

Central Valley Water Board Recommended Irrigated Lands Regulatory Program Framework Facts

How are discharges from irrigated agriculture regulated now?

There are about 25,000 landowners/operators, with a total of nearly 5 million acres of land, who are part of water quality coalition groups. The coalition groups conduct surface water monitoring and prepare regional plans to address water quality problems. The growers are required to implement management practices to protect surface waters, such as creeks and rivers. The focus of these efforts is in areas where monitoring has identified problems.

What have the monitoring efforts shown, so far?

The monitoring of rivers and streams has identified problems in some areas clearly associated with irrigated agriculture (for example, pesticide runoff) and water quality problems that need additional study to identify sources (for example, e. coli, which is an indicator of potential pathogens).

Why are changes to the existing program needed?

When the Board adopted the current program in 2003 (and renewed it in 2006), it recognized that an important element needed to be added – regulation of discharges of irrigated agricultural waste to groundwater. The Board directed staff to develop a program that addressed both groundwater and surface water, which is described in the Framework. In addition, the Board told staff to prepare a Program Environmental Impact Report to comply with the California Environmental Quality Act. Adding discharge to groundwater to the program could result in the regulation of a total of 35,000 growers and more than 7 million acres of irrigated agricultural land.

Did the existing program improve surface water quality?

There is evidence of improvement in some cases, but it is too soon to tell whether those improvements will be sustained or whether improvements are wide spread. Coalitions are required to prepare Water Quality Management Plans anytime water quality objectives have been exceeded more than once in three years. Plans have been prepared to address over 600 combinations of water bodies and parameters. For some problems, it is not clear if the identified problem was caused by agriculture, so further investigation is being conducted. For other water quality problems, there are clear agricultural sources and the plans include implementation of improved practices, as well as education and outreach to growers.

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How have the requirements of the current program been enforced?

There have been two primary areas that have been the focus of our enforcement efforts: 1) ensuring growers who are required to have regulatory coverage have proper coverage; and 2) addressing site-specific water quality problems. Through public outreach and use of enforcement tools, the Board has identified growers who could discharge to surface waters and ensured they are properly regulated by joining a Coalition. Site-specific water quality problems have been addressed by working with Coalitions and using the Water Board's enforcement authority. In one case, alleged discharges of sediment resulted in a settlement requiring a landowner to pay a \$300,000 fine.

What are the key elements of the recommended Framework?

- 1) Expanding the program to include dischargers to groundwater. This is especially critical to protect sources of drinking water from contaminants such as nitrate, which can come from fertilizer application.
- 2) Basing the regulatory requirements on what is known about threats to water quality from irrigated agricultural discharges. Known high threats have more regulatory requirements, low threats have fewer requirements.
- 3) Tailoring requirements to the setting and issues relevant to specific geographic areas or commodities. This will result in the Board issuing 10-12 Orders, should the Framework be adopted.
- 4) Increasing grower and Coalition (or third party) accountability by identifying specific expectations that must be met to avoid individual regulation by the Board.
- 5) Requiring growers to conduct evaluations of their management practices to ensure they are protecting groundwater and surface water. In areas impacted, or potentially impacted, by nitrates, requiring growers to develop individual nutrient management plans certified by a qualified crop advisor.
- 6) Requiring third parties to develop regional water quality management plans for areas where irrigated agriculture is contributing to water quality problems. Growers will need to implement practices consistent with those plans to address the identified problems.
- 7) Conducting monitoring to fill data gaps (e.g., determining whether agriculture is contributing to a problem), determine the effectiveness of management practices, and track water quality trends.
- 8) Focusing in areas where irrigated agriculture is contributing to a water quality problem that is impacting the beneficial uses of water.

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How much flexibility will growers have in meeting water quality standards?

Growers will determine what practices they use to protect water quality. However, third parties and their grower members must demonstrate those practices are effective in protecting water quality. If implemented practices aren't protective, growers will need to implement improved practices that will achieve water quality goals.

What will growers be required to do?

The primary responsibility of growers is to ensure that their management practices protect water quality. The Board will also need to know whether practices are being implemented to protect water quality and whether those practices are effective. All growers will be required to evaluate their farm practices to determine whether any improvements can be made to protect water quality. Growers in areas where nitrate in groundwater is a concern will be required to have a certified nutrient management plan. Growers in areas with water quality concerns or where there are data gaps will need to contribute to regional planning and water quality monitoring efforts and potentially to site specific studies.

What is the role of the third-party or Coalition?

The third-parties will work directly with their member growers to assist them in complying with Central Valley Water Board requirements. Third-parties will conduct education and outreach to inform growers of requirements and practices to protect water quality; prepare regional water quality management plans and regional water quality monitoring plans; and report to the Board on the results of the monitoring efforts and the effectiveness of the plans.

Will growers have any direct interaction with the Board?

Growers who are not currently enrolled in a Coalition will need to apply to the Board to join. The results of the farm self-evaluations may be reported to the Board, if an electronic data submittal system is established. Any growers who are not enrolled with a third-party or do not meet their obligations in the third-party group will be directly regulated by the Board.

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How will the requirements be tailored for differences in agricultural operations?

The Board would issue 10-12 geographic or commodity-specific Orders, which will include requirements tailored to the issues relevant to that geographic area or commodity. In addition, the Board will tailor requirements based on water quality threats: "Tier 1" – low threat; "Tier 2" – unknown water quality threat or unknown irrigated agricultural contribution to a known threat; "Tier 3" – known water quality threat with an identified irrigation agricultural contribution.

How will the "tiering" system work?

The Board, with input from the third-parties and public, will evaluate available data for a given area to determine what "tier" should apply. The evaluation will be conducted for different constituents. For example, a given area may have a problem with nitrates in groundwater (Tier 3 requirements would apply to the nitrates); pathogens in surface water with an unknown agricultural contribution (Tier 2 requirements would apply to the pathogens); and no pesticide residues in groundwater (Tier 1 requirements would apply for the pesticides in groundwater).

How do the "tier" requirements differ?

For "Tier 1," there is enough data to demonstrate that agriculture is not causing or contributing to a water quality problem for a given constituent in an area. In addition to the farm self-evaluation, a regional plan must be submitted which describes the management objectives that will be established to maintain the water quality protection efforts.

For "Tier 2," there is not enough data for a given constituent to determine whether there are water quality problems or if there are problems, whether there is an irrigated agriculture contribution. Monitoring to address data gaps or source identification studies will be required. If the studies demonstrate no agricultural contribution, then "Tier 1" requirements would apply. If the studies demonstrate an irrigated agricultural contribution, then "Tier 3" requirements would apply.

For "Tier 3," there is enough data for a given constituent to indicate that irrigated agriculture is causing or contributing to a water quality problem. Requirements include the development of regional water quality management plans; monitoring efforts to evaluate management practice effectiveness and water quality trends, and implementation of improved practices by growers.

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What opportunities will the public have for input as the Framework is implemented?

As the Board considers issuing the Orders to implement the Framework, there will be an opportunity for the public to provide comments as part of the hearing process. When regional water quality management plans are submitted for approval (or changes to existing plans are made), the public will have an opportunity to provide comments on those plans prior to the approval decision.