

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

ORDER R5-2015-0001

**REVISING ORDER R5-2014-0001
WASTE DISCHARGE REQUIREMENTS GENERAL ORDER
FOR GROWERS WITHIN THE WESTERN TULARE LAKE BASIN AREA THAT ARE
MEMBERS OF A THIRD-PARTY GROUP**

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. On 9 January 2014, the Central Valley Water Board issued Order No. R5-2014-0001 Waste Discharge Requirements General Order for Growers within the Western Tulare Lake Basin Area that are Members of a Third-Party Group (WTLBA General Order).
2. The Central Valley Water Board's authority to regulate waste discharges that could affect the quality of the waters of the state, which includes both surface water and groundwater, is found in the Porter-Cologne Water Quality Control Act (California Water Code Division 7).
3. Section VIII.A of the WTLBA General Order requires that within 30 days of the effective date of the Order, any group wishing to serve as a third-party must submit a letter to the Executive Officer. One third-party group submitted an application to the Executive Officer requesting to serve as a third-party group for the Western Tulare Lake Basin Area. The third-party's proposed boundaries did not provide full coverage for the Western Tulare Lake Basin Area, and therefore additional discussions between Board staff and the third-party group were needed to resolve the issue. A Notice of Applicability (NOA) was issued to the third-party group on 14 February 2014.

Section VIII.D.1 of the Western TLBA General Order requires that the third-party group submit a Groundwater Quality Assessment Report (GAR) one year following the issuance of their NOA. The GAR determines the high and low Vulnerability areas within the third-party boundaries. Some grower requirements of the WTLBA General Order, such as the Farm Evaluation and Nitrogen Management Plans, are due for large farming operations within high vulnerability areas on 1 March 2015. Unlike the GAR deadline, these requirements are not linked to the issuance of the NOA, which means that the delay in issuing the NOA did not alter these deadlines. The GAR submittal date for the third-party group is 16 February 2015, leaving insufficient time between the designations of high and low vulnerability areas in the GAR and the 1 March 2015 deadline for some Farm Evaluation and Nitrogen Management Plans.

4. On 17 January 2014, Governor Edmund G. Brown issued an emergency proclamation for the State of California due to severe drought. In part, the statement released by the Office

of the Governor regarding this proclamation directed state officials to assist farmers and communities that are economically affected by the drought. In a letter, received by the Board on 31 October 2014, the third-party group requested that additional time be allotted for growers to submit Farm Evaluations and for the third-parties to submit the Nitrogen Management Plan Summary Report because the drought has had a significant effect on water resources for California farmers.

5. To address the topics detailed in Findings 3 and 4 above, this Order revises the WTLBA Order to amend the schedule for preparation and submittal of the Farm Evaluations, Nitrogen Management Plans, Certification of the Nitrogen Management Plans and Nitrogen Management Plan Summary Reports. These changes include;
 - I. Providing large farming operations in high vulnerability areas with an additional year to submit a completed Farm Evaluation Template to the third-party group,
 - II. Requiring that large farming operations in high vulnerability areas prepare a Nitrogen Management Plan within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. To facilitate this, the third-party group agreed to meet with Central Valley Water Board staff to discuss their proposed process for determining high and low vulnerability areas prior to submission of their GAR. On 7 November 2014, Central Valley Regional Board staff met with the third-party group to discuss development of the GAR. An additional meeting to discuss the process for determining high and low vulnerability areas has been scheduled for 9 January 2014. If an agreement on the vulnerability designation process is not reached by 16 February 2015, the Executive Officer will make the final determination regarding high and low vulnerability areas. See Section VII.D Nitrogen Management Plan in Attachment A of this Order for details.
 - III. Providing large farming operations in high vulnerability areas with an additional year for the certification of Nitrogen Management Plans, and
 - IV. Providing large farming operations in high vulnerability areas with an additional year to submit a Nitrogen Management Plan Summary Report for the previous year.

A redline/strikeout document that indicates the alterations that this Order will make to the WTLBA General Order is attached hereto as Attachment A and incorporated herein by reference.

6. The Central Valley Water Board, acting as a lead agency pursuant to CEQA (Pub. Resources Code, § 21000 et seq.), certified a Program Environmental Impact Report (PEIR) for the Irrigated Lands Regulatory Program on 7 April 2011. This Order relies on the environmental impact analysis contained in the PEIR to satisfy the requirements of CEQA. The timelines modified pursuant to this Order apply to a range of compliance activities

identified and analyzed in the PEIR. Therefore, the PEIR identified, disclosed, and analyzed all potentially significant environmental impacts of this Order.

