

IRRIGATED LANDS REGULATORY PROGRAM UPDATE

October 2011

This month's Irrigated Lands Regulatory Program (ILRP) report covers the October 2011 period and will provide an update on the activities of the North Coast, San Francisco, Central Coast, Los Angeles, Colorado River Basin, Santa Ana, and San Diego Regional Water Quality Control Board ILRPs.

Future monthly reports will alternate between the status of the ILRP from the Central Valley Water Board for one month, and the status of other Regional Water Boards for the alternate month. Current and past ILRP monthly reports can be found on the [State Water Boards Agriculture Program](#) website.

NORTH COAST REGION

Staff of the North Coast Regional Water Quality Control Board are developing a water quality compliance program to address discharges from irrigated lands. The program is intended to satisfy the requirements of the State Nonpoint Source Policy and implement TMDLs in the North Coast Region.

Regional Water Board staff have contracted with the Center for Collaborative Policy (CCP) out of Sacramento State University to assist with stakeholder involvement. Staff and CCP are in the process of contacting stakeholders regarding program development and gathering information concerning agriculture in the North Coast Region. Staff have been talking to stakeholders one on one, have sent out informational emails, and have distributed two surveys to solicit feedback on the process. There has been a very good response to the surveys and Regional Board staff are now in the process of putting together stakeholder advisory groups. The preliminary approach is to form four sub-regional groups to address local issues and have them periodically come together as a regionwide group to share ideas and finalize recommendations. The first meeting of the regionwide group is planned for the second week of December 2011 and the sub-regional group meetings will follow into 2012.

SAN FRANCISCO BAY REGION

Overview:

The San Francisco Bay Regional Water Board administers the Tomales Bay grazing waiver program, is developing a vineyard waiver program for vineyards in the Napa River/Sonoma Creek Watershed.

Grazing in Napa River and Sonoma Creek Watersheds:

The Napa River/Sonoma Creek Grazing Waiver was adopted by the Regional Board on

September 14, 2011. Information on this Waiver was posted on the last Bi-Monthly Report. The draft Napa/Sonoma Grazing waiver and supporting CEQA documentation may be found on the [Region 2 website](#).

Grazing in the Tomales Bay Watershed:

Region 2 staff provided a report to our Board on the status of the Tomales Bay Grazing Waiver Program at our June Board hearing. The report discusses the Grazing Waiver's background and requirements, outreach efforts and funding, enrollee compliance, ongoing watershed efforts, and lessons learned.

The report also describes the efforts of the Tomales Bay Watershed Grazing Land Partnership (Partnership) in assisting the agricultural community in complying with the requirements of the Grazing Waiver.

Staff believes that the success of the Grazing Waiver Program is rooted in the local relationships established with the Partnership, the substantial amount of technical assistance provided to ranchers by Water Board staff and the Partnership, and the success of partners in obtaining grant funding.

It should also be noted that the Staff Report includes references to two recent publications that provide independent evaluations regarding the effectiveness of the Tomales Bay Grazing Waiver Program.

The Staff Report and referenced publications may be found on the [Region 2 website](#).

Vineyard Waiver for Napa River and Sonoma Creek Watersheds:

Region 2 staff is developing a Vineyard Waiver to require that effective management practices be implemented to control human-caused discharges of pollutants from vineyard facilities. Potential pollutants from vineyard facilities include sediment, erosive forces (that cause excessive erosion and sedimentation), heat (human-caused effects on channel or riparian conditions that may cause increases to stream temperature), nutrients, pesticides, and pathogens. The Vineyard Waiver would cover existing vineyards, vineyard undergoing replanting programs, as well as new vineyard development. Preliminary estimates indicate the Vineyard Waiver will affect at least 42,000 acres of planted vineyards.

On June 10, staff held the first stakeholder meeting at the Napa County Flood and Conservation District conference room. The goals of the meeting were as follows:

- Exchange information;
- Make improvements and refinements to the draft Vineyard Waiver;
- Discuss and encourage third-party and technical assistance programs;
- Discuss ways to streamline the process and avoid conflicts with local requirements or necessary growing practices; and
- Improve implementation of (and compliance with) the Vineyard Waiver.

