



CVCWA

Central Valley Clean Water Association

Representing Over Sixty Wastewater Agencies

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March 16, 2009

Sent via Electronic Mail and U.S. Postal Mail

Mr. Daniel McClure
Central Valley Regional Water Quality Board
11020 Sun Center Drive, Ste. 200
Rancho Cordova, CA 95870-6114
dmccclure@waterboards.ca.gov

Subject: CVCWA Comments on Draft 2008 Update to the 303(d) List of Impaired Water Bodies in the Central Valley Region

Dear Mr. McClure:

The Central Valley Clean Water Association (CVCWA) appreciates the opportunity to comment on the Draft 2008 Update to the 303(d) List of Impaired Water Bodies in the Central Valley Region (draft 303(d) list). CVCWA represents the interests of more than 60 publically owned treatment works (POTWs) in the Central Valley in regulatory matters related to water quality and the environment. CVCWA's member agencies are directly and indirectly impacted by the proposed update to the draft 303(d) list.

We recognize the significant work effort completed by the Regional Board staff in preparing the draft document and organizing the supporting review documents and data in a public and transparent manner. We appreciate this opportunity to provide the following comments regarding the proposed updates to the list and the listing process.

Listings for Bis(2-ethylhexyl)phthalate

The draft 303(d) list proposes to add a listing for Bis(2-ethylhexyl)phthalate (Bis-2) for Arcade Creek and Morrison Creek, both of which are in the Sacramento urban watershed. Bis-2 is a well-known sampling and laboratory contaminant that, despite significant efforts by sampling teams and laboratories to use ultra-clean techniques, often results in detected values that may be due to contamination. This unresolved contamination issue has been recognized in recent NPDES permits in which effluent limits for Bis-2 have not been required despite apparent reasonable potential to cause or contribute to exceedance of a water quality objective. Listings in both cases are based on two exceedances in only four samples. Bis-2 should not be a 303(d) listed

constituent unless exceedances are supported by a large body of evidence, from which it is clear that detected values are not the result of sampling and laboratory contamination.

Trace Metals Listings

A spot check of one copper listing for Wadsworth Slough revealed that the listing was based on a total of two “exceedances”, one dissolved copper and one total copper, collected on the same day, possibly from the same sample. The hardness basis for the criterion calculation is not cited, and it appears no hardness data were collected and/or reported for the day of the reported exceedance. Without hardness data, CVCWA cannot determine if actual exceedance of the CTR criterion occurred, as most metals criteria are hardness dependent. It also appears the total copper data was inappropriately used for listing, as criteria is based on the dissolved portion of the metal, then “double-counted” with the dissolved copper result for the same sample date to give the two “exceedances”. The Water Control Policy for developing California’s Clean Water Act 303(d) List (Listing Policy) directs that listings should have temporal distribution (p. 23): “If the majority of samples were collected on a single day or during a single short-term natural event (e.g., a storm, flood, or wildfire), the data shall not be used as the primary data set supporting the listing decision.”

This was just one random trace metal listing for which data were extracted to check against listing criterion. It is quite possible that similar incorrect and inappropriate use of the metals data occurs with other listings. CVCWA recommends that all of the other trace metal listings be reevaluated to determine whether these were correctly developed with appropriate hardness data, do not “double-count” dissolved and inappropriately used total metals results from the same sample or sample day and are temporally varied.

Evaluation Guidelines Listings

Listings for aldicarb, dichlorvos, and oxyfluorfen are not based on appropriately developed Evaluation Guidelines. The Listing Policy allows Evaluation Guidelines to evaluate narrative water quality objectives for developing 303(d) listings. However, the Listing Policy also requires that the Evaluation Guidelines are demonstrated to be scientifically based and peer reviewed, and must identify a range above which impacts occur. For non-threshold chemicals, risk levels must also be consistent with comparable water quality objectives or water quality criteria. The Evaluation Guidelines used for aldicarb, dichlorvos, and oxyfluorfen do not meet these Listing Policy guidelines: they are based on applying an arbitrary factor of 10 to published LC50 values for sensitive species. This is not a scientifically valid or peer reviewed methods for establishing concentrations above which impacts are expected. It does not represent accepted or consensus scientific practice for developing water quality criteria for the protection of aquatic life or other beneficial uses. This method is not consistent with established scientific methods of developing water quality criteria (e.g., USEPA’s process) and results in a risk levels that are much lower than criteria developed for comparable purposes by USEPA.

CVCWA recommends removing any evaluation listing based on Evaluation Criteria that does not meet the Listing Policy’s guidelines found in Section 6.1.3 of the Listing Policy.

Thank you for the opportunity to comment. Please feel free to contact me at 530-268-1338 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Debbie Webster".

Debbie Webster, Executive Officer
Central Valley Clean Water Association