

KEY TALKING POINTS

CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD'S DRAFT AG ORDER 4.0

"Both the landowners and the operator of the irrigated agricultural land are Discharges under this Order.

The Central Coast Water Board will hold both the landowners and the operator liable for noncompliance with this order..."

Draft General Waste Discharge -10- Order No. R3-20xx-xxxx Requirements for Discharges from February 21, 2020 Irrigated Lands, Page 10, Item #26.

FARM PLANS AND INMP SUMMARY REPORT

- All farms must develop, implement and update as necessary, a Farm Water Quality Management Plan (Farm Plan) and must include sections for: Irrigation and Nutrient Management Plan (INMP), Pesticide Management Plan (PMP), Sediment and Erosion Management Plan (SEMP), Riparian Area Management Plan (RAMP), Water Quality Education, and CEQA Mitigation Measure Implementation.
- Elements of the INMP are reported annually on the Total Nitrogen Applied (TNA) report; use of the TNA report will be phased out, replace by the INMP Summary Report (depending on groundwater phase).
 - Other elements of the Farm Plan will be reported in the Annual Compliance Form (ACF), due March 1st of each year.
- All records must be maintained for a minimum of 10 years, including all monitoring information, co-efficient calculations, management practice implementation and assessment, and educational records.
- Farm Plans stay on the farm but must be submitted to CCRWQCB upon request.

Talking Points:

- *Plans, for smaller farms, will require significant professional expertise to develop and update, at considerable cost; there are not enough professionals to service all farms for these plans.*
- *Significant data collection and retention will be required to meet annual compliance reporting.*
- *ACF data must be entered manually into GeoTracker; there is no upload function from standardized formats or spreadsheets, adding to compliance time reporting.*
- *Small farms lack resources to complete compliance reporting calculations and will require technical assistance.*

IRRIGATION AND NUTRIENT MANAGEMENT FOR GROUNDWATER PROTECTION

- Fertilizer nitrogen application limits will apply to all crops.
 - Cannot apply fertilizer greater than these Nitrogen Application Limits for specific crops, starting in 2022:
 - Broccoli = 295#/acre
 - Cauliflower = 300#/acre
 - Celery = 375#/acre
 - Lettuce = 275#/acre
 - Spinach = 240#/acre
 - Strawberries = 330#/acre
 - All other crops = 500#/acre
 - Nitrogen discharge targets and limits apply to all crops grown; these totals are in pounds of nitrogen per acre per year and represent all crops grown and harvested on the entire ranch. Totals are calculated by taking nitrogen applied (A) minus nitrogen removed (R):
 - 2022 – target is 500#/acre
 - 2024 – target is 400#/acre
 - 2026 – limit is 300#/acre
 - 2030 – limit is 200#/acre
 - 2035 – limit is 150#/acre
 - 2040 – limit is 100#/acre
 - 2050 – limit is 50#/acre
- There are two options for reporting compliance with targets and limits:
 - Compliance with nitrogen discharge targets and limits is assessed annually for the entire ranch (up to 640 acres) in the INMP Summary Report through either calculation for nitrogen remaining in soils post-harvest (compliance with both pathways is not required).

Compliance Pathway 1: $AFER + (C \times ACOMP) + AIRR - R = \text{Nitrogen Discharge}$

Compliance Pathway 2: $AFER + (C \times ACOMP) = R$

Where $R = RHARV + RSEQ + RTREAT + ROTHER$

- AFER is the amount of fertilizer nitrogen in pounds per acre.
- C is the compost discount factor used to represent the amount of compost nitrogen mineralized during the year that the compost was applied.
- ACOMP is the total amount of compost nitrogen applied in pounds per acre.
- AIRR is the amount of irrigation water nitrogen applied in pounds per acre.
- RHARV is the amount of nitrogen removed from the field through harvest or other removal of crop material
- RSEQ is the amount of nitrogen removed from the field through sequestration in woody materials of permanent or semi-permanent crops.
- RTREAT is the amount of nitrogen removed from the ranch through a quantifiable treatment method (such as a bioreactor).
- ROTHER is the amount of nitrogen removed from the ranch through other methods not previously quantified.

