



CVCWA

CENTRAL VALLEY CLEAN WATER ASSOCIATION

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September 21, 2026

Via Email Only

State Water Resources Control Board
Attention: Courtney Tyler, Clerk to the Board
1001 I Street, 24th Fl.
Sacramento, CA 95814
commentletters@waterboards.ca.gov

Re: CVCWA Comment Letter – Review of State Plans and Policies

To the State Water Resources Control Board:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to provide comments on the Revised Draft Staff Report and Workplan for the Review of State Water Quality Control Plans and State Policies for Water Quality Control (Review of State Plans and Policies). CVCWA is a nonprofit 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 from the perspective of balancing environmental and economic interests consistent with state and federal law.

A. The Revised Draft Staff Report Lacks Necessary Specificity

CVCWA acknowledges and appreciates the State Water Resources Control Board's (State Water Board) continued use of stakeholder processes in its Review of State Plans and Policies, as it has been successful in identifying issues and prioritizes for consideration in basin planning and policy amendment processes. To ensure productive stakeholder participation, more details are needed in the Staff Report.

1. Public Survey Results Are Not Discussed

Information is needed regarding how stakeholders' public survey input was used in preparation of the Staff Report. Stakeholders were encouraged to participate in the public survey process in 2024, which the Staff Report acknowledges. (Staff Report, p. 14.) However, it is not stated how State Water Board staff used the public survey

results to prepare the Staff Report or otherwise guide the State Water Board's future planning efforts. Stakeholders need an understanding of how their comments were addressed in preparation of the Staff Report to provide meaningful comments on the Review of State Plans and Policies and to productively participate in future review cycles. Clear communication of such information avoids redundancies and allows for more productive communication between stakeholders and staff.

2. Timelines Are Vague

The Staff Report does not include clear timelines. CVCWA understands and acknowledges that basin planning and policy amendment needs exceed available State Water Board resources, lending to the approach to identifying several high-priority projects for the upcoming three-year Workplan. However, no further information is provided regarding timelines of current projects. Considerations regarding timelines for implementation should be included as part of the State Water Board's review, particularly where there are identified issues regarding implementation. Such implementation considerations are not acknowledged or reflected in the Review of State Plans and Policies, but are critical for public consideration and understanding of prioritization of projects.

3. Priorities Are Vague

The State Water Board states that it has not weighed factors in a particular manner in developing project priorities, but staff has not otherwise described the relationship between the prioritization criteria and a project's identified priority. It is not clear what criteria were influential in staff's review and prioritization of projects. Moreover, staff have not indicated the relative importance of the applicable criteria. The Staff Report presents only the results of staff's determination of priorities without further information regarding the development and application of relevant criteria, including why certain projects were not prioritized based on the application of such criteria.

4. Project Descriptions Lack Detail

The descriptions of current projects and projects for future consideration provided in Section 6 and the Work Plan Summary (Appendix A) of the Staff Report lack sufficient detail for the public to understand and comment on the proposed scope of projects. More information is needed regarding completed and ongoing actions, including studies, to ensure that proposed actions are appropriately tailored to meet policy and plan goals.

B. Review of State Plans and Policies Should Include Re-Evaluation of Incorporation by Reference of Maximum Contaminant Levels

The Review of State Plans and Policies should include re-evaluation of the prospective incorporation by reference of maximum containment levels (MCLs) as water quality objectives. State Water Board staff acknowledge the practice of

regional boards adopting basin plans that incorporate drinking water MCLs as water quality objectives (WQOs) – which are, thereby, are treated as “currently effective statewide water quality standards...” – in support of the comment that the State Water Board and regional water boards collectively address water quality protection statewide. (Staff Report, p. 44-45, fn. 12.) However, the State Water Board fails to acknowledge that prospective incorporation by reference of newly adopted MCLs as water quality objectives without consideration of their applicability and attainability presents significant issues of concern for regulated entities, particularly publicly owned treatment works (POTWs).