7. The Central Valley Water Board has notified interested agencies and persons of its intent to adopt this Order for discharges of waste from irrigated lands within the Western Tulare Lake Basin Area, and has provided them with an opportunity for a public hearing and an opportunity to submit comments.
8. The Central Valley Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that Waste Discharge Requirements Order No. R5-2014-0001 is revised by making modifications identified in Attachment A of this Order.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 5 February 2015.

Original signed by:

PAMELA C. CREEDON, Executive Officer

Attachment A: Revisions to Waste Discharge Requirements R5-2014-0001

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

ORDER R5-2015-0001 – INFORMATION SHEET

**REVISING ORDER R5-2014-0001
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MEMBERS OF A THIRD-PARTY GROUP (WESTERN TULARE LAKE BASIN AREA OR
WTLBA GENERAL ORDER)**

As described in the Findings, the Tentative Order would change deadlines for Members of a Third-Party Group to:

- Submit an initial Farm Evaluation;
- Complete a Nitrogen Management Plan using a template approved by the Board's Executive Officer;
- Certify a Nitrogen Management Plan; and
- Prepare a Nitrogen Management Plan Summary Report.

Central Valley Regional Water Quality Control Board staff (Staff) are proposing changes to the impending deadlines because the above requirements are dependent on information that will be contained in the Groundwater Quality Assessment Report (GAR).

Background Information

The WTLBA General Order requires the third-party group to submit a GAR by 16 February 2015. In addition to providing the foundational information for development of groundwater monitoring programs within the Western Tulare Lake Basin Area, the GAR identifies high and low vulnerability areas. The WTLBA General Order also requires that all farms in high vulnerability areas submit a completed Farm Evaluation to the third-party group by 1 March 2015 and that all large farming operations located in high vulnerability areas prepare a Nitrogen Management Plan by 1 March 2015. This schedule only provides 13 days for Staff and the third-party group to complete the GAR review process and notify growers of their vulnerability designation. Growers in high vulnerability areas would then still need to complete Farm Evaluations and Nitrogen Management Plans within the same 13 day period. This submittal schedule is infeasible and therefore, modifications to some deadlines within the WTLBA General Order are needed to ensure that growers in high vulnerability area have sufficient time to complete Farm Evaluations and Nitrogen Management Plans.

In addition to the timing conflicts, this Order also considered the impacts the drought is having on growers within the Western Tulare Lake Basin Area and provides growers with temporary relief by postponing the costs associated with some of the WTLBA General Order requirements while also resolving the timing conflicts discussed above.

Revisions to Submittal Schedule

This Order includes revisions to the submittal schedule for the Farm Evaluation, preparation and certification of Nitrogen Management Plans, and Nitrogen Management Plan Summary Reports. Specifically, this Order provides growers in high vulnerability areas with a one year extension for the submittal of a Farm Evaluations, certification of Nitrogen Management Plans, and the submittal of a Nitrogen Management Plan Summary Reports.

Though this Order revises several impending deadlines, it does not significantly alter the deadline for large farms in high vulnerability areas to prepare Nitrogen Management Plans. After the Order is modified, large farms in high vulnerability areas will be required to prepare a Nitrogen Management Plan within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. On 23 December 2014, the Executive Officer issued the Nitrogen Management Plan Template to the third-party groups. Thus, the 1 March 2015 deadline that is currently part of the Order will not significantly change. It is critical that Nitrogen Management Plans are completed in the spring, prior to the growing season for most crop types.

Staff has scheduled a meeting with the third-party group on 9 January 2015 to discuss the process for determining high and low vulnerability areas. If an agreement on the vulnerability designation process is not reached by 16 February 2015, the Executive Officer may make the final determination regarding high and low vulnerability areas. The changes included in this Order are consistent with changes made by the Waste Discharge Requirements General Order R5-2014-0143, adopted by the Board on 4 December 2014.

