

ITEM: 6

SUBJECT: Potential Basin Plan Amendments and TMDLs for the Control of Pyrethroid Pesticide Discharges – *Board Workshop*

BOARD ACTION: No Formal Action. Staff Presentation and Oral Comments for Consideration in Development of Proposed Regulatory Approaches

BACKGROUND: Central Valley Water Board staff are developing a proposed amendment to the Water Quality Control Plan for the Sacramento-San Joaquin River Basins (Basin Plan) to establish a control program for pyrethroid pesticides that addresses waterbodies that are listed as impaired by pyrethroid pesticides on the Clean Water Act Section 303(d) list, as well as potential future impairments. Staff has scheduled this Board Workshop to hear comments from stakeholders, Board members and the public on the potential regulatory approach and other issues related to the development of the proposed Basin Plan Amendment.

The overall goal of the Pyrethroids Basin Plan Amendment project is to establish clear requirements for the control of pyrethroid pesticide discharges in the Sacramento and San Joaquin River watersheds, including the Delta, in order to reasonably protect beneficial uses. The Pyrethroid Basin Plan Amendment has been in development since 2012. During that time, staff has held seven stakeholder meetings at which regulatory approaches, technical issues and preliminary draft Basin Plan Amendment language were discussed. The Board also held a February 2016 workshop on potential regulatory options and a June 2016 information item on monitoring needs and challenges associated with pyrethroids.

This agenda item is a follow-up to the February Board workshop on regulatory options. Staff composed a draft “strawman” outline of a general approach for a proposed Basin Plan amendment, which was publicly circulated in May and discussed at a 1 June stakeholder meeting. A revised “strawman” regulatory approach was developed based on stakeholder comments and is included with the agenda materials. Also included with the agenda materials, to provide some context for the discussion, is a brief informational document summarizing pyrethroid uses, sources, toxic effects, potential controls, and the process of developing the pyrethroids Basin Plan Amendment.

The revised “strawman” document proposes a phased approach consisting of interim controls and monitoring for pyrethroids for a number of years, followed by Board consideration of additional basin plan amendments based on data gathered during that interim period, such as additional TMDLs and/or pyrethroids-specific water quality objectives. During the interim period, the Board would gather data, require the implementation of best management practices to control pyrethroids, and emphasize coordination with pesticide regulators in the near term. Staff’s proposed approach utilizes a conditional prohibition, TMDLs for urban waterbodies already listed as impaired, and “category 4b” demonstrations for water bodies receiving agricultural discharges (i.e. demonstrations that the Board’s existing regulatory programs adequately address impairments in agricultural water bodies). The approach also includes monitoring requirements for all dischargers of pyrethroids, a commitment for the Board to coordinate with pesticide regulators, and a commitment for the Board

to consider adoption of pyrethroid water quality objectives after an interim period of implementation and data gathering.

Following the August Board Workshop, staff plans to complete a full draft proposed Basin Plan Amendment, and the corresponding staff report is scheduled for public review in Fall 2016. A Board hearing for public comments is scheduled for December 2016 and a hearing for the Board to consider potential adoption of the amendment is tentatively scheduled for February 2017.

ISSUES:

1. Because pyrethroids can be toxic to aquatic life at very low concentrations, the proposed pyrethroid triggers and TMDL targets are very low concentrations; there is controversy as to the level of protection that is needed, and uncertainty as to the feasibility of attaining targets and triggers.
2. Attaining the pyrethroid triggers and targets, particularly in urban areas, will likely require a combination of discharger implementation of reasonable best management practices and additional source control efforts. The most efficient means of source control efforts is regulation of pesticide use, which is under the jurisdiction of the federal Environmental Protection Agency and the California Department of Pesticide Regulation, but is outside of the regulatory authority of the water boards. While the Board can make recommendations to these agencies, and has successfully coordinated with them in the past on water quality issues, these agencies operate under different mandates than the Board.
3. The draft regulatory approach being crafted to support the project objectives approach is different from the approach used for past pesticide basin plan amendments and TMDLs. These differences are to address issues of uncertainty in attainability of targets and to avoid potential unintended regulatory consequences that could result from adoption of a water quality objective. The details of how the proposed prohibition would work need to be analyzed and refined to ensure the amendment successfully supports the project objectives and provides adequate regulatory direction while maintaining appropriate flexibility.

RECOMMENDATION

No Board action is required.

Mgmt. Review JEC/_____
Legal Review ASD_____
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