

WATERSHED COALITION

News

INFORMATION FOR CENTRAL VALLEY AGRICULTURE

FALL 2016

NORTH
VALLEY

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State Water Board Proposes Significant Changes to Irrigated Lands Program

The ink wasn't even dry on the Waste Discharge Requirements (WDR) adopted for the East San Joaquin Water Quality Coalition (ESJWQC) in December 2012 before petitions were filed against the new Order. Activist groups complained it wasn't strict enough; a water quality coalition complained it was too strict. More than three years later, the State Water Resources Control Board released on February 8, 2016 its response to the petitions in the form of a revised WDR with major proposed changes that the coalitions, farm groups and even the Central Valley Regional Water Board (Regional Water Board) are unhappy with.

The State Water Board acts as the appellate for any challenge brought against a regulation adopted by a Regional Water Board. Historically, the State Water Board rulings range from minor changes to substantial re-writes [as is the case with the ESJWQC WDR]. A revised WDR then goes through a public process where written comments and public workshops lead to new revised version. That revised version goes out for final written comments and then before the State Water Board for public hearings. Should any of the original petitioners [or the ESJWQC] be unhappy with the outcome, they can then appeal the revised Order to a Superior Court.

As of November, the revised ESJWQC WDR was working its way through the final rewrite process. The State Water Board is expected to hold a public hearing on a final revised version in early 2017.

Two extraordinary public workshops were held on October 19 and November 18 by State Water Board staff seeking clarification of comments received earlier in the year at the two public workshops held in Sacramento and Fresno and in written comments.

While it is too soon to say which of the State Water Board's proposed changes will make it into the final WDR, it is possible some will be adopted into what is being called a "precedential order" affecting all Irrigated Lands Regulatory Programs in California including the WDRs adopted for the other Central Valley coalitions. The major proposed changes include:

- Requiring all coalition members to monitor domestic wells on their parcels that serve residences, shops or other facilities. When a domestic well exceeds the nitrate drinking water standard, the member or coalition must provide notice to the Regional Water Board within 24 hours. Test results must also be included in a coalition's monitoring report.
- All members, regardless of groundwater vulnerability designation, must prepare an Irrigation and Nitrogen Management Plan and have it certified by professional (Certified Crop Advisor/CCA, agronomist, etc.), or complete a self-certification course. All members must also submit a Nitrogen Summary Report to their coalition as well as the Regional Water Board.

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State Water Board Proposes Significant Changes to Irrigated Lands Program

(continued)

- Irrigation is added to the existing Nitrogen Management Plan with requirements to report total water applied to a crop and estimated Evapotranspiration (ET) each year.
- Eliminate all groundwater vulnerability designations so reporting requirements such as annual Farm Evaluations would apply equally to all growers in the Central Valley and across the state.
- Coalitions would be required to transmit all data and information to the Regional Water Board, including field level data by location rather than reporting aggregated information. Since this information would be submitted to the Regional Water Board, it would then be considered public. The State Water Board is also developing a system where all information such as nitrogen fertilizer reports and farm evaluations are uploaded onto a public website.

Central Valley coalitions participated in four meetings over the summer with Environmental Justice representatives and Regional Water Board staff to develop alternatives to the State Water Board's proposed changes. At the October 19 workshop, it appeared compromises on the key issues listed above could make their way into the revised Order expected out in January 2017. The proposed draft order, all written comments and related information is posted on the State Water Board site: www.waterboards.ca.gov/public_notices/petitions/water_quality/a2239_sanjoaquin_ag.shtml and www.waterboards.ca.gov/public_notices/comments/a2239ac/ ☀

Growers Fined for Ignoring Program

The Regional Water Board continues to issue significant Administrative Civil Liability (ACL) fines against growers for failure to obtain regulatory coverage for discharges from their irrigated cropland in the Central Valley. To date the largest fine payed was by a Madera County grower totaling more than \$50,000. Initial enforcement focus was on growers in Madera, Merced and Stanislaus counties who had not obtained an individual discharge permit or joined the East San Joaquin Water Quality Coalition.