Stakeholders representing growers, local government, environmental groups, and

other interests attended. The meeting was very productive, and several key issues were discussed, including:

- Benefits to the grower, of enrolling in the Vineyard Waiver program;
- Definition of several terms including sensitive species, streams, and heat as a pollutant;
- Reporting requirements; and
- Monitoring (i.e. how will people know that the program is improving stream conditions).

Staff is considering the comments received and anticipates scheduling a second stakeholder meeting later this summer. Additional information about the Vineyard Waiver may be found on the [Region 2 website](#).

CENTRAL COAST REGION

Extension of the 2004 Agricultural Order and Updated Monitoring and Reporting Program:

The Central Coast Water Board did not have a quorum to take action to adopt a renewal of the 2004 Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands (Agricultural Order No. R3-2004-0117) before it expired on September 30, 2011.

On September 30, 2011, the Executive Officer of the Central Coast Water Board issued Executive Officer Order No. R3-2011-0017 extending the 2004 Agricultural Order until September 30, 2012. Executive Officer Order No. R3-2011-0017 also requires dischargers to implement an updated Monitoring and Reporting Program No. R3-2011-0018. By law, all waivers of waste discharge requirements must be reviewed, and renewed, revised, or replaced at least every five years. The Central Coast Water Board is currently in the process to consider renewal of the 2004 Agricultural Order with modifications.

The Executive Officer Order to Extend the Termination Date of Order No. R3-2004-0117 and require Monitoring and Reporting Program No. R3-2011-0018 does not modify the conditions in that Order but issues an updated Monitoring and Reporting Program. The updated Monitoring and Reporting Program includes revisions to the Cooperative Monitoring Program (the program agriculture implements to comply with surface water monitoring requirements for growers who choose to participate). The Executive Officer Order is in the public interest because it continues the conditional waiver of waste discharge requirements to protect water quality that requires actions by dischargers to control discharges of waste and compliance with water quality standards, continues a monitoring and reporting program, and continues the payment of fees, pending the availability of a quorum of the Central Coast Water Board to adopt a renewed and modified waiver of waste discharge requirements or other order that supersedes the existing order.

For copies of Executive Officer Order No. R3-2011-0017, Agricultural Order R3-2004-0117, Monitoring and Reporting Program R3-2011-0018 and additional information on what growers need to do to comply with existing requirements, please go to the [Region 3 website](#). Additional information about the renewal of the 2004 Agricultural Order can also be found on the [Region 3 website](#).

Enforcement:

As part of existing Water Board requirements, growers that irrigate cropland for commercial production must enroll in the 2004 Agricultural Order by submitting a Notice of Intent to the Water Board. Growers are also required to keep the information in the Notice of Intent up to date. On September 14, 2011 the Central Coast Water Board issued approximately 800 Notices of Violation to growers who failed to submit their electronic Notice of Intent (eNOI) for the existing Agricultural Order. In addition to potential monetary fines, the Water Board may terminate enrollment for individual growers who do not submit their electronic Notice of Intent, which may subject the operation to more significant enforcement actions and penalties.

On September 19, 2011 the Central Coast Water Board also issued approximately 1500 letters to growers who have already complied with the initial requirement to submit an electronic Notice of Intent. These growers must review and update the information in their electronic Notice of Intent by October 15, 2011. This is also a requirement of the existing 2004 Agricultural Order.

LOS ANGELES REGION

Enrollment in Renewed Conditional Waiver:

The Los Angeles Irrigated Lands Group (LA-ILG) and the Ventura County Agriculture Irrigated Lands Group (VCAILG) are the two discharger groups in the Los Angeles Region that have formed to comply with the Conditional Waiver. Discharger groups must submit a notice of intent, a monitoring and reporting plan, and a quality assurance project plan by April 7, 2011 in order to comply with the Conditional Waiver, which was renewed on October 7, 2010. Regional Board staff has reviewed the enrollment documents submitted by LA-ILG and VCAILG. The Regional Board issued a notice of applicability to VCAILG on September 13, 2011. Regional Board staff will issue a notice of applicability to LA-ILG once LA-ILG submits additional enrollment documents. Annual reports are due within one year of issuance of the notices of applicability. The discharger groups are currently complying with existing monitoring and reporting plans and water quality management plans that were developed in accordance with the previous waiver.

