

Proposed Modifications to the Basin Plans to Incorporate a Conditional Prohibition for the Salt and Nitrate Control Program

CHAPTER 4 IMPLEMENTATION

The following paragraphs are proposed for addition to *Chapter 4 Implementation* of the Sacramento River and San Joaquin River and Tulare Lake Basin Plans within the section indicated below.

Regional Water Board Prohibitions

Salinity Control Program

During Phase 1 of the Salinity Control Program, a Conditional Prohibition shall apply to all permittees discharging salt pursuant to Board-issued waste discharge requirements and conditional waivers, except those dischargers regulated under the Board's Irrigated Lands Regulatory Program (ILRP). Dischargers regulated under the ILRP will instead be required to comply with the initial phase of the Salinity Control Program through an amendment to the ILRP General Orders, which the Regional Water Board shall consider within 18 months of the effective date of the Basin Plan Amendment.

For permittees subject to the Conditional Prohibition, the prohibition shall apply until such time that the permittees' existing waste discharge requirements or conditional waivers regulating the discharge of salts are updated or amended to reflect requirements of Phase I of the Salinity Control Program.

Conditional Prohibition on Salt Discharges

Upon receiving a Notice to Comply from the Regional Water Board, discharges of salts at concentrations that exceed salinity numeric criteria identified in the Phase 1 Conservative Permitting Approach of the Salinity Control Program are prohibited from discharging unless the discharger is implementing the Phase I requirements of the Salinity Control Program.

Permittees subject to the Conditional Prohibition must notify the Regional Water Board within six months of receiving a Notice to Comply whether they elect to be regulated under the Conservative or Alternative permitting approaches. Dischargers who do not reply to the Notice to Comply will be required to meet the requirements of the Salinity Control Program's Conservative permitting approach. The following information must be submitted with the discharger's response to the Regional Water Board of its permit compliance pathway decision (i.e. within six months of receiving a Notice to Comply).

- (a) Conservative Salinity Permitting Approach

Dischargers not selecting the alternative approach must submit an assessment of how their discharge complies with the conservative permitting requirements set forth in the Salinity Control Program. If the Regional Board does not concur with the findings of the assessment, the Regional Water Board may request additional information from the permittee to verify that the permittee will meet those conservative permitting requirements.

(b) Alternative Salinity Permitting Approach

Dischargers selecting the alternative salinity permitting approach must submit written documentation from the entity overseeing the Salinity Prioritization and Optimization Study (P&O Study) confirming the discharger's active participation in the P&O Study. Status of the P&O Study must be documented through annual progress reports to the Regional Water Board from the overseeing entity. Dischargers maintaining active participation in the P&O Study will be deemed in compliance with salinity discharge requirements in their waste discharge requirements or conditional waivers consistent with the Salinity Control Program. During the P&O Study, the discharger must maintain current efforts to control levels of salinity in the discharge.

This Conditional Prohibition shall sunset at the end of Phase I of the Salinity Control Program.

Nitrate Control Program

The Conditional Prohibition of Nitrate Discharges shall apply to all permittees discharging nitrate pursuant to Board-issued waste discharge requirements and conditional waivers, except those dischargers regulated under the Board's Irrigated Lands Regulatory Program (ILRP). Dischargers regulated under the ILRP will instead be required to comply with the initial phase of the Nitrate Control Program through an amendment to the ILRP General Orders, which the Regional Water Board shall consider within 18 months of the effective date of the Basin Plan Amendment.

For those permittees subject to the Conditional Prohibition, the prohibition shall apply until such time that the permittees' existing waste discharge requirements or conditional waivers regulating the discharge of salts are updated or amended to reflect requirements of the Nitrate Control Program.

Conditional Prohibition of Nitrate Discharges to Groundwater

Upon receiving a Notice to Comply from the Regional Water Board, discharges of nitrate are prohibited unless a discharger is implementing the requirements of the Nitrate Control Program. These requirements include, but are not limited to, the development of an Early Action Plan (EAP), when so required, and the initiation of that EAP within 60 days of the submittal of the EAP to the Regional Water Board, unless an extension has been granted by the Executive Officer. If a discharger has not elected to participate in the Management Zone Approach (Path B), the requirements of the Individual Permitting Approach (Path A) shall apply to the discharge. Compliance timelines are identified in the Nitrate Control Program.

After receiving a Notice to Comply with the Nitrate Control Program, all dischargers subject to the Conditional Prohibition must provide either a Notice of Intent to comply with the Nitrate Control Program under Path A or be included as a participant in a previously-submitted Preliminary Management Zone Proposal (Path B). The Notice of Intent must be submitted within 330 days of receiving the Notice to Comply for Priority 1 Basins and within 452 days for remaining basins.

(a) Path A – Individual Permitting Approach

Dischargers not selecting Path B must submit a Notice of Intent that includes an Initial Assessment to the Regional Water Board that complies with the applicable requirements of the Nitrate Control Program. Should the Initial Assessment identify the need for an Early Action Plan (EAP), the proposed EAP must be submitted with the Notice of Intent. The discharger must initiate the activities proposed under the EAP within 60 days of the submittal of the EAP, unless the Regional Board deems the EAP to be incomplete. Revised EAPs must meet timelines approved by the Regional Water Board. Should the Initial Assessment identify the need for an

Alternative Compliance Project (ACP), the discharger must submit the proposed ACP with the Notice of Intent.

(b) Path B – Management Zone Approach

Dischargers electing to comply under a Management Zone Approach must meet the timelines identified in the Nitrate Control Program, including, but not limited to, submitting a Preliminary Management Zone Proposal within 270 days (Priority 1 Basins) or within one year (remaining basins) of receiving a Notice to Comply with the Nitrate Control Program. The Preliminary Management Zone Proposal must document all permittees considering compliance under Path B for the Management Zone. Should the Preliminary Management Zone Proposal identify the need for an Early Action Plan (EAP), the proposed EAP must be submitted with the proposal. Activities proposed under the EAP must be initiated within 60 days after submittal unless the Regional Board deems the EAP incomplete. Revised EAPs must meet timelines approved by the Regional Water Board.