This area was targeted first because ESJWQC was the first coalition to obtain a Waste Discharge Requirement permit in December 2012. Enforcement efforts are expanding to other regions of the Central Valley as the initial "amnesty period" for obtaining regulatory coverage that growers are given in each region expires.

In recent months, enforcement activities have been ramped up. In the period from July to September 2016, the Regional Water Board issued 87 directives to growers who had irrigated parcels not enrolled in a coalition or holding an individual permit. Those directives went to landowners in the East San Joaquin, Sacramento Valley and Kings River regions. If those directives are ignored, pre-ACL letters are mailed to growers informing them that if action is not taken promptly to join a coalition or initiate an individual permit, an ACL fine will be levied. While most growers respond quickly to the notices, other have ignored or delayed their response and will be forced to pay significant penalties. Recent complaints filed have proposed fines ranging from \$25,000 up to \$70,000. In November 2016, the Regional Water Board will hold its first meeting of an enforcement hearing panel in Fresno set up to handle the increasing number of cases

with ACL fines that are being contested by the growers.

Regional Water Board has also begun enforcement actions against growers in the East San Joaquin Water Quality Coalition for not submitting Nitrogen Management Plan Summary Reports. The Summary Reports include information from the NMP worksheet that growers develop and keep on the farm such as total nitrogen applied per acre. Notices of Violations (NOVs), the first step of the formal enforcement procedure, were sent to 67 ESJWQC members for failure to submit the Summary Report by the March 1 deadline. The NOVs require that the members provide their summary reports to both the Coalition and the Water Board. As of September 14, 32 NOV recipients had responded by submitting the missing summary report. Non-compliant members are subject to formal enforcement actions, including the possibility of fines.

ESJWQC staff was notified of the impending NOV filings and contacted each member who had not submitted the NMP Summary Report, offering assistance in completing the report and encouraging them to promptly respond. The Regional Water Board was also contacted by ESJWQC in an attempt to delay the enforcement actions but were told that political pressure and the need to show the State Water Board that the existing program was functioning as intended prevented them for delaying the actions. Not all ESJWQC members who failed to submit the Summary Report were given an NOV; some had health issues or property sale conflicts that prevented timely submissions. However, the Regional Water Board said it still expects 100% compliance with the reporting requirements. ☀

A/Y; The New Nitrogen Removed

The Nitrogen Management Plan (NMP) template approved by the Regional Water Board in December 2013 contains a box labeled "N Removed." This space is where a grower writes a number that represents the sum of a seemingly simple calculation: total nitrogen applied to grow a crop minus the amount of nitrogen removed by the crop at harvest (and stored in the tree or vine in the case of perennial crops).

The A/R or "Applied N divided by N Removed" was a recommendation made by the State Water Board's "Expert Panel" as the best means for growers to understand if they were applying more nitrogen than a crop needed. Following this logic, an A/R of "1" means all the nitrogen applied to a crop is used by the crop. For example, 100 pounds of nitrogen applied resulted in 100 pounds of nitrogen being removed from the field in the harvested crop so the ratio is "1". An A/R of "2" means a grower is applying twice the amount of nitrogen needed to produce the crop with the excess nitrogen possibly leaching into groundwater. Or said another way, 200 pounds of nitrogen was applied but only 100 pounds was removed from the field in the harvested crop.

The Regional Water Board approved the A/Y approach, which was developed by a group of agronomists and coalition leads, as a better metric for reporting "N removed." This number, A/Y or Applied N over Yield, is now the number growers need to include in their annual nitrogen summary report to the coalitions (in addition to total nitrogen applied). The A/Y approach came out of numerous meetings held over the summer of 2015 by the Nitrogen Management Plan Technical Advisory Work Group (TAWG). The TAWG participants concluded that there was not adequate crop nitrogen consumption information available for growers to adequately calculate A/R. Conversely, all growers know how much nitrogen fertilizer is applied per acre and the average crop yield per acre.