Regional Board staff continued to work with the Los Angeles County discharger group to enroll more growers. The outreach efforts in Los Angeles County have been a success, with an 8% increase in enrollment from the previous waiver term.

Education Workshops:

Staff approved several workshops and classes to fulfill the Conditional Waiver education requirements. Staff attended one workshop in Ventura County in September 2011 and one workshop in Ventura County in October 2011 to give presentations on the regulatory requirements of the Conditional Waiver. Twenty-five growers attended the Los Angeles County workshop and received four of the eight hours of required education.

Grant Management:

Staff continues to manage a Clean Water Act section 319(h) grant for grower education and outreach to implement BMPs in the Calleguas Creek and Santa Clara River Watersheds. Staff is working with the grantee to ensure that the grant effectively implements the renewed Los Angeles Region Conditional Waiver for Irrigated Lands, and specifically implements BMPs according to VCAILG's WQMP.

Staff also began overseeing a Proposition 84 grant for a mobile irrigation laboratory to improve irrigation efficiency on farms in Ventura County (Grant Agreement No. 10-417-554). The grantee is the Ventura County Resource Conservation District (RCD). Under the grant, RCD staff travels to farms, evaluates irrigation efficiency, recommends improvements, and provides cost share funding to implement the recommended improvements. The goal of the grant is to reduce dry-weather loading of agriculture-related pollutants.

COLORADO RIVER BASIN REGION

Palo Verde (PV) Agricultural (Ag) Discharge Prohibition:

The State Board November 1, 2011 hearing for the Palo Verde Valley agricultural conditional prohibition has been postponed.

Imperial Valley Sediment TMDLs:

Grower participation in the Imperial County Farm Bureau TMDL program has a high rate of enrollment because it offers growers and landowners a streamlined path to compliance with the mandatory TMDL regulations. Farmers implement a variety of Best Management Practices (BMPs) to reduce silt and mineral runoff on their own farms, and maintain a record of their efforts, and attend annual meetings to keep up-to-date and share information relating to BMPs and TMDL management on their farms. Annual self-determined Sediment Control Plans (Water Quality Management Plans) for each farm (about 6,000 for 450,000 acres) must be submitted each September.

The Imperial Irrigation District is also a responsible party for the Sediment TMDLs. They were awarded a Proposition 50/84 grant for \$900,000 several years ago and the work began last year on the Precision Agricultural Drain Cleaning BMP Plan. The project implementation work includes:

- Drain Improvement Program; Vegetation Management Program;
- GPS-guided Drain Cleaning Program; and

- Drain Water Quality Improvement Plan monitoring.

Imperial Valley Pesticide TMDL:

Region 7 is developing a TMDL to address impairments in the Alamo and New Rivers by the current use of the pesticides chlorpyrifos and diazinon. Agriculture is currently the dominant user and discharger of these two pesticides in both watersheds. Regional Board staff is working with Imperial County Farm Bureau (ICFB) to develop a regulatory certified program to correct the impairment. The TMDL may be taken to the Regional Board for adoption in 2012.

SANTA ANA REGION

Board staff is proposing that all operators of irrigated land, dry-farmed land subject to inundation by flooding, and of other agricultural operations not already regulated by the Regional Board, enroll in a conditional waiver of waste discharge requirements. Board staff is calling this the Conditional Waiver (of waste discharge requirements) for Agricultural Discharges (CWAD). The Regional Board staff proposes that the CWAD program will be developed and implemented watershed-based phased approach. The first phase of this program is being developed for waste discharges from agricultural operations in the Lake Elsinore / San Jacinto Watershed. The Regional Board adopted separate nutrient Total Maximum Daily Loads (TMDLs) for Canyon Lake and Lake Elsinore. The CWAD program is being designed to be part of the implementation program for these TMDLs.

