

WATERSHED COALITION

INFORMATION FOR CENTRAL VALLEY AGRICULTURE

GROUNDWATER REGULATION SPECIAL ISSUE

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News



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Groundwater Regulations Taking Shape

Central Valley growers got their final shot in August at shaping groundwater regulations for the East San Joaquin Water Quality Coalition (eastside coalition) region. The Regional Water Board on July 6 released a public review draft of the "General Order" that spells out new requirements for the eastside coalition. Comments were due August 6.

This coalition is the first of seven agricultural third-party entities working through the process of developing individual General Orders or Waste Discharge Requirements (WDR) over the next two years. Each coalition's Order will be voted on individually by the sitting Water Board with a vote on the eastside coalition set for October 4, 2012.

A Regional Board workshop on June 7 focused on the draft eastside coalition order revealed that Board members want to see a program that has accountability but is not overly burdensome for farmers. Community water activists are pushing for reporting of individual farm and fertilizing practices while farmers counter that the proposed reporting requirements create excessive paperwork with little improvement in water quality.

The draft WDR and workshop are the culmination of more than five years of activities devoted to developing what is called the Long Term Irrigated Lands Regulatory Program (ILRP). A programmatic Environmental Impact Report (EIR) was adopted by the Regional Board in June 2011, setting the stage for drafting the WDRs by Regional Water Board

staff. Agricultural organizations got a preview in 2010 of what the WDR might contain when the Regional Board and stakeholders developed five potential options or approaches for the comprehensive regulations (WCN Spring 2010 issue). The draft WDRs now being considered take elements from each of those options.

As expected, legal action has already been taken against the programmatic EIR by activist and farm groups. California Sport Fisherman's Alliance (CSPA) filed an action in superior court, demanding that the EIR be invalidated and that all future actions be stopped until the EIR is revised and recirculated. In their lawsuit, CSPA argues that the EIR and the existing Conditional Waiver are inadequate because they fail to require individual farm reporting and individual farm monitoring. CSPA continues to argue that the coalitions are inappropriate in the role that they play and that there should be more direct, public reporting between individual growers and the Regional Board.

While the Regional Board claimed that each coalition would develop WDRs unique to their geography and conditions, documents released so far are for the most part identical to the eastside coalition WDR. The administrative draft for the South San Joaquin Water Quality Coalition released on July 7 had no substantial differences in key requirements for coalition members compared to the eastside coalition draft WDR. All other Central Valley Coalitions will be receiving initial draft WDR documents before the end of 2012. ☘



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Timelines for Central Valley Coalition WDR*

ENTITY	PUBLIC COMMENT	BOARD VOTE
EAST SAN JOAQUIN WATER QUALITY COALITION	JULY 2012	OCTOBER 2012
CALIFORNIA RICE COMMISSION	AUGUST 2012	DECEMBER 2012
SOUTH SAN JOAQUIN WATER QUALITY COALITION	OCTOBER 2012	FEBRUARY 2013
SACRAMENTO VALLEY WATER QUALITY COALITION	FEBRUARY 2013	JUNE 2013
WESTLANDS WATER DISTRICT	MAY 2013	AUGUST 2013
SAN JOAQUIN COUNTY AND DELTA COALITION	AUGUST 2013	OCTOBER 2013
WESTSIDE SAN JOAQUIN RIVER WATERSHED COALITION	AUGUST 2013	OCTOBER 2013

*SUBJECT TO CHANGE

Is Your Farmland “Vulnerable?”

All irrigated farmland in the Central Valley covered by the proposed Waste Discharge Requirements will eventually be classified into two broad categories: high vulnerability and low vulnerability areas. These terms describe the potential risk of discharges of sediment or farm inputs to either surface water or groundwater.

Classifications for surface water will be based initially on existing management plans while groundwater vulnerability will be determined by using several factors including, but not limited to: physical conditions of the area (soil type, depth to groundwater, beneficial uses, etc.); water quality monitoring data; and farming practices (pesticide permit and use conditions, label requirements, application methods, etc.). Additional information such as models, studies and other data collected may also be considered in designating the level of vulnerability.

An initial requirement for coalitions is to prepare a “Groundwater Assessment Report.” This report will be a compilation of all existing information about groundwater vulnerability in their region. High vulnerability will likely be designated to:

- areas already under groundwater protection programs for pesticides set by the California Department of Pesticide Regulations;
- areas already classified as such by the State Water Resources Control Board;
- the results of assessing additional information sources on existing groundwater quality;
- hydrogeological conditions and other factors such as areas of high fertilizer use.

According to the draft WDR, a high vulnerability designation occurs where “available information indicates irrigated lands could cause or contribute to an exceedance of water quality objectives or degradation of groundwater quality that may threaten applicable beneficial uses.” Conversely, low vulnerability areas for groundwater do not exhibit characteristics of high vulnerability groundwater areas.