Each crop will have a unique A/Y metric that will allow comparisons to other growers of the same crop. As crop N consumption information is developed, the A/R at various application rates and production levels can be compared to A/Y, giving growers an idea how close they are to applying the proper amount of N a crop needs for optimum production and not leaving extra nitrogen in the soil profile that might potentially leach to groundwater. ☀

Program In Development for Sediment and Erosion Control Plan Grower Certification

Central Valley water quality coalitions are combining resources to develop a program for growers to self-certify their Sediment and Erosion Control Plans (SECP). Currently, these plans are required of growers who have the potential to discharge storm water or irrigation drainage into waters of the State. The existing requirement is that a professional such as an engineer must develop and approve these farm specific plans. In some coalitions, the deadline has already passed for this certification plan to be developed and kept on farm but many growers have not completed the plans.

The new program is intended to enable growers to participate in the training, take a test, then develop their own plan. The Central Valley coalitions hired an engineering firm to develop the training curriculum that must then be submitted to the Regional Water Board for approval. The firm will work closely with the Natural Resources Conservation Service (NRCS) and coalition leads to develop the curriculum before it is submitted for approval. Plans are to begin holding grower training sessions at various locations throughout the Central Valley by early 2017. ☀

Regional Water Board Farm Inspections Underway

In 2016, the Regional Water Board (RWB) began performing farm property inspections throughout the Central Valley. To date, none of the inspections have resulted in formal enforcement actions although deficiencies in several areas have been verbally communicated at the conclusion of inspections. In almost all inspections, the coalitions have been contacted in advance and asked to accompany Regional Water Board staff. In a letter sent to growers before the visit, growers are told the reason for the inspection and documents to have available.

What is the purpose of the inspection?

- Discuss and evaluate compliance with the General Order;
- Identify, observe, and document areas where the grower and/or landowner is successfully implementing management practices;
- Identify, observe, and document areas where improvement may be needed; and
- Assess how the grower is using an iterative process to implement management practices to protect and improve water quality (e.g., How is the grower implementing and evaluating practices? What plans does the grower have for improvement if practices are not successful in controlling discharge?).

The areas and documents the board staff may inspect:

- Farm Evaluation and Nitrogen Management Plan
- Groundwater wells and backflow prevention devices
- Fertilizer and pesticide storage and handling areas
- Farm perimeter, including areas adjacent to creeks and riparian areas
- Areas vulnerable to erosion (presence of bare soil)
- Actual or potential discharge locations (e.g. outfalls, ponds, irrigation runoff)
- Management Practices (e.g. irrigation management, erosion control) ☀

Central Valley Coalitions Contact Information and Key Deliverable Dates and Deadlines*

(Entities listed from North to South)