Regional Board staff has developed a “CWAD Program Advisory Group” which consists of about 15 members including agricultural farmers, local growers, industry groups, and major stakeholders, etc. The next CWAD Program Advisory Group meeting is scheduled to be held on November 17, 2011 at the Riverside County Farm Bureau office. Regional Board staff solicited the advisory group’s consensus on choosing specific conditions and prohibitions on application of fertilizers and herbicides during the wet season in view of flooding situation in the project area during and after the rain events. The listed action items and proposed topics for the next meeting are scheduled to be discussed along with the action items from the previous CWAD Advisory Group (July 28, 2011) meeting and are as follows:

- CWAD Program Coalition forming, monitoring program and pollutants trading project- by WRCAC staff;
- CWAD program schedule updates;
- CEQA Negative Declaration and draft Initial Study Checklist CWAD Program Cost Analysis Study;
- CWAD Program Draft Notice of Intent (NOI); and
- CWAD Program draft Ag. Waiver Requirements (Ag. Waiver Order).

SAN DIEGO REGION

Non-Compliance Letters:

On August 5, 2011 approximately 1,800 letters were sent to owners of properties with agricultural land use that have not enrolled under the Ag Waiver. As of October 26, 2011, over 150 individuals have called with questions regarding the letters and 604 Response Forms have been received. The response rate for the Non-Compliance Letters is 34 percent. For comparison, according to the Direct Marketing Association 2010 Response Rate Trend Report the response rate for similar direct mailing is 3 percent.

The following table summarizes information obtained from the response forms regarding enrollment status:

Enrollment Status	Total	Percent of Responses
Enrolled	123	21
Will Enroll	16	3
Exempt	465	78

Enforcement:

Enforcement actions have commenced against growers who have not yet enrolled in the Ag Waiver. A phased approach will be used for the enforcement actions.

Warning Phase

Warning letters will be mailed to individuals who have not returned the Response Form and who are permits with the County of San Diego Agricultural Weights and Measures for the use of pesticides. This comparison was done to ensure that the property listed as "agricultural" by the San Diego County Assessor's Office is being used for agricultural purposes. The Warning Letters will be sent via Certified-Return Receipt mail to document that the addresses received the letters. The Warning Letters will request the property owner to complete the Response Form and return it by a given date and notify them that if they fail to do so enforcement actions will be taken against them.

Enforcement Phase

Enforcement actions will be taken against property owners who do not return the "Response Forms". The Compliance Assurance Unit will be responsible for the enforcement actions. Enforcement actions may include issuance of a Notice of Violation and an Administrative Civil Liability.

Ag Waiver Review and Re-Issue:

By law, all waivers must be reviewed, and renewed, revised, or replaced at least every five years. Because the State Water Board recently revised its fee schedule to require fees for Agricultural Waivers it was decided to begin the review process to include fee collection.

Schedule

The revised Ag Waiver will be considered for adoption by the Board at its August 2012 Board Meeting. Stakeholder meetings will be held during November and December 2011 and January 2012, with Public Workshops during 2012. To maximize public involvement three workshops will be held. One workshop will be at the San Diego Water Board and two evening workshops, one in Escondido and one in Temecula are planned.

The appropriate CEQA documentation will not be evaluated until a “draft” document is completed. Because of the different resource needs and time requirements between the various CEQA documents a “draft” waiver will be completed by February 2012 and the determination of the appropriate CEQA documentation will be made in early March 2012.

Discussion Topics

Based on discussions with the regulated community and Regional Board and State Board staff the following topics will be discussed in the review/revision process for the Ag Waiver.

The definition of a commercial grower is a producer of agricultural products with average gross sales over the most recent three years of \$1,000 per year. This definition will be reviewed to determine if it needs to be revised during the five-year renewal process in 2012.

The County of San Diego and several municipalities have existing regulatory programs for nursery operations. Non-Governmental Organizations (NGOs) currently provide oversight and inspection of agricultural activities. An evaluation of these programs will be made to determine the need and/or requirements for growers under the direction of these governmental agencies and NGOs.

The implementation of an electronic reporting system, such as the electronic Notice of Intent filing required by Region 3 will be considered.

Currently all growers regardless of their potential/actual impact to water quality have the same requirements. An evaluation will be conducted to determine if a tiered approach can be used that will have requirements based on the potential/actual impacts to water quality. Factors to be considered include size and type of operation, farming methods, water use, and location of operation.

The State Water Board recently adopted a new fee schedule that requires fees for all

agricultural and irrigated lands waivers. The Waiver will be revised to include these fees.