Water Code section 13241 directly applies when regional boards adopt water quality objectives into basin plans. Water Code section 13242 requires a program of implementation for adopted water quality objectives. The problem with the prospective incorporation-by-reference language is that it automatically makes state drinking water standards that are not adopted in accordance with section 13241 into water quality objectives, and no program of implementation is prepared for these new objectives. More importantly, such objectives need to be considered when adopting water quality-based effluent limitations in NPDES permits, and when adopting Waste Discharge Requirements. Water quality objectives incorporated by reference have never been subject to the requirements of the Water Code, and regional boards have not historically considered the requisite factors set forth in section 13241 or developed a program of implementation pursuant to section 13242.

Given the ongoing and anticipated level of MCL development over the next several years, the timing of basin plan amendments is critical. In its Review of State Plans and Policies, the State Water Board should recommend amendments to basin plans to ensure compliance with statutory requirements. The analysis of economic impacts and other factors in the Water Code is not an advisory exercise. It is a legal requirement for adopting water quality objectives. “Incorporation by Reference of MCLs as WQOs” should be included in a project to ensure that the appropriate analysis required by Water Code sections 13241 and 13242 is undertaken prior to incorporating newly adopted MCLs into the basin plans as water quality objectives.

In light of the importance and relative urgency of addressing the prospective incorporation of MCLs as water quality objectives, CVCWA requests that staff include incorporation by reference of MCLs as a project necessitating priority, and plan for and allocate staff resources to ensure basin plan amendments in the three-year cycle.

C. Comments on Specific Plans and Policies (Section 6 of the Staff Report for Review of State Plans and Policies)

CVCWA provides the following comments on the specific plans and policies for which the State Water Board has identified current projects and projects for future

consideration, as well as those which CVCWA recommends the State Water Board identify as current or future projects.

1. Anti-degradation Policy

Amendments to the Antidegradation Policy should be accomplished through amendments to the policy directly, not through precedential orders for particular dischargers. This policy affects all dischargers statewide and so broad participation in the amendment process is warranted. Accordingly, CVCWA recommends that this future project be a stakeholder-based project so that all relevant stakeholders can participate in the evaluation and discussion regarding any proposed guidance or amendments.

2. Bay-Delta Plan

Updates to the Bay-Delta Plan should not apply salinity standards to municipal beneficial uses of water. The current practice should be maintained to ensure that the Bay-Delta Plan remains appropriately focused on tidal influences in the Delta.

3. Compliance Schedule Policy

CVCWA supports amending the Compliance Schedule policy to ensure that sufficient time is provided for compliance with newly implemented water quality objectives. In amending the Compliance Schedule Policy to allow for more time to comply with new limitations or interpretations of limits, the State Water Board and regional boards should ensure that compliance schedules reflect and be updated accordingly with applicable implementation plans, as well as clarify or provide for exceptions to the policy and/or grandfathering for variances, so that their treatment is similar to Total Maximum Daily Loads (TMDLs).

4. ISWEBE Plan: Establish Harmful Algal Blooms and Cyanotoxins Water Quality Objectives and a Program of Implementation

Regarding the establishment of numeric water quality objectives for harmful algal blooms (HABs) and the cyanotoxins they produce, CVCWA is already on record, in addition to numerous other stakeholders, that further analysis is necessary to consider whether the California Stream Condition Index (CSCI) is an appropriate metric as a water quality objective, particularly as applied in the Central Valley. Key information that would need to be developed under Water Code sections 13241 and 13242 includes:

- a. Current attainability of the CSCI score of 0.79 in the broad landscape of waterbody types that exist in California, with specific attention to waters in the Central Valley.
- b. Measures that could be taken to bring those waters that currently do not attain a CSCI score of 0.79 into compliance with that value.

- c. The consideration of the cost and effectiveness of such measures.
- d. The consideration of natural or other non-water quality-driven factors that could influence attainment of a CSCI score of 0.79 in a multitude of waterbodies.
- e. The overall cost and the tangible benefits to be derived from a policy that requires all waters in California to achieve a CSCI score of 0.79.