COALITION NAME MAIN CONTACT	GROUND-WATER ASSESSMENT REPORT	FARM EVALUATION	NITROGEN MANAGEMENT PLAN (NMP)	SEDIMENT & EROSION CONTROL PLAN	NMP SUMMARY REPORT
SACRAMENTO VALLEY WATER QUALITY COALITION BRUCE HOUDESHEDT BRUCEH@NORCALWATER.ORG WWW.NORCALWATER.ORG	6/4/2015	3/1/2015	3/1/2017	3/3/2017 LT 12/31/2017 SW 12/31/2018 OW	2/1/2017
CALIFORNIA RICE COMMISSION ROBERTA FIROVED RFIROVED@CALRICE.ORG WWW.CALRICE.ORG	8/2/2013	11/30/2014	11/30/2014		
SAN JOAQUIN COUNTY & DELTA WATER QUALITY COALITION MICHAEL WACKMAN INFO@SJDELTAWATERSHED.ORG WWW.SJDELTAWATERSHED.ORG	4/25/2015	HV– 6/15/2015 LV– 6/15/2015	HV– 6/15/2015 LV– 6/15/2017	HV– 2/18/2016 LV– Not Required	HV– 6/15/2016 LV– Not Required
EAST SAN JOAQUIN WATER QUALITY COALITION PARRY KLASSEN KLASSENPARRY@GMAIL.COM WWW.ESJCOALITION.ORG	1/13/2014	LF HV– 3/1/2015 SF HV– 3/1/2015 LF LV– 3/1/2015 SF LV– 3/1/2017	LF HV– 3/1/2015 SF HV– 3/1/2017 LV– 3/1/2017	LF – 1/22/2016 SF – 7/23/2016	LF HV– 3/1/2016 SF HV– 3/1/2018 LV– Not Required
WESTSIDE SAN JOAQUIN RIVER WATERSHED COALITION JOSEPH MCGAHAN JMCGAHAN@SUMMERSENG.COM WWW.WESTSIDESJR.ORG	3/17/2015	All–12/15/2014 HV– 3/1/16-Update Yrly. LV– 3/1/20-Update 5 yrs.	LF HV– 4/15/2015 SF HV– 4/15/2017 All LV– 4/15/2017 All– Update Yearly	LF HV– 5/23/16 SF HV– 11/23/16 LV– Not Required *Tentative date	LF HV– 3/1/2016 SF HV– 3/1/2018 LV– Not Required
KINGS RIVER WATER QUALITY COALITION CASEY CREAMER CASEY@KINGSRIVERWQC.ORG WWW.KINGSRIVERWQC.ORG	HV– 3/1/2015 LV– 3/1/2016 SF LV– 3/1/2018	HV– 3/1/2016 SF HV– 3/1/2016 LV– 3/1/2018	90 days after NMP approval; plans certified by 3/1/2016 SF HV– 3/1/2017 LV– 3/1/17	LF – 180 days from approved SDEAR SF – 1 year from approved SDEAR	LF HV– 3/1/2017 SF HV– 3/1/18
WESTLANDS WATER QUALITY COALITION CHARLOTTE GALLOCK CGALLOCK@WESTLANDSWATER.ORG	Submitted 2/16/2015	3/1/2017	3/1/2017	SDEAR HV 5/18/2016	3/1/2017
KAWeah BASIN WATER QUALITY ASSOCIATION DONALD IKEMIYA DIKEMIYA@KAWEAHBASIN.ORG WWW.KAWEAHBASIN.ORG	2/7/2015	HV– 3/1/2015	LF HV– 3/1/2015	180 Days (Large Farms) from approved SDEAR due 2/7/2015	LF HV– 3/1/2017 SF HV– 3/1/18
TULE BASIN WATER QUALITY COALITION DAVID DEGROOT DAVIDD@4-CREEKS.COM, RSCHAFER@RLSMAP.COM WWW.TBWQC.COM	2/4/2015*	HV– 3/1/2016* LF LV– 3/1/16 SF LV– 3/1/2018	3LF HV– 90 days after template approval	LV HV– 180 days SF - 1 year from SDEAR	LF HV– 3/1/2017
KERN RIVER WATERSHED COALITION AUTHORITY NICOLE BELL NBELL@KRWCA.ORG WWW.KRWCA.ORG	2/4/2015	3/1/2016	90 days after NMP approval; plans certified by 3/1/2016 SF HV– 3/1/2017 LV– 3/1/17	LF – 4/4/2016 SF – 10/7/2016	LF HV– 3/1/2017 SF HV– 3/1/18
CAWELO WATER DISTRICT DAVE HAMPTON DHAMPTON@CAWELOWD.ORG WWW.CAWELOWD.ORG	4/27/2015	6/17/2014	90 days after NMP approval; plans certified by 3/1/2016 SF HV– 3/1/2017 LV– 3/1/17	LF – 180 days from SDEAR SF – 1 year from SDEAR	LF HV– 3/1/2017 SF HV– 3/1/18
BUENA VISTA COALITION TIM ASHLOCK TIM@BVH20.COM	2/4/2015	4/8/2014	90 days after NMP approval; plans certified by 3/1/2016 SF HV– 3/1/2017	LF – 180 days from SDEAR SF – 1 year from SDEAR	LF HV– 3/1/2017 SF HV– 3/1/18
WESTSIDE WATER QUALITY COALITION GREG HAMMETT ADMIN@WWQC.ORG WWW.WWQC.ORG	3/1/15, 2016 and 2018	3/1/2016	90 days after NMP approval; plans certified by 3/1/2016 SF HV– 3/1/2017 LV– 3/1/17	LF – 180 days from approved SDEAR SF – 1 year from approved SDEAR	LF HV– 3/1/2017 SF HV– 3/1/18

