

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

Order R5-2013-0120

**WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR
GROWERS IN THE TULARE LAKE BASIN AREA
THAT ARE MEMBERS OF A THIRD-PARTY GROUP**

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

Findings

SCOPE AND 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 owners and operators of irrigated lands within the Tulare Lake Basin, excluding the area of the Westlands coalition (hereafter the Tulare Lake Basin Area). Either the owner or operator may enroll an irrigated lands parcel under this Order. The owners or operators that enroll the respective irrigated lands parcels are considered members of a third-party representing all or a portion of this area (hereinafter “Members”). The Member is required to provide written notice to the non-Member owner or operator that the parcel has been enrolled under the Order. Enforcement action by the board for non-compliance related to an enrolled irrigated lands parcel may be taken against both the owner and operator. Although a third-party representative has not yet been selected, this Order contains eligibility requirements for a third-party representative and describes the process by which the Executive Officer may approve a request for third-party representation. This Order applies throughout the Tulare Lake Basin Area, within which one or more third parties may represent Members based on geographic area. If multiple third-parties apply to serve different portions of the Tulare Lake Basin Area, the applications, along with the proposed boundaries of third-party responsibility, shall be coordinated to ensure that all areas within the Tulare Lake Basin Area may be represented by a third-party.
- 3 The Tulare Lake Basin Area is bounded by the crest of the Sierra Nevada Mountain Range to the east, the San Joaquin River to the north, the Westlands coalition and the crest of the Southern Coast Ranges to the west, and the crest of the San Emigdio and Tehachapi Mountains to the south. This area is referred to as the “Tulare Lake Basin Area”, or “Order watershed area” in this Order. See Figure 1 for a map of the Tulare Lake Basin Area.
- 4 “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

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 California Water Code, but that irrigation water may contain constituents that are considered to be a “waste” as defined by California Water Code section 13050(d).

(e.g., vineyards and tree crops). Irrigated lands also include nurseries, and privately and publicly managed wetlands.

- 5 This Order is not intended to regulate water quality as it travels through or remains on the surface of a Member's agricultural fields or the water quality of soil pore liquid within the root zone.²
- 6 This Order does not apply to discharges of waste that are regulated under other Central Valley Water Board issued WDRs or conditional waiver of WDRs (waiver). If the other Central Valley Water Board WDRs/waiver only regulate 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 waiver.
- 7 This Order implements the long-term Irrigated Lands Regulatory Program (ILRP) in the Tulare Lake Basin Area. 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, will constitute the long-term ILRP. Upon adoption of this Order, Order R5-2006-0053, Coalition Group Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Coalition Group Conditional Waiver), is rescinded as applied to irrigated lands within the Tulare Lake Basin Area. Existing Members that had previously enrolled under the Coalition Group Conditional Waiver will be enrolled under this Order upon timely submittal of a Notice of Confirmation (see section VII.A of this Order).

GROWERS REGULATED UNDER THIS ORDER

- 8 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. In order to be covered by this Order, the landowners or operators must be Members. Because this Order regulates both landowners and operators, but does not require enrollment of both parties, the provisions of this Order require that the Member provide notification to the non-Member responsible party of enrollment under this Order. A third-party group representing Members will assist with carrying out the conditions of this Order. Both the landowner and operator are ultimately responsible for complying with the terms and conditions of this Order.
- 9 A third-party entity proposing to represent Members in the Tulare Lake Basin Area, or a portion thereof, (the third-party) is required to submit to the Central Valley Water Board an application to represent growers within this Order's coverage area or identify the area the third-party proposes to cover. The third-party representation will become effective upon

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

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

Central Valley Water Board Executive Officer approval of the third party's application. If a third-party proposes to cover a portion of the Order's coverage area, the Executive Officer will determine and identify the geographic area covered by the third-party in the Notice of Applicability. The Southern San Joaquin Valley and Buena Vista Water Quality Coalitions served as the third-party groups representing owners and operators of irrigated lands within the Order watershed area during the interim irrigated lands regulatory program, Order R5-2006-0053 (Coalition Group Conditional Waiver).

