

SUMMARY PROPOSED CHANGES TO THE TULARE LAKE BASIN AREA (TLBA)
GENERAL ORDER FOR IRRIGATED LANDS
WASTE DISCHARGE REQUIREMENTS ORDER R5-2013-0120

Tentative revisions to the TLBA General Order for Irrigated Lands R5-2013-0120 will be considered by the Central Valley Regional Water Quality Control Board (Central Valley Water Board or Board) during its December 2014 meeting. Following is a summary of what is in the current version of the General Order (the “Current Order”), what was in the tentative order that was originally circulated for public comment (the “Initial Tentative Order”), what modifications the Coalitions requested, and the current staff recommendation, which will be reflected in the draft order that will be in front of the Board (the “Proposed Order”).

BACKGROUND INFORMATION

Seven groups submitted applications to the Executive Officer requesting to serve as a third-party group for portions of the Tulare Lake Basin Area. The proposed third-party boundaries in several of the initial applications did not provide full coverage within large portions of the Tulare Lake Basin Area, and therefore additional discussions between Board staff and the third-party groups were needed to resolve the issue. Due to the additional time needed to resolve the boundary concerns, a Notice of Applicability (NOA) was not issued to all third-party groups until 21 May 2014, 6 months after the Board had initially anticipated that these NOAs would be issued.

Section VIII.D.1 of the Current Order requires that the third-party groups submit a Groundwater Quality Assessment Report (GAR) one year following the issuance of the NOA; this requirement will not change. In addition to providing foundational information for development of groundwater monitoring programs under the General Order, the GAR also determines the high and low vulnerability areas within the third-party boundaries. However, some grower requirements of the General Order, such as the Farm Evaluation and Nitrogen Management Plans, are due for large farming operations within high vulnerability areas beginning 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. At this point, the GAR submittal dates for third-party groups within the Tulare Lake Basin Area range from 20 November 2014 to 21 May 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.

FARM EVALUATION

- Current Order R5-2013-0120 – All farms within high vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2015. Large farming operations within low vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2016. Small farming operations within low vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2018.
- Initial Tentative Order – All large farming operations, regardless of vulnerability designations, would be required to submit a completed Farm Evaluation Template to the third-party group by 1 March 2015. Small farming operations within high vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2016. Small farming operations within low vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2018.

- Coalitions' Request – All large farming operations and small farming operations within high vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2016. Small farming operations within low vulnerability areas must submit a completed Farm Evaluation Template to the third-party group by 1 March 2018.
- Proposed Order – Same as the coalitions' request.

NITROGEN MANAGEMENT PLAN

- Current Order R5-2013-0120 – All large farming operations within high vulnerability areas must prepare a Nitrogen Management Plan by 1 March 2015. Small farming operations within high vulnerability areas and both large and small farming operations within low vulnerability areas must prepare a Nitrogen Management Plan by 1 March 2017.
- Initial Tentative Order – All large farming operations, regardless of vulnerability designations, would be required to prepare a Nitrogen Management Plan within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. All small farming operations, regardless of vulnerability designations, would be required to prepare a Nitrogen Management Plan by 1 March 2017.
- Coalitions' Request – All large farming operations within high vulnerability areas must prepare a Nitrogen Management Plan within 90 days of the date the Executive Officer issues the Nitrogen Management Plan Template. Small farming operations within high vulnerability areas and both large and small farming operations within low vulnerability areas must prepare a Nitrogen Management Plan by 1 March 2017.
- Proposed Order – Same as the Coalitions' request. However, this solution would still require additional modifications to the Current Order to allow Board staff time to meet with the Coalitions prior to the submittal of the Groundwater Quality Assessment Report to review and agree to the process by which the Coalitions will identify high and low vulnerability areas in their Groundwater Quality Assessment Report. See the section titled "New Provision For Interim Vulnerability Designations" below.

NITROGEN MANAGEMENT PLAN CERTIFICATION

- Current Order R5-2013-0120 – Large farming operations within high vulnerability areas must have certified Nitrogen Management Plans by 1 March 2015. Small farming operations within high vulnerability areas must have certified Nitrogen Management Plans by 1 March 2017.
- Initial Tentative Order – Large farming operations within high vulnerability areas must have certified Nitrogen Management Plans by 1 March 2016. Small farming operations within high vulnerability areas must have certified Nitrogen Management Plans by 1 March 2017.
- Coalitions' Request – Same as the Initial Tentative Order.
- Proposed Order – Same as the Initial Tentative Order and the Coalitions' request.

NITROGEN MANAGEMENT PLAN SUMMARY REPORT

- Current Order R5-2013-0120 – The grower must submit a Nitrogen Management Plan Summary Report for large farming operations in high vulnerability areas to the third party by 1 March 2016. The grower must submit a Nitrogen Management Plan Summary Report for small farming operations in high vulnerability areas to the third party by 1 March 2018.
- Initial Tentative Order – Same as the Current Order.
- Coalitions' Request – The grower must submit a Nitrogen Management Plan Summary Report for large farming operations in high vulnerability areas to the third party by 1 March 2017. The grower must submit a Nitrogen Management Plan Summary Report for small farming operations in high vulnerability areas to the third party by 1 March 2018.
- Proposed Order – Same as Coalitions' request.

WETLANDS OPEN ENROLLMENT PERIOD

- Current Order R5-2013-0120 – Owners and operators of managed wetlands have 180 days after the date the Executive Officer issues a Notice of Applicability to the third-party group.
- Initial Tentative Order – Owners and operators of managed wetlands have until 31 December 2015 to enroll in a third-party group.
- Coalitions' Request – The Coalitions did not comment on this issue.
- Proposed Order – Same as Initial Tentative Order.

NEW PROVISION FOR VULNERABILITY DESIGNATIONS

- Current Order R5-2013-0120 – Section D.1 of the Order states in part the Groundwater Quality Assessment Report shall include an “*Assessment of all available, applicable and relevant data and information to determine the high and low vulnerability areas where discharges from irrigated lands may result in groundwater quality degradation*”. In addition to this language, Section IV.A.4 of MRP Order R5-2013-0120 states in part that “*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, etc.). 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.*”
- Initial Tentative Order – Same as Current Order.
- Coalition Request – This is a new proposed change by staff that has been discussed in concept with the Coalitions but they have not reviewed staff proposed language. As a result, late changes may or may not be proposed.

- Proposed Order –

- Add the following paragraph to the end of section VII.D.1.b of Order R5-2013-0120:

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 1 March 2015 for some Coalitions, which allows little time after GAR submittal to review vulnerability areas. Because of this, the third-party is required to meet with Central Valley Water Board staff by 31 December 2014 to discuss and receive agreement from staff on 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 1 February 2015, the Executive Officer will make the final determination regarding high and low vulnerability areas.

- Add the following paragraph to the end of section IV.A.4 of MRP R5-2013-0120:

At a minimum, high and low vulnerability areas described in the GAR shall include all areas with underlying groundwater that is polluted for 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 Water Board subsequent to the submittal of the initial GAR, high and low vulnerability designations may be revised based on this new information.