

**Central Valley Water Board
Irrigated Lands Regulatory Program
Questions and Answers**

Updated November 2013

I received a letter from the Water Board. Why was I identified?

The Water Board conducts outreach to landowners who likely own commercial irrigated lands and whose parcels do not have regulatory coverage with the Water Board. We use publically available data such as county tax assessor information and the California Department of Conservation's Farmland Mapping & Monitoring Program to identify these landowners.

This is the first I've heard of the program. Why was it created and when did it start?

The Irrigated Lands Regulatory Program (ILRP) was created to address discharge of wastes (e.g., sediments, pesticides, nitrates) from irrigated lands. Such wastes can affect surface water quality and groundwater quality.

Before 2003, waste discharges from irrigated lands had a broad waiver from regulation through a specific Water Board program. New legislation required the Central Valley Water Board and other water boards to terminate existing waivers and replace them with Waste Discharge Requirements (WDRs) or a conditional waiver of WDRs. In response, the Water Board approved a conditional waiver for waste discharges from irrigated lands in 2003 to address discharge to surface waters. Waste discharges from irrigated lands have been regulated under the ILRP since that time.

How can the Water Board claim that my farm operation is discharging waste?

The 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). The Water Board has used this statute to find that all commercial irrigated lands operations have the potential to affect water quality, either through waste discharges to land/groundwater or surface waters. The most common waste discharges associated with irrigated lands are sediment, nutrients, pesticides and salts.

How are discharges from irrigated agriculture currently regulated?

Of the estimated 35,000 growers in the Central Valley, there are about 25,000 landowners/operators, with a total of nearly 5 million acres of land, who are currently regulated by the Water Board and 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

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practices to protect surface waters, such as creeks and rivers. The focus of these efforts is in areas where monitoring has identified problems.

The Water Board is in the process of replacing the existing Irrigated Lands Conditional Waiver with regional and commodity-based Waste Discharge Requirements. WDR's have already been approved for the Eastern San Joaquin River watershed and Tulare Lake Basin areas; and WDR's are planned for rice growers, for the San Joaquin County and Delta area, the Western San Joaquin River Watershed, and the Western Tulare Lake Basin area.

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, the pesticides chlorpyrifos and diazinon) and water quality problems that need additional study to identify sources (for example, e. coli, which is an indicator of potential pathogens).

Has the existing program improved 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.

How have the program requirements 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 Water Board has identified growers 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. Cases of discharges of excessive amounts of sediment have resulted in fines ranging from \$10,000 to \$300,000.

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Why are changes to the Irrigated Lands Regulatory Program needed?

When the Water 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. 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.

What are some of the key changes in the Irrigated Lands Regulatory Program?

The new Waste Discharge Requirements recently adopted by the Board have the following key elements that were not part of the previous approach:

1. Expand the program to include discharges to groundwater. This is especially critical to protect sources of drinking water from contaminants such as nitrate, which can come from fertilizer application.
2. Base 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. Tailor requirements to the setting and issues relevant to specific geographic areas or commodities. This will result in the Board issuing 7 to 8 general waste discharge requirements.
4. Increase grower and coalition (or third party) accountability by identifying specific expectations that must be met to avoid individual regulation by the Board.
5. Require 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 nitrogen management plans.
6. Require 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. Conduct 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. Focus on 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 to the Water Board that 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 implement management practices and verify their practices are effective - meaning they protect water quality. All growers will be required to conduct a farm evaluation to determine what farm practices are currently being implemented and to determine whether any improvements can be made to protect water quality. Nutrient management is a recommended key element for all growers; however, growers in areas where groundwater is known to be severely impacted by nitrates, pesticides or other constituents associated with agriculture will be required to have a certified nitrogen management plan. Water quality monitoring will be a key element of the Program. Water quality monitoring may involve contributing to regional efforts and participating in studies to evaluate how effective management practices are.

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

A key element of the Irrigated Lands Regulatory Program is to maintain the ability of individual growers to join third-party or coalitions groups. The third-parties or coalitions will work directly with their member growers to assist them in complying with Central Valley Water Board requirements. Third-parties will:

- assess fees to cover their costs and State Water Board fees;
- conduct education and outreach to inform growers of requirements and practices to protect water quality;
- prepare and implement regional water quality management plans and water quality monitoring plans; and
- report to the Board on the results of the monitoring efforts and the effectiveness of the plans.

The roles and responsibilities of the third-parties or coalitions will be clearly identified to increase accountability and transparency of this process to the growers and Board.

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Will growers have any direct interaction with the Water Board?

Growers who are currently members of third-parties or coalitions, and are complying with Water Board requirements, will have little or no direct interaction with the Board. Any growers who are not part of a coalition or do not meet their obligations in the coalition will be directly regulated by the Board. Water Board staff will also conduct inspections of growers in response to complaints or to evaluate compliance.

How will requirements be tailored for differences in agricultural operations?

The Water Board plans to issue 7 to 8 geographic or commodity-specific Orders containing requirements tailored to the issues relevant to the geographic area or commodity. In addition, the Orders tailor requirements based on water quality threats and whether an area is vulnerable to discharges from irrigated lands.