We appreciate the State Water Board staff's early communication around their plan to establish numeric water quality objectives for cyanotoxins, a narrative water quality objective for HABs, and a program of implementation to achieve those objectives. The Staff Report states that the current project "includes consideration of the 304(a) recommended criteria for cylindrospermopsin and microcystin for the protection of REC-1, and the underlying science." (Staff Report, p. 55.) More information is needed for stakeholders to understand the application of such criteria to the prioritization of the current project, as well as the development of the water quality objectives.

CVCWA reiterates its comment that incorporation by reference to MCLs is not the appropriate approach for development of water quality objectives if that is proposed as the means of providing protection of the MUN beneficial use, as it fails to take into consideration the significant issues regarding technological and economical feasibility.

A thorough understanding of the key drivers of HABs across differing ecosystems is necessary to craft implementation programs that achieve the stated goals while avoiding undesirable ecological outcomes. The drivers of HABs in the Sacramento–San Joaquin River Delta may differ from those in other parts of the state due to unique interactions between tidal mixing, water residence times, stratification, temperature, water clarity, invertebrate grazing, and nutrient dynamics. There are multiple efforts ongoing within the Delta to better understand the drivers of HABs, including the Delta Water Quality – Delta Nutrient Research Plan and the Delta Regional Monitoring Program, which includes biogeochemical modeling of management scenarios and nutrient reduction bioassay studies. Although we support the State Water Board in considering development of a framework for regional water boards to evaluate potential drivers of HABs and develop targeted programs of implementation at the regional level, such frameworks will need the flexibility to adapt to differing watersheds in California.

5. Policy to Support Development of Objectives for Copper and Zinc

CVCWA supports the establishment of a policy for development of site-specific and permit-specific water quality objectives for copper and zinc that is science-based. Accordingly, the Biotic Ligand Model (BLM) may not be applicable in northern California or the Central Valley for site-specific objectives if its application results in objectives that impose unachievable restrictions without reasonable consideration of environmental risk.

6. Recycled Water

There is a continued need to incentivize recycled water projects and reduce barriers to their implementation, while still protecting water quality and public health, and CVCWA supports that effort. As State Water Board staff work to revise the Recycled Water Policy to update recycled water goals and contaminants of emerging concern (CEC) monitoring requirements and other policy changes, CVCWA recommends that any changes be developed through comprehensive stakeholder engagement to ensure the best outcome for all interested parties.

To that end, work on harmonizing and developing the CEC program should be grounded in science-based risk evaluation, with applicability decided on a project-by-project basis.

Additionally, although Title 22's provisions are not applicable, CVCWA recommends that when recycled water goals are updated based on recent volumetric data, treated effluent used for environmental purposes be included. This use has real value beyond serving as a substitute for potable water.

7. Sources of Drinking Water Policy

CVCWA requests the inclusion of a project for the Sources of Drinking Water Policy to provide for simplified, streamlined aquifer exemption processes. Amendment of the policy is necessary to avoid the need for State Water Board action for an aquifer exemption as well as a separate regional board action for removal of MUN designation.

8. SEP Policy

CVCWA supports an amendment to the policy to extend the period for completion of projects beyond 36 months. While 36 months may be appropriate for certain regional SEPs, other projects need additional time for completion of permitting in addition to bids, design, and construction.

9. Thermal Plan

To the extent that the Thermal Policy is used to set POTW temperature limitations, CVCWA requests the inclusion of a project to amend the policy to take into account effluent dominated waterways. Flows primarily attributable to wastewater discharges require consideration of effluent temperature to establish achievable limitations that are not overly burdensome and appropriately reflective of environmental risk.

10. ISWEBE Plan: Toxicity Provisions

The California Supreme Court is currently considering the Court of Appeal, Fifth Appellate District's ruling in *Camarillo Sanitary District et al. v. State Water Resources*

Control Board, Superior Court No. 22CECG02195, that the Test for Significant Toxicity (TST) is not an approved method for analyzing Whole Effluent Toxicity (WET) under the federal Clean Water Act and cannot be used in NPDES permitting. If the Court of Appeal's decision is upheld, the State Water Board must act expeditiously to remove TST provisions from NPDES permits and provide guidance to the regional boards consistent with the Court's ruling. CVCWA requests that a project be added to the Review of State Plans and Policies reflecting the need for potential action by the State Water Board pending the Court's review.

