California Regional Water Quality Control Board
Central Valley Region
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SUBJECT: Delta Mercury Control Program Requirements

You are receiving this letter because the Delta Mercury Control Program (Delta methylmercury total maximum daily load or TMDL) has identified that surface water discharges from irrigated agricultural land and managed wetlands that your Coalition represents causes or contributes to elevated levels of mercury and/or methylmercury to the Sacramento-San Joaquin River Delta or Yolo Bypass. This letter summarizes activities and schedules required by the Delta Mercury Control Program for your Coalition. The first report required to be submitted to the Central Valley Water Board is due 20 April 2012, as described later in this letter.

Background

On 22 April 2010, the Central Valley Water Board adopted amendments to the Sacramento River and San Joaquin River Basin Plan (Basin Plan) to establish the Delta Mercury Control Program to address mercury and methylmercury impairments in the Delta. The Delta Mercury Control Program includes fish-tissue objectives for the Delta and methylmercury allocations for NPDES facilities, municipal storm water, agricultural lands, wetlands, open water in the Delta and Yolo Bypass.

The Delta Mercury Control Program lays out an implementation strategy for the control of methylmercury and total mercury in the Delta and Yolo Bypass designed to reduce methylmercury levels in Delta fish tissue. The Delta Mercury Control Program uses an adaptive management approach that contains two phases. Phase 1, which will last through approximately 2020, is primarily a study period when methylmercury control measures will be developed and evaluated (methylmercury control study(s) (Control Study)). At the end of Phase 1, the Central Valley Water Board will review the study results and will consider revising the fish tissue objectives and methylmercury allocations.

Phase 2, which begins after the Central Valley Water Board conducts its reevaluation of the fish-tissue objectives and waste load and load allocations, will require implementation of the methylmercury controls identified by the Phase 1 studies.

Delta Mercury Control Program Requirements

Your Coalition is required to comply with the applicable Delta Mercury Control Program requirements contained in the Basin Plan. The following is a summary of requirements for methylmercury control study(s) (Control Study) and specific requirements for discharges from areas managed by your Coalition. The entire Delta Mercury Control Program can be found at http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/central_valley_projects/delta_hg/2011oct20/bpa_20oct2011_final.pdf.

The Delta Mercury Control Program includes numeric methylmercury load and waste load allocations. The allocations for irrigated agriculture and wetlands are contained in Table A of the Delta Mercury Control Program. The allocations can be used to inform the type and magnitude of methylmercury management practices that should be evaluated in the Control Studies.

On 20 October 2011, the USEPA approved the Basin Plan amendments, thus establishing the 'effective date' of the Delta Mercury Control Program and the start of the schedule for requirements. A summary table of the Phase 1 Control Study due dates is included.

Phase 1 Methylmercury Control Study Requirements

1. Conduct Control Studies to evaluate existing methylmercury control methods and, as needed, develop additional control methods that could be implemented to achieve your methylmercury load and/or waste load allocations. The Control Studies may be conducted either individually or in conjunction with other entities conducting methylmercury studies.

2. By 20 April 2012, submit a letter to the Executive Officer describing either: (a) how your group plans to organize with other dischargers and stakeholders to develop and implement a coordinated, comprehensive Control Study Workplan and studies or (b) your entity will develop and implement individual Control Study Workplans and studies. A Control Study developed by one Irrigated Lands Coalition can be considered a cooperative effort because the Coalition represents a group of landowners.

Workplans

3. Implement the Control Studies through the development and completion of Control Study Workplan(s) that are approved by the Regional Board Executive Officer.

4. By 20 July 2012, submit a Control Study Workplan report containing detailed plans for the Control Studies and Phase 1 activities. The Executive Officer can extend the due date to 20 April 2013 if your organization demonstrates that it is part of a collaborative study.

5. The Control Study Workplan(s) shall provide detailed descriptions of how methylmercury control methods will be identified, developed, and monitored, and how effectiveness, costs, potential environmental effects, and overall feasibility will be evaluated for the control methods.

6. The Control Study Workplan(s) shall include details for organizing, planning, developing, prioritizing, and implementing the Control Studies. Attachment A to this letter contains

general guidelines, expectations and minimum requirements in order for the Control Study Workplans to be considered approvable by the Executive Officer.

7. The Control Studies shall evaluate the feasibility of reducing sources more than the minimum amount needed to achieve allocations.

8. Initiate the Control Studies after Executive Offer approval of the studies. The deadline for initiation of studies is on or before 20 November 2012 for individual studies or 20 August 2013 for coordinated studies.

Reports

9. By 20 October 2015, submit a Progress Report to include Control Study progress to-date and, as necessary, amended workplans for any additional studies needed to address methylmercury reductions.