Talking Points:

- *These calculation methods do not take into account all forms of nitrogen removed, volatilized, or otherwise lost, not the different ways growers mitigate for nitrogen loss; these should be inherent to any calculation.*
- *Improving groundwater quality is important to growers, but it must be done in a balance format; draft recommendations would make it impossible to grow more than one vegetable crop per year in our Central Coast cropping systems, and significantly shorten berry crop timelines by 2050.*
- *More focus must be placed on innovation and providing credits for mitigating nitrogen to groundwater, not limiting fertilizer inputs.*
- *Regardless of calculation method, the use of high-nitrogen irrigation water should be incentivized, and both calculation methods should build on that incentive.*

SEDIMENT AND EROSION CONTROL

- Farms with an established TMDL for pollutants cannot cause or contribute to exceedances in surface waters; follow-up monitoring and reporting will be required if discharges exceed TMDL qualifiers and time-tables for compliance.
- Ranches with impermeable surfaces must not exceed stormwater discharge intensity over 10-year storm equivalent as well as (up to) the 95th percentile of any 24-hour storm event.
- Impermeable surfaces with slopes equal to or greater than 5% during the wet season must have a sediment and erosion control plan (SEMP) developed and certified by a qualified professional.

Talking Points:

- *The precedential Eastern San Joaquin Irrigated Lands Program only requires Sediment & Erosion Control Plans in areas susceptible to erosion, not all slopes; the same should be applied to the Central Coast region.*
- *TMDL qualifiers are artificially low and cannot be achieved with current farming practices and available science; TMDL targets should be just that, targets only.*
- *Stormwater cannot be predicted nor controlled in high rate flow events, particularly on short notice; this requires construction and maintenance of retention ponds, at great expense.*
- *Monitoring and reporting of surface (stormwater) discharges will be difficult to achieve.*
- *Impermeable surfaces move around due to crop rotations; additional expense to develop SEMP's will discourage these crops from being produced, which are crops with significant up-front investments.*

GROUNDWATER MONITORING AND REPORTING

- Irrigation well monitoring and reporting is required, either individually or in a cooperative effort.
 - Once an INMP Summary Report is required (starts between 2023-2027, depending on phasing), all irrigation well nitrogen concentrations must be reported.
 - All on-farm domestic well water quality must be regularly monitored and reported.
- Groundwater trend monitoring is required, either individually or in a cooperative effort:
 - If individually reported, a work plan must be submitted for Executive Officer approval prior to any implementation; must be developed by qualified professional with an SAP and QAPP.
 - If cooperative effort, must join a third-party; workplan must be submitted for approval.

- When required, based on groundwater quality data or exceedances of nitrogen discharge limits, ranch-level groundwater discharge monitoring and reporting will be required, including a work plan and an SAP and QAPP, all proved prior to implementation; same for pesticides exceedances in groundwater.

Talking Points:

- *The precedential Eastern San Joaquin Irrigated Lands Program only requires an averaging of irrigation wells, not all; the same requirement should apply here.*
- *In the past there were allowances for much higher or lower than the MCL for domestic wells; those allowances should remain in place, to require less frequent domestic well sampling in certain situations.*
- *Individual groundwater trend monitoring will be difficult to substantiate trends due to groundwater movement in any aquifer or sub-basin.*
- *Trend monitoring by a third-party will require data aggregation from multiple wells and cooperation from multiple ranch managers and/or landowners.*
- *Ranch-level groundwater discharge monitoring and reporting is punitive and will not provide additional insight into groundwater quality.*
- *There are no metrics for determining that a well must be monitored for pesticides.*

SURFACE RECEIVING WATER MONITORING AND REPORTING

- Surface receiving water monitoring and reporting are required in priority areas.
 - A follow-up surface receiving water implementation work plan will be required.
- Ranch-level surface water discharge monitoring will be required if exceedances of surface water limits are detected.

