

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

ORDER R5-2013-0100

**WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
DISCHARGES FROM IRRIGATED LANDS WITHIN THE CENTRAL VALLEY REGION
FOR DISCHARGERS NOT PARTICIPATING IN A THIRD-PARTY GROUP**

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

Findings

SCOPE OF COVERAGE OF THIS ORDER

- 1 This Order serves as general waste discharge requirements (WDRs) for waste discharges from irrigated lands (or “discharges”) that could affect ground and/or surface waters of the state. The discharges result from runoff or leaching of irrigation water and/or stormwater from irrigated lands. Discharges can reach waters of the state directly or indirectly.¹
- 2 This Order applies to Dischargers who voluntarily enroll or are required by the Central Valley Water Board to enroll as individuals. The Board intends to issue general WDRs for geographic areas and/or commodities that will be administered by third-party groups. This order will apply to Dischargers who fail to enroll under applicable Board-adopted WDRs administered by a third-party, who fail to meet the obligations described in the applicable third-party administered WDRs, or who choose to enroll under this Order.
- 3 To enroll under this Order, Dischargers must submit a complete Notice of Intent (NOI) and appropriate fee to the Central Valley Water Board. The NOI will include the information described in section IV.B of Attachment B to this Order (Monitoring and Reporting Program Order R5-2013-0100, or MRP). Central Valley Water Board staff will make the NOI form available electronically and will provide the form to Dischargers upon request. Upon submittal of a complete NOI and appropriate fee, the Executive Officer may issue a Notice of Applicability (NOA), after which the Discharger will be covered under this Order.

The board intends for this Order to apply to all Dischargers not enrolled under an applicable Board-adopted WDRs administered by a third-party. Therefore, the Central Valley Water Board may issue an NOA to a Discharger following a hearing, even though no NOI has been submitted. In these cases, the Discharger’s coverage under this Order will begin upon issuance of an NOA.

- 4 Dischargers are required to comply with the Water Code, but are not required to join a third-party group. Dischargers not covered by a conditional waiver may comply with the Water Code by joining a third-party group and enrolling under a general waste discharge requirements order, filing for coverage under this Order, filing a Report of Waste Discharge

¹ Definitions for “waste discharges from irrigated lands,” “waste,” “groundwater,” “surface water,” “stormwater runoff,” and “irrigation runoff,” as well as all other definitions, can be found in Attachment E to this Order. It is important to note that irrigation water, the act of irrigating cropland, and the discharge of irrigation water unto itself is not “waste” as defined by the Water Code, but that irrigation water may contain constituents that are considered to be a “waste” as defined by Water Code section 13050(d).

(RWD) to obtain individual WDRs, or by ceasing to discharge wastes that may affect the quality of state waters.

- 5 “Irrigated lands” means land irrigated to produce crops or pasture used for commercial purposes including lands that are planted to commercial crops that are not yet marketable (e.g., vineyards and tree crops). Irrigated lands also include nurseries, and privately and publicly managed wetlands.
- 6 This Order is not intended to regulate water quality as it travels through or remains on the surface of a Discharger’s agricultural fields or the water quality of soil pore liquid within the root zone.²
- 7 This Order does not apply to discharges of waste that are regulated under other Water Board issued WDRs or conditional waiver of WDRs. If the other Water Board WDRs/waiver of WDRs only regulates some of the waste discharge activities (e.g., application of treated wastewater to crop land) at the regulated site, the owner/operator of the irrigated lands must obtain regulatory coverage for any discharges of waste that are not regulated by the other WDRs/waiver. Such regulatory coverage may be sought through enrollment under this Order or by obtaining appropriate changes in the owner/operator’s existing WDRs or conditional waiver of WDRs.
- 8 This Order implements the long-term ILRP for Dischargers not enrolled in a third-party group. The long-term ILRP has been conceived as a range of potential alternatives and evaluated in a programmatic environmental impact report (PEIR).³ The PEIR was certified by the Central Valley Water Board on 7 April 2011; however, the PEIR did not specify any single program alternative. The regulatory requirements contained within this Order fall within the range of alternatives evaluated in the PEIR. This Order, along with other Orders to be adopted for irrigated lands within the Central Valley, together will constitute the long-term ILRP.
- 9 This Order regulates both landowners and operators of irrigated lands from which there are discharges of waste that could affect the quality of any waters of the state. Both the landowner and operator are ultimately responsible for complying with the terms and conditions of this Order.