10. By 20 October 2018, submit the Control Study Final Report.

11. The Control Study Final reports shall include: a description of methylmercury and/or inorganic (total) mercury management practices identified by the studies; an evaluation of the effectiveness, and costs, potential environmental effects of the management practices; and a discussion of the overall feasibility of the control actions. In addition, final report(s) shall propose points of compliance for non-point sources.

12. In the Final report, your organization shall propose methylmercury and/or inorganic (total) mercury management implementation plans and schedules to comply with methylmercury allocations as soon as possible, but no later than 2030.

13. If the Control Study results indicate that achieving a given methylmercury allocation is infeasible, then your organization shall provide detailed information in the Final Report on why full compliance is not achievable, what methylmercury load reduction is achievable, and an implementation plan and schedule to achieve partial compliance towards meeting the allocation.

Summary of Activities and Reporting Schedule:

Due Date	Activity
20 April 2012	Submit Organizational Report
20 July 2012 20 April 2013 (extended date if granted by Executive Officer for collaborative studies)	Submit Control Study Workplan
Before 20 November 2012, or Before 20 August 2013 (extended date)	Initiate Control Study
20 October 2015	Submit Control Study Progress Report
20 October 2018	Submit Control Study Final Report

A group of stakeholders is involved in planning collaborative methylmercury studies for non-point sources (managed wetlands and irrigated agriculture) in the Delta and Yolo Bypass. If you are interested in participating in a collaborative study with this group, please contact Stephen McCord, McCord Environmental, Inc. (530) 220-3165 or sam@mccenv.com.

Phase 1 General Requirements (all dischargers)
The following requirements apply to surface water discharges from properties represented by your Coaltion:

1. Implement reasonable, feasible controls for inorganic mercury.
2. Implement methylmercury management practices identified during Phase 1 that are reasonable and feasible.

Discharger Specific Requirements
The East San Joaquin Water Quality Coalition representatives shall work with their Coalition members to develop and implement reasonable, feasible actions to reduce sediment in agricultural runoff with the goal of reducing inorganic mercury loading.

1. The Coalition shall comply with the Phase 1 Methylmercury Control Study Requirements and reporting schedules described above.

2. The requirements for the methylmercury Control Studies apply to irrigated agricultural lands that discharge to the Yolo Bypass and Delta subareas that require methylmercury source reductions, and to managed wetlands and wetland restoration projects that discharge to the Yolo Bypass and Delta subareas that require methylmercury source reductions. Load allocations for irrigated agriculture and wetlands apply to the net methylmercury loads, where the net loads equal the methylmercury load in outflow minus the methylmercury loads in source water (e.g., irrigation water and precipitation).

3. The Coalition may work with other Delta and upstream growers, dischargers and other stakeholders to complete the methylmercury Control Studies or they may conduct and implement site-specific study plans.

4. Owners and managers of irrigated agricultural lands and managed wetlands upstream of the legal Delta and Yolo Bypass are encouraged to participate in the methylmercury Control Studies. The lower Sacramento, Mokelumne, Cosumnes, and San Joaquin Rivers are impaired due to mercury and will be subject to future mercury control programs. Entities that participate in the Delta Control Studies will be exempt from conducting equivalent upstream Control Studies that may be required by future mercury control programs.

5. Monitoring and Reporting: As part of the Control Studies, the Coalition shall develop monitoring and reporting plans and determine points of compliance for allocations. The Coalition shall conduct monitoring per approved plans and submit monitoring reports.

Exposure Reduction Program
The Delta Mercury Control Program requires the development and implementation of an exposure reduction program (ERP) to protect those people who eat Delta fish by reducing their methylmercury exposure and its potential health risks.

The first step is for staff to work with multiple stakeholders to develop an Exposure Reduction Strategy. The Strategy will determine how dischargers will be responsible for participating in an ERP, set performance measures, and propose a collaborative process for developing, funding and implementing the program. Staff will be submitting the Exposure Reduction Strategy to the Executive Officer by 20 October 2012. Staff may be contacting your organization for input on the strategy.

By 20 October 2013, your group, individually or collectively with other stakeholders, is required to submit an exposure reduction workplan and implement the workplan six months after Executive Officer approval. The Board is working towards sponsoring a researcher/facilitator to assist with the Strategy and workplan requirements.

Your compliance with the Delta Mercury Control Program requirements and timely submittal of reports is sincerely appreciated. However, we must advise that failure or refusal to comply with the above Basin Plan requirements for the Delta Mercury Control Program will result in the Executive Officer issuing Orders for a technical report per Section 13267 of the California Water Code.

If you have any questions regarding this letter, please contact Janis Cooke, jcooke@waterboards.ca.gov, (916) 464-4672, or Patrick Morris, pmorris@waterboards.ca.gov, (916) 464-4621.

Kenneth D. Landau
Assistant Executive Officer

Attachment A: Guidance for Organizational Letters and Control Study Workplans