- 10 The third-party will be responsible for fulfilling the regional requirements and conditions (e.g., surface and groundwater monitoring, regional management plan development and tracking) of this Order and associated Monitoring and Reporting Program Order R5-2013-0120 (MRP). By retaining its third-party membership or establishing a new membership, a Member is agreeing to be represented by the third-party for the purposes of this Order. Any requirements or conditions not fulfilled by the third-party are the responsibility of the individual Member. The Member and non-Member owners and operators are responsible for conduct of operations on the Member's enrolled property.
- 11 To apply for coverage under this Order, a grower that is not a current Member in the third-party group will have different application requirements depending on the timing of its request for regulatory coverage (see section VII.A of this Order for specific requirements). Growers that enroll within 180 days of Executive Officer approval of the third-party will enroll under this Order by obtaining membership in the applicable third-party group. This will streamline the initial enrollment process for the bulk of the irrigated agricultural operations within the Tulare Lake Basin Area. Growers who do not enroll within 180 days of Executive Officer approval of the third-party, or whom are prompted to apply by Central Valley Water Board enforcement or inspection, are required to submit a Notice of Intent (NOI) to comply with the terms and conditions of this Order to the Central Valley Water Board and obtain membership with the third-party group. This additional step for late enrollees is intended to provide incentive for growers to enroll promptly. There will be an administrative fee for submitting an NOI to the board. The fee will help recover costs for board efforts to conduct outreach to ensure growers subject to this Order enroll or submit reports of waste discharge.

REASON FOR THE CENTRAL VALLEY WATER BOARD ISSUING THIS ORDER

- 12 The Tulare Lake Basin Area has approximately 2.89 million acres of cropland under irrigation⁴ and approximately 10,700 growers⁵ with "waste discharges from irrigated lands," as defined in Attachment E to this Order. Currently, approximately 350,000 acres are regulated under the Water Board's General Order for Existing Milk Cow Dairies (R5-2007-0035) and 1.04 million acres are regulated under the Coalition Group Conditional Waiver. Approximately 7,200 new growers and an additional 1,500,000 associated irrigated acres will require regulatory coverage under this Order or other WDRs or waivers. Small Farming Operations are those with a total farming operation that comprises less than 60 acres of irrigated land. In counties within the Tulare Lake Basin Area, Small Farming Operations are operated by approximately

⁴ Calculated using values reported in the ICF International. 2010, Draft Technical Memorandum Concerning the Economic Analysis of the Irrigated Lands Regulatory Program and Westlands Coalition and Pleasant Valley GIS layers.

⁵ For the purposes of this estimate, the number of farms in the Tulare Lake Basin Area as reported in the United States Department of Agriculture, 2007, *Census of Agriculture* has been used to approximate the number of growers.

irrigated agriculture may cause or contribute to the exceedance; (2) the Basin Plan requires development of a groundwater quality management plan for a constituent or constituents discharged by irrigated agriculture; or (3) the Executive Officer determines that irrigated agriculture may be causing or contributing to a trend of degradation of groundwater that may threaten applicable Basin Plan beneficial uses.

14. High vulnerability area (surface water) – Areas that meet any of the following requirements for the preparation of a Surface Water Quality Management Plan (see section VIII.I of the Order): (1) an applicable water quality objective or applicable water quality trigger limit is exceeded (considering applicable averaging periods) twice in a three year period for the same constituent at a monitoring location (trigger limits are described in section VII of the MRP) and irrigated agriculture may cause or contribute to the exceedances; (2) the Basin Plan requires development of a surface water quality management plan for a constituent or constituents discharged by irrigated agriculture; or (3) the Executive Officer determines that irrigated agriculture may be causing or contributing to a trend of degradation of surface water that may threaten applicable Basin Plan beneficial uses.
15. Hydraulic conductivity – The volume of water that will move through a medium (generally soil) in a unit of time under a unit hydraulic gradient through a unit area measured perpendicular to the direction of flow (a measure of a soils ability to transmit water).
16. Hydraulic gradient – The change in total hydraulic head per unit distance in a given direction yielding a maximum rate of decrease in hydraulic head.
17. Hydraulic Head - The height relative to a datum plane (generally sea level) of a column of water that can be supported by the hydraulic pressure at a given point in a groundwater system. For a well, the hydraulic head is equal to the distance between the water level in the well and the datum plane (sea level).
18. Impaired water body – A surface water body that is not attaining water quality standards and is identified on the State Water Board’s Clean Water Act section 303(d) list.
19. Irrigated lands – Land irrigated to produce crops or pasture for commercial purposes;⁴ nurseries; and privately and publicly managed wetlands.
20. Irrigation return flow/runoff – Surface and subsurface water which leaves the field following application of irrigation water.
21. Kriging – A group of geostatistical techniques to interpolate the value of a random field (e.g., contaminant level in groundwater) at an unobserved location from observations of its value at nearby locations.

⁴ 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*.