In each assessment report, coalitions will propose vulnerability designations that may be refined and updated periodically. The Regional Water Board will ultimately make the final determination of vulnerability. Based on the draft WDR, farms in high vulnerability areas will have shorter compliance timeframes and increased reporting requirements versus farms in low vulnerability areas. 🐾

Farm Evaluation Characterizes Management Practices

A new requirement for all coalition members under the draft Waste Discharge Requirements (WDR) is to prepare a farm evaluation. A completed evaluation will list and describe all the management practices implemented by a grower to protect surface and groundwater quality. Included in the evaluation will be information such as location of the farm, surface water discharge points, location of irrigation wells and abandoned wells and types of wellhead protection practices.

According to the draft WDR being considered for the East San Joaquin Water Quality Coalition, the farm evaluation template is proposed to be developed with Regional Water Board staff working with coalitions, commodity groups, technical service providers and other interested stakeholders. Once developed and approved, farm evaluations will need to be completed and returned to the coalition for compilation. A copy will also need to be kept at a farm headquarters and be available should a Regional Board inspector request the evaluation.

Regional Water Board staff justify in the draft WDR why all members need to complete the evaluation as follows:

- It provides the Water Board with information on individual member implementation of WDR requirements;

- Without this information, the board would rely solely on regional surface and groundwater monitoring to determine compliance with water quality objectives;
- Regional monitoring cannot determine whether all members are implementing protective practices, such as wellhead protection measures for groundwater.
- Regional monitoring does not allow identification of which practices are protective in areas where impacts are observed and multiple practices are employed. For groundwater protection practices, it may take years in many areas (even decades in some areas) before broad trends in groundwater may be measured and associated with implementation of the WDR.
- Farm evaluations will provide assurance that members are implementing management practices to protect groundwater quality while well trend data are collected.
- Reporting of practices will allow the coalition and board to evaluate changes in water quality relative to changes in practices. Absent such information, it will be difficult to determine how effective practices are in protecting surface water and groundwater quality.

A farm’s location in a high or low vulnerability area will dictate the frequency of updating or revising the farm evaluation. 🐾

Sediment and Erosion Control Plans Mandated

Should a field have the potential to discharge irrigation drain water or have frequent storm water runoff, coalition members will be required to have a sediment and erosion control plan certified by a qualified engineer. This mandate is aimed at farms classified as highly vulnerable to surface water discharges. Many of these watersheds and farms have already been identified through a management plan triggered by sediment or pesticide exceedances found in coalition monitoring of a waterway.

Coalitions are expressing concerns in comment letters to the Regional Water Board about requiring that sediment and erosion control plans be written and certified by a qualified sediment and erosion control plan developer. A plan developer would need to be one of the following:

- professional civil engineer;
- professional geologist or engineering geologist;
- landscape architect;
- professional hydrologist;
- certified professional in erosion and sediment control; or
- certified professional in storm water control.

Coalitions or their members can seek assistance in plan development from the Natural Resources Conservation Service or the University of California Cooperative Extension but need to retain written documentation of the recommendations. Currently, neither NRCS or UC provide certification of plans.

According to the draft WDR, “Requiring that qualified personnel develop these plans is consistent with the State Water Board’s Construction Stormwater Program.” 🐾

Annual Nitrogen Budgets To Track Use Efficiency

Groundwater contamination by nitrates has been documented in many regions of the Central Valley. Nitrate sources vary by site and could originate from fertilizers, animal manures, rural septic systems, water treatment plants and other sources.

Gathering information on agriculture's potential contribution to nitrates in groundwater – or its protection from contamination -- is the goal of the annual nitrogen budgets. Rather than reporting total nitrogen fertilizer applied, the budget is intended to take into account the amount of nitrogen needed to produce a viable crop and compare it to the actual amount applied in fertilizer, manure or compost. A draft nitrogen budget being circulated by the East San Joaquin Water Quality Coalition uses a ratio that is calculated by comparing crop need to the nitrogen applications for producing that crop. A ratio of "one" means the amount of nitrogen applied equals the amount of nitrogen consumed for crop production.

Similar to farm evaluations and sediment and erosion control plans, the Regional Water Board intends to work with coalitions, commodity groups and others to develop the nitrogen budget template. Key components will include nitrogen application timing, consideration of organic nitrogen fertilizer, consideration of irrigation water nitrogen levels, meeting crop nitrogen requirements and crop yield potential. The stated goal in the draft WDR is that coalition members implement practices that minimize excess nitrogen applications relative

to predicted crop need and minimize nitrate movement through surface runoff and leaching past the root zone.

In the current draft WDR, coalition members are required to complete an annual nitrogen budget for the upcoming crop year and final nitrogen applications for the previous crop year. Budget sheets must be kept at a member's farming headquarters.