REASONS FOR THE CENTRAL VALLEY WATER BOARD ISSUING THIS ORDER

- 10 The Central Valley Region has approximately 7,800,000 acres of cropland under irrigation and approximately 35,000 individuals and operations with “waste discharges from irrigated lands,” as defined in Attachment E to this Order. Currently, approximately 567,000 thousand acres are regulated under the Water Board’s General Order for Existing Milk Cow Dairies (R5-2007-0035) and most of the remaining acres will be enrolled under WDRs administered by a third-party group (third-party WDRs). However, those Dischargers whose discharges are not regulated under third-party WDRs must comply with Porter-Cologne by obtaining WDRs. In lieu of issuing potentially hundreds of individual WDRs, a general WDR is

² Water that travels through or remains on the surface of a Discharger’s agricultural fields includes ditches and other structures (e.g., ponds, basins) that are used to convey supply or drainage water within that Discharger’s parcel or between contiguous parcels owned or operated by that Discharger.

³ ICF International. 2011. *Irrigated Lands Regulatory Program Final Program Environmental Impact Report*. Final and Draft. March. (ICF 05508.05.) Sacramento, CA. Prepared for: Central Valley Regional Water Quality Control Board, Sacramento, CA

14. Irrigated lands – Land irrigated to produce crops or pasture for commercial purposes;³ nurseries; and privately and publicly managed wetlands.
15. Irrigation return flow/runoff – Surface and subsurface water which leaves the field following application of irrigation water.
16. Management practices – A practice or combination of practices that is the most effective and practicable (including technological, economic, and institutional considerations) means of controlling nonpoint pollutant sources at levels protective of water quality.
17. Monitoring – Monitoring undertaken in connection with assessing water quality conditions, and factors that may affect water quality conditions. Monitoring includes, but is not limited to, water quality monitoring undertaken in connection with agricultural activities, monitoring to identify short and long-term trends in water quality, nutrient monitoring, active inspections of operations, and management practice implementation and effectiveness monitoring. The purposes of monitoring include, but are not limited to, verifying the adequacy and effectiveness of the Order’s requirements, and evaluating each Discharger’s compliance with the requirements of the Order.
18. Nonpoint source waste discharge– The Sacramento and San Joaquin River Basin Plan and the Tulare Lake Basin Plan state that “A nonpoint source discharge usually refers to waste emanating from diffused locations.” Nonpoint source pollution generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification. The term "nonpoint source" is defined to mean any source of water pollution that does not meet the legal definition of "point source" in section 502(14) of the Clean Water Act. The Clean Water Act (CWA) defines a point source as a discernible, confined, and discrete conveyance, such as a pipe, ditch, or channel. Irrigated agricultural return flows and agricultural storm water runoff are excluded from the CWA’s definition of point source.
19. Nuisance – “Nuisance” is defined at section 13050 of the Water Code as “...*anything which meets all of the following requirements:*
 - (1) *Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.*
 - (2) *Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.*
 - (3) *Occur during, or as a result of, the treatment or disposal of wastes.*”

³ For the purposes of this Order, commercial irrigated lands are irrigated lands that have one or more of the following characteristics:

- The landowner or operator holds a current Operator Identification Number/ Permit Number for pesticide use reporting;
- The crop is sold to a third party including, but not limited to, (1) an industry cooperative, (2) harvest crew/company, or (3) a direct marketing location, such as farmers’ markets;
- The landowner or operator files federal taxes using federal Department of Treasury Internal Revenue Service Form 1040, Schedule F *Profit or Loss from Farming*.