

Changes to Proposed Final Amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

The Proposed Final Amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) noticed and made available to the public on July 6, 2018, contain the State Water Resources Control Board’s revisions and clarifications to proposed changes to the 2006 Bay-Delta Plan in response to comments. As explained in the July 6, 2018, notice, proposed changes to the Bay-Delta Plan are shown in underline and ~~strikeout~~, and revisions to the proposed changes are shown in double underline and ~~double strikeout~~. The Proposed Final Amendments are located in Appendix K, Revised Water Quality Control Plan, of the proposed Final Substitute Environmental Document in Support of Potential Changes to the Water Quality Control Plan for the San Francisco Bay-Sacramento-San Joaquin Delta Estuary: San Joaquin River Flow and Southern Delta Water Quality (Final SED).

For ease of understanding changes to the Proposed Final Amendments made since July 6, 2018, changes previously shown in underline and ~~strikeout~~, and revisions to the proposed changes previously shown in double underline and ~~double strikeout~~, are shown as clean text in this change sheet. Changes shown in Change Sheet #1 are also shown as clean text in this change sheet.

The revisions that are shown in black bold single underline and ~~black bold single strikeout~~ in this change sheet reflect subsequent changes made to the Proposed Final Amendments with this Change Sheet #3. The revisions are made in response to oral comments made at the August 21-22, 2018, Board meeting on the Proposed Final Amendments or have been initiated by staff to provide additional clarity.

1. Modify Chapter IV.A.3, Implementation of February through June LSJR Flow Objectives (p. 28) to state:

When implementing the LSJR flow objectives through water right actions or water quality actions, the State Water Board will ~~include~~ require the development and implementation of minimum reservoir carryover storage targets or other requirements to help ensure that providing flows to meet the flow objectives will not have significant adverse temperature or other impacts on fish and wildlife or, if feasible, on other beneficial uses.

2. Modify Chapter IV.A.3, Stanislaus, Tuolumne and Merced Working Group (p. 32) to state:

The STM Working Group will also include State Water Board staff and may include any other persons or entities the Executive Director determines to have appropriate expertise, including non-governmental organizations. To the extent practicable, the Executive Director will strive to achieve a membership of the STM Working Group that is a balance of interests such that no one interest constitutes a majority of the group. Subgroups of the STM Working Group may be formed as appropriate and State Water Board staff may also initiate activities in coordination with members of the STM Working Group.

**The STM Working Group provides recommendations to the State Water Board, but has no control over diversions of water or water project operations. Persons assigned responsibility for implementing the February through June LSJR flow objectives maintain responsibility for the diversion or use of water or water project operations necessary to implement the water quality objectives.**

3. Modify Chapter IV.A.3, Annual Adaptive Operations Plan (p. 33) to state:

**The State Water Board will assign responsibility for submitting and implementing approved annual plans for adaptive implementation actions (annual adaptive operations plans) when it implements the LSJR flow objectives in water right or water quality actions. The STM Working Group or members or subsets of the STM Working Group, as appropriate, will be required to submit proposed annual plans for adaptive implementation actions (annual adaptive operations plans) will be required for the coming season by January 10 of each year and must be approved for approval by the State Water Board or Executive Director. Proposed annual adaptive operations plans must be subject to review by the STM Working Group prior to submission to the State Water Board. The State Water Board or the Executive Director will consider the recommendations of the STM Working Group when acting on annual adaptive operations plans, along with the requirements and procedures for adaptive implementation and other relevant information.** The State Water Board recognizes that an annual operations plan is based on a forecast from the best available information and may not accurately reflect actual conditions that occur during the February through June period.

4. Modify Chapter IV. B.1., related the Central Valley Regional Water Board regulation of municipal publicly owned treatment works (pp. 46 and 48) as follows:

The Central Valley Regional Water Board shall regulate in-Delta discharges of salts by agricultural, municipal POTW, and other dischargers consistent with applicable state and federal law, including, but not limited to, establishing water-quality based effluent limitations and compliance ~~where they are applicable~~, monitoring and reporting requirements, **where they are applicable**, as part of the reissuance of National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act and the regulations thereunder. In most, if not all, cases, it may be infeasible for POTWs discharging to the southern Delta to comply with traditional numeric water-quality based effluent limitations for salts in NPDES permits where they are applicable.