* Dates subject to change. Always verify dates with individual coalitions.

LV = Low Vulnerability
HV= High Vulnerability
SF = Small Farm
LF = Large Farm

LT = Large Tributaries
SW = Secondary Waterbodies
OW = Other Waterbodies

Trainings Underway for Grower Certification of Nitrogen Plans

Central Valley Coalitions are holding their second year of meetings where growers are being trained to certify their own Nitrogen Management Plans (NMP). The training meetings are becoming regular events as some growers in high vulnerability groundwater areas chose to write their own plan rather than obtain a sign-off by a Certified Crop Advisor (CCA) or trained agronomist, as is now required.

Over the winter of 2015-16, a total of 31 training sessions were organized and 1609 growers were certified to write their own plans. Twenty-eight CCAs received trainings that enabled them to instruct at these grower meetings. The CCA training events, taught by Terry Prichard and Larry Schwankle of the University of California, were funded by a grant from the California Department of Food and Agriculture, Fertilizer Research and Education Program (FREP). The grant is also funding the Coalition for Urban Rural Environmental Stewardship (CURES) to assist in organizing the CCA training and grower courses as well as grade tests

and distribute results to growers. Each coalition selects the trained CCAs to perform certification classes in their regions. The FREP grant also supports a website with locations and times of grower trainings: www.curesworks.org/growerTrainings.asp. A grower can attend any course to obtain the certification; it does not need to be a meeting scheduled in their coalition region.

In the grower trainings held in winter 2015-16, the passing rate for the four-hour course was 82%. The average test score was 79%; a passing grade is 70%. After passing the test, a grower can certify the NMP for his own property and lands that are leased by the member. The certification is valid for three years as long as a grower attends three hours of Continuing Education (CE) courses covering crop nutrition. Details on CE courses are still being developed but it is expected that Central Valley coalitions would organize CE meetings and training sessions in conjunction with UC Farm Advisors, CDFA, commodity groups and other agricultural entities. ☀

State Acreage Fees Remain Flat for 2016-17

The good news on State Water Board acreage fees; they remain at 75 cents an acre for the 2016-17 fiscal year. The bad news is there is no guarantee they will stay at 75 cents per acre in the coming fiscal year. Agriculture narrowly dodged in 2016 a 40% increase to \$1.10 per acre when the State Water Board backed off its initial estimate that more funding was needed. The reason given for the failed 2016 increase was that more funds were needed to pay for a larger Regional Water Board staff to enforce regulations aimed at irrigated agriculture in California. The state fees, paid by growers in all farming regions of the state with Irrigated Lands Regulatory Programs, are included in annual dues of water quality coalitions then paid in one check to the State Water Board each year. When the program started in 2004, State fees were 12 cents per acre. ☀