11. Listing Policy

CVCWA supports the State Water Board's project to update listing and delisting factors and otherwise facilitate a more efficient methodology for developing an accurate and useful Clean Water Act section 303(d) list of impaired waters. Specifically, CVCWA reiterates its comments on prior listing cycles that there are significant issues of accuracy, consistency, and validity for many of the proposed listings. These include the use of non-regulatory thresholds and metrics as "evaluation guidelines" in lines of evidence (LOEs), outdated or incorrect water quality criteria, and inclusion of decades-old data. Additionally, the 2026 listing cycle introduced the concept of "remapping" to create new waterbody segments in the Delta and reorder data to create new listings. It took a substantial amount of time and resources to sort through the fact sheets, references, and supporting data for relevant listings. The State Water Board's use of an automated process has come to depend on stakeholder review of individual fact sheets to confirm accuracy.

Additionally, CVCWA has found that there is an operative presumption that waterbody segments should be listed as impaired based on the minimum data or LOEs permissible under the Listing Policy. The result is a State 303(d) List that has thousands of impaired waterbody segments, not for just toxicants or conventional pollutants, but things like benthic community impacts, multiple variations of salinity, and alkalinity. On the other end of the 303(d) process, regional water quality control boards have developed and adopted several total maximum daily loads (TMDLs) for these impaired waters in the same amount of time. There are real-world, practical impacts on the regulated community when receiving waters are listed as impaired. In NPDES permitting, impairment is a consideration in whether a water quality-based effluent limitation (WQBEL) is required for priority pollutants, and of course, there are considerable implications for permittees if a total maximum daily load (TMDL) is developed and adopted.

Because of these impacts throughout different areas of water quality regulation, it is important that the initial listing of a waterbody segment is accurate, justified, and reasonable. This is especially the case because delisting a waterbody segment encounters the opposite presumption – that waterbody segments shall only be removed from the 303(d) list in the case of faulty data, the revision of water quality standards or objectives, more samples showing non-exceedances under a statistical evaluation, or that the weight of the evidence shows attainment. It is important that the Listing Policy

be updated to ensure that accurate information is distributed in the first instance, rather than relying on stakeholder review and input within a short comment timeframe.

D. Issues Regarding USEPA 304(a) Criteria (Section 7 of the Staff Report for Review of State Plans and Policies)

CVCWA requests that the State Water Board address several issues related to the application of the United States Environmental Protection Agency (USEPA) 304(a) recommended criteria to ensure that the Review of State Plans and Policies process appropriately acknowledges limitations in data availability and certainty, and that is otherwise aligned with other water quality regulations.

1. Increases in Water Quality Are Not Considered

There are cases where chlorinating POTWs have effluent limitations based on the current California Toxics Rule (CTR) water quality objectives for dichlorobromomethane and dibromochloromethane when USEPA has increased the 304(a) criteria and the CTR water quality objective is now out of date based on the current 304(a) criteria. However, the Review of State Plans and Policies only considers lowering water quality standards: “If the 304(a) recommended criterion was less stringent than or equal to the currently effective standard, the parameter was not further analyzed.” (Staff Report, p. 47.) CVCWA requests that the Review of State Plans and Policies consider dichlorobromomethane and dibromochloromethane to increase the water quality objectives to at least match the 304(a) criteria and consider cancer risk adjustments to the one in one hundred thousand risk level.

2. Use of Non-Detect Data to Initiate Additional Review

State Water Board staff used results where samples were reported as not detected (“<”) or detected but not quantified (“DNQ”) to compare against the USEPA 304(a) criteria: “The estimated result was used for data with the qualifiers of less than (<), less than or equal to (<=), and detected not qualified (DNQ).” (Staff Report, p. 53.) This comparison strategy is not an appropriate use of the individual unquantified data. This comparison only highlights the issue that detection limits are too high for adequate evaluation of these lower criteria. CVCWA requests that the evaluation of water quality data not use unquantified data for quantitative comparisons.

