

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

ORDER R5-2014-XXXX

**REVISING ORDER NO. R5-2013-0120
WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR GROWERS WITHIN THE TULARE LAKE BASIN AREA THAT ARE
MEMBERS OF A THIRD-PARTY GROUP**

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (hereafter, Central Valley Water Board) finds that:

1. On 19 September 2013, the Central Valley Water Board issued Order No. R5-2013-0120 Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of a Third-Party Group (Tulare Lake Basin Area General Order).
2. The Central Valley Water Board's authority to regulate waste discharges that could affect the quality of the waters of the state, which includes both surface water and groundwater, is found in Porter-Cologne Water Quality Control Act (California Water Code Division 7).
3. This Order revises the Tulare Lake Basin Area General Order to extend the open enrollment period for owners and operators of managed wetlands to allow for the consideration of alternative regulatory options for discharges from managed wetlands. Board staff has hosted multiple managed wetlands workgroup meetings to discuss the range of options for regulatory coverage including, but not limited to, development of managed wetlands-specific WDRs. Board staff will continue to work with stakeholders to develop an appropriate solution to regulate discharges from managed wetlands.
4. Section VIII.A of the Tulare Lake Basin Area General Order requires that within 30 days of the effective date of the Order, any group wishing to serve as a third-party must submit a letter to the Executive Officer. Seven groups submitted applications to the Executive Officer requesting to serve as a third-party group for portions of the Tulare Lake Basin Area. The proposed third-party boundaries in several of the initial applications did not provide full coverage within large portions of the Tulare Lake Basin Area, and therefore additional discussions between Board staff and the third-party groups were needed to resolve the issue. Due to the additional time needed to resolve the boundary concerns, a Notice of Applicability (NOA) was not issued to all third-parties groups until 21 May 2014, 6 months after the Board had initially anticipated that these NOAs would be issued.

Section VIII.D.1 of the Tulare Lake Basin Area General Order requires that the third-party groups submit a Groundwater Quality Assessment Report (GAR) one year following the issuance of their NOA. The GAR determines the High and Low Vulnerability areas within the third-party boundaries. Some grower requirements of the Tulare Lake Basin Area

General Order, such as the Farm Evaluation and Nitrogen Management Plans, are due for large farming operations within high vulnerability areas beginning 1 March 2015. Unlike the GAR deadline, these requirements are not linked to the issuance of the NOA, which means that the delay in issuing the NOA did not alter these deadlines. At this point, the GAR submittal dates for third-party groups within the Tulare Lake Basin Area range from 20 November 2014 to 21 May 2015, leaving insufficient time between the designations of high and low vulnerability areas in the GAR and the 1 March 2015 deadline for some Farm Evaluation and Nitrogen Management Plans.

5. On 17 January 2014, Governor Edmund G. Brown issued an emergency proclamation for the State of California due to severe drought. In part, the statement released by the office of the Governor regarding this proclamation directed state officials to assist farmers and communities that are economically affected by the drought. In a letter dated 7 November 2014, the Tulare Lake Basin Area third-party groups requested that additional time be allotted for growers to submit Farm Evaluations and for the third-parties to submit the Nitrogen Management Plan Summary Report because surface water allocations well below historical averages have resulted in significant economic impacts in the Tulare Lake Basin Area.
6. To address the topics detailed in Findings 4 and 5 above, this Order revises the Tulare Lake Basin Area General Order to amend the schedule for preparation and submittal of the Farm Evaluations, Nitrogen Management Plans, Certification of the Nitrogen Management Plans and Nitrogen Management Plan Summary Reports. These changes include;
 - I. Providing large farming operations in high vulnerability areas with an additional year to submit a completed Farm Evaluation Template to the third-party group,
 - II. Requiring that large farming operations in high vulnerability areas prepare a Nitrogen Management Plan within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. This change requires the third-party groups to meet with Central Valley Water Board staff by 31 December 2014 to discuss their proposed process for determining high and low vulnerability areas. If an agreement on the vulnerability designation process is not reached by 1 February 2015, the Executive Officer will make the final determination regarding high and low vulnerability areas. See Section VII.D Nitrogen Management Plan in Attachment 1 of this Order for details,
 - III. Providing large farming operations in high vulnerability areas with an additional year for the certification of Nitrogen Management Plans, and
 - IV. Providing large farming operations in high vulnerability areas with an additional year to submit a Nitrogen Management Plan Summary Report for the previous year.
7. The Central Valley Water Board, acting as a lead agency pursuant to CEQA (Public Resources Code sections 21100 et seq.), certified a Program Environmental Impact Report (PEIR) for the Irrigated Lands Regulatory Program on 7 April 2011. This Order relies on the

environmental impact analysis contained in the PEIR to satisfy the requirements of CEQA. The timelines modified pursuant to this Order apply to a range of compliance activities identified and analyzed in the PEIR. Therefore, the PEIR identified, disclosed, and analyzed all potentially significant environmental impacts of this Order.

8. The Central Valley Water Board has notified interested agencies and persons of its intent to adopt this Order for discharges of waste from irrigated lands within the Tulare Lake Basin Area, and has provided them with an opportunity for a public hearing and an opportunity to submit comments.
9. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that Waste Discharge Requirements Order No. R5-2013-0120 is revised by making modifications identified in Attachment 1 of this Order.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX December 2014.

PAMELA C. CREEDON, Executive Officer