ATTACHMENT A

ORDER R5-2015-0001

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WASTE DISCHARGE REQUIREMENTS

Page 38, Table 1, modify due dates

Table 1 Member due dates for required reports

Report	Vulnerability	Farm Size	Due Date
Farm Evaluations	High	All	1 March 2015 2016
	Low	Large (≥60 ac)	1 March 2016
		Small (<60 ac)	1 March 2018
Sediment and Erosion Control Plans	All farms identified in the SDEAR	Large	180 days from approval of SDEAR
		Small	1 year from approval of SDEAR
Nitrogen Management Plans	High	Large	1 March 2015 90 Days after the EO provides template to third-party
		Small	1 March 2017
	Low	All	1 March 2017

Page 25, section VII. B.2 All Members in High Vulnerability Areas (Surface/ Groundwater), modify submittal date

2. All Members in High Vulnerability Areas (Surface/Groundwater)

By 1 March ~~2015~~[2016](#), all Members within a high vulnerability area must prepare their Farm Evaluation and submit it to the third-party. An updated Farm Evaluation must be prepared and submitted to the third-party by 1 March annually thereafter. As part of the Farm Evaluation, the Member shall provide information on any outreach events attended in accordance with section

IV.B.4 of this Order. After 1 March 2018, the Executive Officer may approve reduction in the frequency of updates and submission of Farm Evaluations, if the third-party demonstrates that year to year changes in Farm Evaluation updates are minimal and the Executive Officer concurs that the practices identified in the Farm Evaluations are consistent with practices that, when properly implemented, will achieve receiving water limitations and, where applicable, achieve or best practicable treatment or control.

Page 27, section VII.D.1.b Nitrogen Management Plan, All Member within a High Vulnerability Groundwater Area, add additional paragraph to the end of the provision

b. Deadlines for all other Members²³

~~By 1 March 2015~~ Within 90 days of the Executive Officer providing the Third-party with the Nitrogen Management Plan Template (see section VIII.C below), all other Member shall prepare, and update by 1 March annually thereafter a Nitrogen Management Plan. By 1 March ~~2016~~ 2017, and by 1 March annually, thereafter, all other Members shall submit to the third-party the Nitrogen management Plan Summary Report for the previous year.

Determination of high and low vulnerability areas is a key step in ensuring that nitrogen management practices are implemented as soon as practicable within areas of high vulnerability. Vulnerability will be determined as part of the GAR development process. This Order requires development of nitrogen management plans for high vulnerability areas within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. This may be as early as March 2015, which allows little time after GAR submittal to review vulnerability areas. Because of this, the third-party met with Central Valley Water Board staff to discuss their proposed process for determining high and low vulnerability areas to be submitted as part of their GAR. If an agreement on the vulnerability designation process is not reached by 16 February 2015, the Executive Officer will make the final determination regarding high and low vulnerability areas.

Members are not required to certify their Nitrogen Management Plan until 1 March 2016.

²³ Members with parcels that do not meet the Small Farming Operation definition (see Attachment E).

ATTACHMENT B TO – MONITORING AND REPORTING PROGRAM

Page 14, section IV.A.4 Groundwater Quality Assessment Report, add additional paragraph to the end of the section

1. *Groundwater vulnerability designations.* The GAR shall designate high/low vulnerability areas for groundwater in consideration of high and low vulnerability definitions provided in Attachment E of the Order. Vulnerability designations may be refined/ updated periodically during the Monitoring Report process. The third-party must review and confirm or modify vulnerability designations every five (5) years after Executive Officer approval of the GAR. The vulnerability designations will be made by the third-party using a combination of physical properties (soil type, depth to groundwater, known agricultural impacts to beneficial uses, etc.) and management practices (irrigation method, crop type, nitrogen application and removal rates, extent of implementation). If the third-party intends to develop a Basin Plan Amendment Workplan (section VIII.M of the Order), the third-party must identify the areas where a high vulnerability designation results from exceedances due to naturally elevated levels of a constituent. The third-party shall provide the rationale for proposed vulnerability determinations. The Executive Officer will make the final determination regarding vulnerability designations.

If the GAR is not submitted to the board by the required deadline, the Executive Officer will designate default high/low vulnerability groundwater areas using such information as: 1) published scientific studies, 2) hydrogeologic models, and 3) data from areas with exceedances of water quality objectives for which irrigated agriculture waste discharges may cause or contribute to the exceedance.

At a minimum, high vulnerability areas described in the GAR shall include all areas with underlying groundwater that is polluted by nitrates or other constituents associated with irrigated agriculture. The Executive Officer may revise GAR high and low vulnerability areas that do not meet the above requirements. As groundwater and other data are made available to the Central Valley Water Board subsequent to the submittal of the initial GAR, high and low vulnerability designations may be revised based on this new information.