3. Misalignment with Other Regulatory Programs

The Safe Drinking Water Act sets the allowable standards for drinking water served to consumers and is much higher than many CTR and USEPA 304(a) water quality objectives and criteria. Setting a discharge or ambient surface water quality standard lower than what is legally permitted in treated drinking water creates severe regulatory conflicts for municipal drinking water providers and NPDES permittees. Similarly, the process used by USEPA to register pesticides through the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) considers downstream water

quality impacts without consideration of the actual Basin Plan or other state water quality objective and associated beneficial use protection. These regulatory programs should be aligned to effectively protect beneficial uses and not allow specific conflicts where programs evaluate protection of beneficial uses differently.

CVCWA requests that the evaluation of water quality data consider the evaluation and threshold setting or product registration process performed in other regulatory programs when setting water quality standards to better align with water quality protection goals and practical implementation and compliance strategies. For example, municipal agencies and POTWs do not have authority over product registration or use and there is no direct regulatory feedback to product safety and registration. Additionally, when drinking water standards applied to NPDES discharges are orders of magnitude lower than drinking water provider MCLs, drinking water itself can be a source that needs to be controlled by NPDES dischargers.

4. Naturally Occurring Background Concentrations

The USEPA 304(a) criteria and CTR water quality objectives can be below naturally occurring conditions (e.g., arsenic USEPA 304(a) criteria) and/or the constituent may support pelagic, water column, or water interface ecological conditions (e.g., nutrients) and absolute and static not-to-exceed threshold may not support ecologic needs. Consideration of USEPA 304(a) criteria should factor these site-specific conditions when setting spatially broad water quality objectives and standards.

CVCWA requests that any evaluation of 304(a) first consider naturally occurring background conditions before setting water quality standards so as not to require regulatory programs where NPDES dischargers are the only “controllable” source but cannot have any impact on resolving the identified upstream impairment.

5. Use of One-In-Million Cancer Risk for MUN

The State Water Board’s use of the one-in-million increase in cancer risk factor applied to MUN beneficial uses in California is overly conservative when considering the thresholds and maximum contaminant levels used in the Safe Drinking Water Act. The risk factor calculations already consider conservative assumptions for daily consumption and lifetime exposure. Calculation of effluent limitations and compliance relies on high dilution and consistent performance by analytical laboratories at the extremely low water quality objective concentrations.

CVCWA requests that the evaluation of conditions where use of a less conservative cancer risk factor can be applied or that a longer averaging period be considered when using the one-in-million cancer risk increase. For all evaluations of cancer risk, CVCWA requests at least an evaluation of multiple risk levels that could be considered based on the specific surface water beneficial use.

Specific to Table 8 of the Staff Report regarding freshwater constituents, CVCWA performed an evaluation of the available CIWQS data to best match the described evaluation performed by State Water Board staff. As to salinity, the State Water Board staff analysis applied the 1986 USEPA-recommended criteria of 250 mg/L for chlorides and sulfates to all total dissolved solids data in the datasets, rather than compared to chloride and sulfates data. Total dissolved solids concentration can include substantial fractions of other constituents (e.g., sodium) that should not be considered against chloride and sulfates USEPA 304(a) criteria. This is an inappropriate comparison which also circumvents well-established salinity criteria and management programs established throughout California, but especially in the Central Valley region.

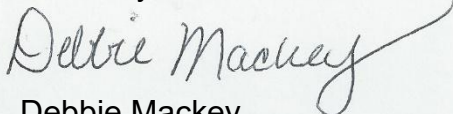
CVCWA requests that “Solids, Dissolved & Salinity” be removed from the Table 8 recommended reevaluations because the data comparison is inappropriate.

E. Comments by California Association of Sanitation Agencies

CVCWA supports and joins the comments on the Review of State Plans and Policies submitted by the California Association of Sanitation Agencies (CASA).

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

Sincerely,

A handwritten signature in black ink that reads "Debbie Mackey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Debbie Mackey
Executive Officer