How will vulnerability assessments be conducted?

The third party will evaluate available data for a given area to determine the vulnerability of groundwater aquifers and areas that are vulnerable to sediment erosion and discharge. The evaluation will be conducted for different constituents. For example, a given area may have a problem with nitrates in groundwater (high threat/vulnerability); pathogens in surface water with an unknown agricultural contribution (unknown threat/vulnerability); and no pesticide residues in groundwater (low threat/vulnerability). Growers, third-parties or coalition representatives and the public will be engaged in this process with staff prior to staff developing its recommended approach.

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

As the Water Board considers issuing the waste discharge requirements, there have been and will continue to be opportunities for the public to provide comments as part of the hearing process. In addition, interested parties will be able to provide input on an administrative draft of the waste discharge requirements. When final draft regional water quality management plans are submitted by third-parties or coalitions to the Water Board 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. Board staff will also provide periodic updates to the board on program implementation, which are open to the public. Here's a link for these meetings:

http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/new_waste_discharge_requirements/brd_mtg_presentations_info/index.shtml

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What is the schedule for developing the WDRs?

The Waste Discharge Requirements for the Eastern San Joaquin Watershed, for individual growers, and for the Tulare Lake Basin were approved by the Water Board in December 2012, July 2013, and September 2013, respectively.

Where can I find the recent regulation that expanded coverage to groundwater as well as surface water in the Eastern San Joaquin River Watershed or Tulare Lake Basin?

The regulation is found in the Waste Discharge Requirements General Order for Growers within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (Order R5-2012-0116); and the Waste Discharge Requirements General Order for Growers within the Tulare Lake Basin Area that are Members of the Third-Party Group (Order R5-2013-0120). Here's the link for these Orders:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2012-0116.pdf

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0120.pdf

My irrigated lands are covered by the Dairy Order. Do I still need coverage under the ILRP?

No, but you must report the parcels that you are using for dairy waste applications to the Water Board. This should be done on your Dairy Order annual report.

I have a newly planted orchard that will not be harvestable for a few years. Do I need regulatory coverage?

Irrigated lands are lands irrigated to produce crops or pasture used for commercial purposes including lands that are planted to commercial crops that are not yet marketable (e.g., newly planted vineyards and tree crops). Irrigated lands for which the crops are not yet harvestable must still get regulatory coverage.

Is enrollment in a coalition mandatory?

No. Growers also have the option of applying for the Waste Discharge Requirements General Order for Discharges from Irrigated Lands within the Central Valley Region for

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Dischargers not Participating in a Third-Party Group (Order R5-2013-0100). Here's the link for this Order:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0100.pdf

Depending on the specific site conditions, growers with their own individual WDRs are often required to monitor runoff from their property, install monitoring wells, and submit technical reports regarding their actions to comply with their Waste Discharge Requirements. Costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$750 + \$5/acre); cost to prepare a report of waste discharge; and monitoring and reporting costs.

What is the benefit of joining a coalition?

The coalitions conduct monitoring and submit required reports to the Water Board on behalf of enrolled growers. For example, the coalition will conduct studies to determine whether agricultural management practices are protective of groundwater quality. Individual growers who do not join the coalition would need to conduct individual monitoring and develop such studies to determine whether waste discharges are protective of surface and groundwater quality. The Water Board has developed separate Waste Discharge Requirements for growers who don't want to join a coalition. The requirements of this Order can be found here:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0100.pdf

How do I apply to join a coalition?

Directions for joining a coalition group can be found in the link below. Keep in mind that the procedure is different for areas with new Waste Discharge Requirements than for the other areas.

http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml

What is the purpose of the Water Board's application fee, and how are the fees used?

The application fee covers the Water Board's administrative costs to identify owners of commercial irrigated lands. This includes costs for staff time; maintaining information management systems; acquiring tax assessor parcel information; and sending out

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letters using certified mail. Basically, the less work that must be done by the Water Board to get a farming operation under proper regulatory coverage (if it is needed) the lower the administrative costs to the farming operation.

There will be a grace period when each new Waste Discharge Requirements are approved. During this time, which will vary depending on the area, there will be no administrative fee for growers who join the coalition in the recently-approved WDR area. Additionally, growers can enroll directly with the coalition during this time without any need to submit paperwork or fees to the Water Board. After the grace period, and application and administrative fee will have to be submitted to the Water Board.

How do I stay informed about the new Waste Discharge Requirements proposed as part of the Long-term Program and other ILRP-related news?

You can receive ILRP-related notifications, updates and other correspondence by e-mail. Subscribe on-line to our electronic mailing list here:

http://www.waterboards.ca.gov/resources/email_subscriptions/reg5_subscribe.shtml

I want to speak with Water Board staff. How do I reach a real person?

Irrigated Lands Program staff can be reached via phone at (916) 464-4611, or via e-mail at IrrLands@waterboards.ca.gov. If you call, you will be asked to allow up to two business days for staff to return your call.