Talking Points:

- *Central Coast agricultural organizations have been working on a watershed-based third-party group concept for surface water monitoring and reporting; this process should be encouraged by CCRWQCB and implemented in priority watersheds.*
- *The process for identifying priority watersheds and associated timelines for compliance should be detailed as part of this Ag Order 4.0.*

RIPARIAN AREA MANAGEMENT AND SETBACKS

- There are two types of setback requirements:
 - Riparian setbacks are required for ranches in Riparian Priority areas with a discharge prohibition and requirement for implementation of management measures to protect and/or restore riparian areas.
 - Operational set-backs are required for ranches outside of the Riparian Priority areas with a discharge prohibition. All farms with waterbodies within or bordering their ranch (not a manmade ditch) must record an operation setback on October 1, 2022; required riparian setback from these waterbodies ranges from 50' to 250' depending on Stahler Stream Assessment designation and require establishment of maintenance of grasses, shrubs, and trees in most instances. Maintenance includes soil health, protection of wildlife, and invasive species control.
- For Riparian Priority areas, there are four possible approaches to compliance for riparian requirements:
 - Cooperative – third-party to develop (sub) watershed restoration plan where ranch is located.
 - On-farm Setback – develop and implement Riparian Area Management Plan (RAMP) to achieve minimum setback distance and vegetative requirements.
 - Rapid Assessment Method – a RipRAM must be performed for existing riparian areas on the ranch, with a minimum score of 69 to achieve compliance.
 - Alternative Proposal – submit an Alternative Proposal for riparian management to the Executive Officer for approval prior to implementation; alternative must demonstrate that the farm does not contribute to the exceedance of any water quality objectives in receiving waters.
- Riparian setbacks must consist of vegetative land extending along the side of a waterbody and its adjacent wetlands and slopes; prohibited activities in this vegetated wetland area are commercial crop production, permanent structures (including roads), application of chemicals (fertilizers and pesticides), and operation of heavy machinery.

Talking Points:

- *Installation of new riparian vegetation as a requirement for water quality compliance is not consistent with CCRWQCB authority related to an Ag Order (waiver) or Waste Discharge Requirements Order, and should not be mandated.*

- *Riparian setback expansion will reduce field production areas, impacting crop production yields per acre and costs of production (reducing financial return per acre).*
- *For landowners, loss of production areas will reduce rental income and possibly overall land value.*
- *Establishment of vegetation will add costs and take significant effort, along with maintenance, and will require irrigation and possibly fertilizers along with pest management to establish.*
- *Significant conflicts with food safety measures come with vegetative setbacks adjacent to production fields.*
- *Riparian setbacks should be a management practice elective by farm, and incentivized, in watersheds where these are scientifically reasonable mitigation strategies, not a prescriptive requirement for compliance.*

ADDITIONAL REQUIREMENTS

- Access roads must be constructed and maintained in compliance with CA code Regs., Title 14, Chapter 4.
- Compost produced on-ranch will have significant new compliance requirements, discouraging this activity.
 - Management of the application of water to compost (including from precipitation events) to reduce the generation of wastewater.
 - Working surfaces must be designed to prevent, to the greatest extent possible, ponding, infiltration, inundation, and erosion, notwithstanding precipitation events, equipment movement, and other aspects of the facility operations.
 - Substantial record keeping must be maintained and reported annually as part of the ACF.

Talking Points:

- *Constructing farm roads to state codes is unnecessary and costly.*
- *Compost production and use should be encouraged with incentives, including on-ranch production.*

COMMENT LETTER INSTRUCTIONS

- All comments must be submitted to Central Coast Regional Water Quality Control Board by Monday, June 22, 2020 by 11:59pm.
- Submit to: AgNOI@waterboards.ca.gov with “Comments of Draft Ag Order 4.0” in the subject line of the e-mail.
- Letters can be mailed to: 895 Aeovista Place, Ste. 101, San Luis Obispo, CA 93401.
- Note that e-mail submissions are preferred.
- Address comments to the attention of Matthew T. Keeling, Executive Officer.