Coalitions Begin Collecting Nitrogen Use Information

Growers in several regions of the Central Valley reported for the first time the amount of nitrogen applied to their cropland in fertilizer, manure, compost and nitrogen in irrigation water. Growers with parcels in high vulnerability areas and farms over sixty acres were required to report in three coalitions: the East San Joaquin Water Quality Coalition, the San Joaquin County and Delta Coalition and the Westside San Joaquin River Watershed Coalition. Members of those organizations had to report the total sources of nitrogen applied to their fields in 2015. Growers in other coalitions will begin reporting in 2017 for the 2016 crop year. The staggered adoption of Waste Discharge Requirements (WDR) for Central Valley Coalitions led to differing deadlines for the nitrogen reporting requirements (see chart page 4).

The nitrogen application amounts are derived from the Nitrogen Management Plan (NMP) template or worksheet that was distributed to growers in early 2015. Information that growers reported to coalitions in 2016 includes:

- Field and crop identification information;
- Total nitrogen applied in the 2015 crop year from sources including commercial fertilizer, compost/manure, and nitrogen in irrigation water from wells high in nitrates;
- A calculation of total nitrogen applied divided by the crop yield (A/Y) (see accompanying article).

Information from member fields in high vulnerability areas is gathered by coalitions then combined into township (23,040 acres) size reports. Each township report is then segmented into specific crop sections and if needed, subdivided by soil types. Each coalition has different deadlines for submitting its township-sized reports to the Regional Water Board with the first reports submitted in mid-2016. ☀

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Watershed Coalition News

Ask The Water Board

Watershed Coalition News asks readers to pose questions to the Central Valley Water Board. This column is written by Sue McConnell, Program Manager for the Irrigated Lands Regulatory Program, concerning an action taken by the Central Valley Water Board against a grower who had graded rolling hills in preparation for planting an orchard with winter rains approaching.

Why was a Cleanup and Abatement Order (CAO) filed against this landowner in eastern Stanislaus County?

The Central Valley Water Board received reports of significant grading on previously pasture land in the lower foothills. The work was apparently being done in preparation to plant a permanent crop. Our inspections showed considerable earth moving occurring with no obvious erosion control practices in place on the sloped topography and graded soil. The Cleanup and Abatement Order required that the landowner take immediate actions to prevent all discharge of sediment or other wastes to waters of the state, including an adjacent creek leading to Tuolumne River.

What were these “immediate actions?”

The landowner was required to develop a sediment and erosion control plan, certified by a professional. The plan was required to describe the soil stabilization and erosion control management practices to be used and how the landowner would clean up or mitigate any sediment discharges to surface waters should they occur during rain events. Timelines and long term monitoring to assess the effectiveness of the sediment and erosion control efforts were also required.

Why was the enforcement focused in this area?

In the recent past, there has been sizable rain events in the area where this property is located. Our concern is protecting the streams and rivers that were impacted by heavy sediment discharges several years ago after heavy rains in the same area where this action was taken.

So are there fines associated with a CAO?

Not from this initial action. But if the Central Valley Water Board determines that the landowner fails to comply with the plan they developed, we may follow up with further enforcement actions or refer the matter to the attorney general. Failure to comply may result in an assessment of up to \$10,000 per violation, per day, depending on the violation.

What is a Sediment and Erosion Control Plan?

Growers in the Central Valley are required to have a Sediment and Erosion Control Plan (SECP) if their fields have the potential for erosion and discharge of sediment that may degrade surface waters. SECPs are designed to document practices being used on a farm to ensure that water quality is being protected. Each coalition is required to determine which members need an SECP using a model which evaluates slope and land use to determine the potential for erosion and subsequent sediment discharge. The second method is when members indicate on their Farm Evaluations that they have the potential to discharge sediment. Additional work is being performed by the Coalitions to evaluate parcels on the Valley floor and adjacent to rivers, creeks and canals to determine if they have the potential to discharge sediment. The SECP template approved by the Regional Water Board is posted at www.esjcoalition.org/secp.asp