In areas designated highly vulnerable because of nitrate contamination, members will be required to submit their nitrogen budgets to the coalition each year for compilation and reporting to the Regional Water Board. Growers in those areas will also be required to have nitrogen budgets signed by a certified nutrient management plan specialist. Certified nutrient management plan specialists listed in the draft WDR include Professional Soil Scientists, Professional Agronomists, Certified Crop Advisors (CCA) or Technical Service Providers certified in nutrient management in California by the NRCS. A member will be able to self-certify a nitrogen budget if they attend a training program for nutrient management from the California Department of Food and Agriculture or other entities approved by the Regional Water Board.

As stated in the draft WDR, "Nitrogen budget reporting will provide assurance that coalition members are managing nutrients to protect groundwater quality while trend data are collected." 🐾

Ask the Water Board

Watershed Coalition News asks readers to pose questions to the Water Board. The question this issue is answered by Joe Karkoski, Program Manager, Central Valley Regional Water Quality Control Board.

What are the goals of the new Irrigated Lands Regulatory Program?

We had numerous stakeholder meetings over the last several years to plan this program and there was general agreement on the goals. Understanding that irrigated agriculture in the Central Valley provides valuable food and fiber products to communities worldwide, the overall goals of the new orders are to:

1. restore and/or maintain the highest reasonable quality of state waters considering all the demands being placed on the water;
2. minimize waste discharge from irrigated agricultural lands that could degrade the quality of state waters;
3. maintain the economic viability of agriculture in California's Central Valley; and
4. ensure that irrigated agricultural discharges do not impair access by Central Valley communities and residents to safe and reliable drinking water.

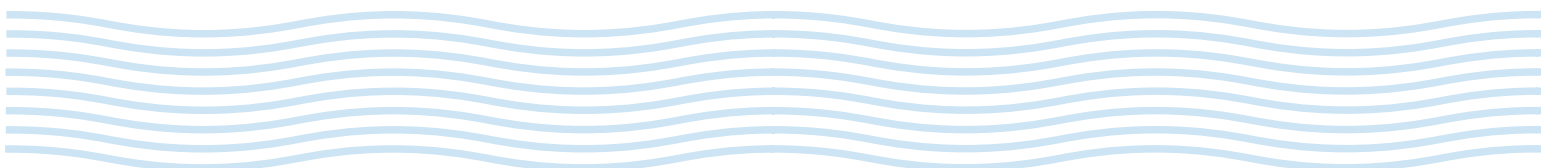
What are the objectives of the General Orders or Waste Discharge Requirements?

- Restore and/or maintain appropriate beneficial uses established in Central Valley Water Board water quality control plans by ensuring that all state waters meet applicable water quality objectives.
- Encourage the implementation of management practices that improve water quality in keeping with the first objective without jeopardizing the economic viability for all sizes of irrigated agricultural operations in the Central Valley or placing an undue burden on rural communities to provide safe drinking water.
- Provide incentives (i.e., financial assistance, monitoring reductions, certification, or technical help) for agricultural operations to minimize waste discharge to state waters from their operations.
- Coordinate with other Central Valley Water Board programs;
- Promote coordination with other regulatory and non-regulatory programs associated with agricultural operations to minimize duplicative regulatory oversight while ensuring program effectiveness.

What are the farm performance standards in the draft WDR?

Selection of practices must be considered on a farm by farm basis but coalition members must achieve performance standards including:

- minimize waste discharge offsite in surface water;
- minimize or eliminate the discharge of sediment above natural background levels;
- minimize percolation of waste to groundwater;
- minimize excess nutrient application relative to predicted crop need;
- prevent pollution and nuisance;
- achieve and maintain water quality objectives and beneficial uses;
- protect wellheads from surface water intrusion.



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Watershed Coalition

Enrolling in the New Program

Once the Regional Water Board adopts a WDR for a coalition, the process of enrolling members begins. If the WDR is adopted in its current form, existing coalition members will be grandfathered into the new program but will be required to sign and submit a “notice of confirmation” to the coalition acknowledging their willingness to continue membership in the coalition and stating that they are familiar with the new WDR requirements. Those notices must be submitted to the coalition within 120 days after the Regional Board approves that coalition’s ability to represent growers (each coalition is required to reapply for that ability). Growers who lease land or manage for absentee landowners will also be required to notify their landlords about the WDR requirements. Confirmation of that notification must be provided to the coalition.

Growers not currently enrolled in a coalition will have 120 days to apply for membership to the entity encompassing the region they farm (unless they plan to file for an individual

WDR). The 120-day period will be a “membership holiday” where growers will not have to apply first to the Regional Water Board and pay an application fee as is currently the case. Growers who do not enroll within the 120-day grace period will have three requirements: 1) send the Regional Water Board a Notice of Intent (NOI) to comply with the terms and conditions of the Order; 2) pay an administrative processing fee; and 3) submit a membership application to the third-party group (or file for an individual WDR).

Unchanged for the new WDR is the coalition requirement to submit an annual membership list to the Regional Water Board. This list specifies members in good standing, revoked memberships or pending revocations. Regional Board says it will conduct enforcement activities as needed based on the list of revoked/pending revocations. 🐾

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