges, reporting requirements, the wastewater change petition process, and monitoring requirements for CECs. Our comments are provided in numerical order according to when the issue appears within the Draft Amendment.

I. Definitions

The Draft Amendment proposes to include specific definitions for use in the Recycled Water Policy. CVCWA does not disagree with this approach. However, there is one definition in particular that causes CVCWA concern.

- *Incidental runoff*. The draft definition appears to be provided in a context that relates specifically to landscape irrigation and does not take into account or reflect that the Draft Amendment applies broadly to both landscape irrigation and agricultural irrigation. When recycled water is used for agricultural irrigation, it should be treated the same as any water source used for agricultural irrigation purposes, which includes the fact that certain agricultural irrigation practices necessitate the need for runoff to protect the crop. As proposed, the definition for incidental runoff includes language that creates a negative connotation associated with purposeful runoff – e.g., “[w]ater leaving a recycled water use area is not considered incidental if it is due to the facility design, excessive application, intentional overflow or application, or negligence.” We propose that the definition be modified to indicate that the term “incidental runoff” as defined here applies only to incidental runoff as it relates to landscape irrigation – not agricultural irrigation.

II. Goals and Reporting Requirements to Track Recycled Water

CVCWA has several concerns with the goals and reporting requirements expressed in section 3 of the Draft Amendment.

A. Sub-Section 3.1.2

First, CVCWA shares the concerns with respect to Goal 3.1.2 as expressed by CASA et al., in their comment letter. While use of recycled water may be a benefit in that it will result in minimizing such discharges, we believe that this statement in sub-section 3.1.2 is an inappropriate goal. Further, minimizing discharges must be feasible and practicable – *not* just where necessary to maintain beneficial uses. There are many reasons why some agencies are unable to minimize or eliminate direct discharges, including but not limited to infrastructure constraints, seasonal weather

constraints, demand for recycled water, and many others. All of these factors must be considered when determining if minimizing direct discharges are feasible and practical. Accordingly, CVCWA requests that paragraph 3.1.2 be deleted, or at the very least, revised to include where it is feasible and practicable to do so.

B. Sub-Section 3.2.1

Sub-section 3.2.1 includes significant reporting requirements for municipal wastewater treatment plants. While CVCWA understands the need for and purpose of such reporting, CVCWA is very concerned with the frequency of such reporting. Many of CVCWA's recycled water producers that are also municipal wastewater treatment plants are small and have limited staff. Monthly reporting of the information requested in subsection 3.2.1 is extremely onerous. Rather than requiring monthly reporting, CVCWA recommends that reporting for this purpose be done on an annual basis, or alternatively, at the most quarterly.

III. Wastewater Change Petitions

A. Sub-Section 5.1

The Draft Amendment contains some revisions to the State Water Resource Control Board's (State Water Board) review of wastewater change petitions filed pursuant to Water Code section 1211 (Section 1211). First, the Draft Amendment includes a requirement that all proposed water recycling efforts by wastewater treatment agencies consult with the State Water Board in order to obtain a determination of whether a Section 1211 wastewater change petition is required for the project. This new requirement does not reflect current practice and does not assist in streamlining the current system. Instead, this additional step has the potential to increase the administrative burden on the State Water Board, thereby increasing the length of time necessary for publicly-owned treatment works (POTWs) to obtain the necessary approvals to begin recycling water. Regional water boards are well equipped to determine if recycled water projects proposed to them trigger the need for a wastewater change petition, and will inform permittees accordingly. There is no need for the State Water Board's Division of Drinking Water to also make such a determination. Further, this creates a new legal requirement that is not in statute, and is in fact questionable under the law.

Moreover, the need for this determination is inapplicable to many recycled water projects that may receive state funding. For instance, many of CVCWA's members currently discharge solely to land, and a requirement to seek a State Water Board determination that their recycled water project would not need a Section 1211 petition adds another step that requires additional resources beyond those already

necessary to create a viable recycled water project. Clearly, the answer to this inquiry is fairly obvious and a determination by the Division of Water Rights is unnecessary and a waste of valuable resources. CVCWA requests that the requirement be removed, or at the very least modified to ensure that the need for such a determination be triggered only when there is connection to a surface water course, and not just because there is state funding involved.