...

Where it is or becomes feasible for a POTW to comply with numeric water quality based effluent limitations for salts, the Central Valley Regional Water Board shall require them in the applicable NPDES permit. In such cases, POTW compliance actions include, without limitation, source control, such as reducing salinity concentrations in source water supplies; pretreatment programs, such as reducing water softener use among water users; and desalination. ~~In that event, if~~ the Central Valley Regional Water Board **determines it is feasible for a POTW to comply with numeric water quality based effluent limitations for salts, it** may grant compliance schedules for **new** compliance actions **to comply with the numeric limitations consistent with the State Water Board's Compliance Schedule Policy, Resolution No. 2008-0025**~~where appropriate~~. **A feasibility**

determination would result in the first instance of a legally binding numeric permit limitation for the POTW to implement the salinity water quality objective for the southern Delta set forth in Table 2, and shall be regarded as a “newly interpreted water quality objective” under All compliance schedules shall be in accordance with the State Water Board Compliance Schedule Policy, Resolution No. 2008-0025 at the time of the NPDES permitting action implementing the feasibility determination, except that the salinity water quality objective for the southern Delta set forth in Table 2 shall be considered a “new water quality objective” as used in the Compliance Schedule Policy. Where appropriate, the Central Valley Regional Water Board may also grant variances in accordance with applicable state and federal law.

Changes to the Resolution Adopting the Amendments to the Bay-Delta Plan and Final SED

Changes to the Resolution are made to update background information regarding the planning and environmental processes described in the Resolution and to correct clerical errors.

1. Add item (g) to Whereas No.7, to state:

**g. At a public meeting on August 21-22, 2018, the State Water Board heard oral comments and considered the adoption of the proposed Plan Amendments and Final SED. The State Water Board continued final action to November 7, 2018.**

2. Modify Whereas No. 13 to state:

13. The Final SED comprises Volumes I to III (which includes responses to comments), **as amended by change sheets; Comment Summary and Responses released in August 2018 to respond to comments solicited on July 6, 2018, on the changes to the language in the proposed Plan Amendments; Comment Responses released in October 2018 to respond to oral comments at the August 21-22, 2018, public meeting; and this resolution and its attachments, as amended by Change Sheet 1.** (Cal. Code Regs., tit. 23, § 3779.5, subd. (b).) The Final SED includes sufficient environmental and technical analysis to satisfy the requirements of CEQA and other applicable laws.

3. Revise Whereas No. 21.b as follows:

b. The State Water Board will consider voluntary agreements as part of its proceedings to implement the Plan ~~a~~**A** Amendments, consistent with its obligations under applicable law.

Changes to the Final SED

1. To address typographical or clerical errors in the Final SED that were found after the Final SED was released to the public on July 6, 2018, modify Chapter 4, *Responses to Comments Tables, References Cited Section* of Volume 3, *Responses to Comments*, to state:

The following are references cited in individual responses to comments that are not cited in either Volume 1, Volume 2, or Volume 3, Chapter 3, *Master Responses and Index of Form Masters*, of the Final SED. **Some references may have been inadvertently omitted from this list of references; however, references are included in the specific unique response in which they are used, identified therein by in-text citations.**

2. To be consistent with the cited reference, modify the following sentence in Master Response 3.3, *Southern Delta Water Quality* (p. 11), contained in Chapter 2, *Master Responses*, of Volume 3, *Responses to Comments*, of the Final SED:

In 2013, yield at all sites met or exceeded **likely** annual ~~average~~ alfalfa yields **that can be grown with ideal soil characteristics and best management practices in for** California, (8 to 10 tons/acre [Orloff 2007]), and in 2014, yields at three of the sites still met or exceeded ~~the those likely~~ annual **average alfalfa yields.**