B. Sub-Section 5.3

The Draft Amendment also includes a new provision relating to the consideration of Section 1211 wastewater change petitions: Section 5.3. Specifically, this section provides that the State Water Board may consider potential cumulative impacts to the environment and public trust resources associated with the proposed wastewater change. The Draft Amendment should reflect that the analysis of cumulative impacts is commensurate with the State Water Board's existing review duties under the California Environmental Quality Act (CEQA) both individually and as a responsible agency for such projects. Section 792 of Title 23 of the California Code of Regulations provides that any approvals for change petitions must comply with CEQA. CEQA already requires the consideration of potential cumulative impacts, and thus the State Water Board's compliance with CEQA ensures that cumulative impacts will be considered. (See Cal. Code Regs., tit. 14, § 15130; see also CEQA Guidelines, Appendix G, ¶ XVII(b).) Accordingly, CVCWA requests that the Proposed Amendments be revised to read as follows:

5.3. Consistent with its responsibilities pursuant to CEQA, the State Water Board may consider potential "cumulatively considerable" (as defined in applicable State Water Board regulations) impacts to the environment and public trust resources caused by the proposed recycled water project and related projects that may reduce stream flows. . .

IV. **Permitting and Antidegradation Analysis for Non-Potable Recycled Water Projects**

A. Sub-Section 7.2.1

In general, CVCWA appreciates the Draft Amendment and its efforts to drive recycled water permittees to the State's General order, and to streamline permitting for recycled water projects. However, CVCWA believes that current and existing recycled water permittees should have greater flexibility in determining if they want to be covered by the State's General Order, or maintain existing permits for recycled water use. Accordingly, CVCWA recommends that the Draft Amendment be modified by changing the wording in subsection 7.2.1 from "shall" to "should."

B. Sub-Section 7.4

The Draft Amendment includes a provision for “incidental runoff of recycled water for irrigation.” As commented above in Section I, the Draft Amendment does not appear to distinguish between agricultural runoff (that may or may not be incidental), and incidental runoff from landscape irrigation projects. While we appreciate that subsection 7.4 appears to try to address the situation where recycled water is used for agricultural irrigation, the language is unclear as to what is meant by an authorized discharge. Does this mean that there must be authorization for discharge of recycled water used for agricultural irrigation, or that agricultural runoff in general is authorized, including recycled water used for such purposes? Because of the differences between landscape irrigation and agricultural irrigation, CVCWA recommends that sub-section 7.4 be divided into separate provisions for landscape and agricultural irrigation purposes.

V. **Attachment A – Requirements for Monitoring Constituents of Emerging Concern for Recycled Water**

Attachment A to the Draft Amendment relates to monitoring for CECs. While CVCWA finds the materials in Attachment A to be helpful, it can be further refined to reflect the current regulatory landscape for environmental laboratories performing the monitoring analyses. In particular, Section 1.1 requires laboratories performing CEC analyses to have a quality management system that meets certain specified criteria. This section would be more accurately titled “Laboratory Accreditation and Methods.” Additionally, the two options for quality management systems provided in Section 1.1 are highly detailed and focus on the content of regulations that are currently under development in the State Water Board’s Environmental Laboratory Accreditation Program (ELAP). For example, Section 1.1.1 specifically refers to The National Environmental Laboratory Accreditation Conference Institute (TNI) 2016 Standard, a standard that is currently being considered as the basis for laboratory management system regulations by ELAP. Because these regulations are still under development, specific reference to this standard is premature, and could potentially conflict with the quality management system regulations ultimately adopted by ELAP and the State Water Board. Furthermore, the specifics of laboratory accreditation and quality management systems are best established in separate regulations, and can simply be referred to in the Recycled Water Policy. CVCWA requests that all subsections of section 1.1, including sections 1.1.1 and 1.1.2, be removed from Attachment A to the Draft Amendment, and that section 1.1 be revised to read:

The recycled water project proponent or recycled water producer shall confirm and be able to produce documentation that all analyses of samples are performed by California-accredited laboratories. Analytical methods used for monitoring shall be fully vetted prior to use and certified as applicable. a laboratory used to perform analysis of CECs required under this Policy has a laboratory quality management system in place that meets the requirements described in 1.1.1 or 1.1.2 below. The requirements in 1.1.1 and 1.1.2 describe equivalent quality management systems. The recycled water project proponent or recycled water producer shall make such documentation available if requested by the State Water Board or regional water board. A laboratory must comply with the requirements of either 1.1.1 or 1.1.2

Thank you for your consideration. If you have any questions regarding our comments, or if CVCWA can be of further assistance, please contact me at (530) 268-1338, or eoofficer@cvcwa.org.

Sincerely,



Debbie Webster,
Executive Officer

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