

Proposed Implementation Language—Salt and Nitrate Control Programs

During Phase 1 of the Salinity Control Program, the following Conditional Prohibition of Salinity Discharges shall apply to certain types of permittees. For permittees not subject to the Conditional Prohibition but that also discharge salinity constituents as defined (e.g., Existing Milk Cow Dairies subject to the General Order), the Regional Water Board shall timely amend waste discharge requirements and/or appropriate monitoring and reporting program orders to include specifically identified milestones for complying with the Salinity Control Program. For those permittees subject to the Conditional Discharge Prohibition, it shall apply until such time that the permittees existing permit governing the discharge of salt is updated to reflect requirements of the Salt Control Program.

Conditional Prohibition on Salt Discharges

Starting on the effective date of adoption (XX December 2018) and upon receiving a Notice to Comply with the Salinity Control Program from the Regional Water Board, discharges of salt at concentrations that exceed salinity goals identified in the Phase 1 Conservative Permitting Approach from the identified types of facilities subject to waste discharge requirements issued by the Regional Water Board are prohibited unless a discharger is implementing requirements specified under the Salinity Control Program. The types of facilities governed by waste discharge requirements subject to this conditional prohibition include: publically owned treatment works, food processing facilities, wineries, industrial facilities, oil and gas operations and other similar point source type facilities. Irrigated agricultural operations subject to General Orders for members of third parties are also subject to the prohibition. Existing Milk Cow Dairies, salinity discharges governed by ??? and ??? are not subject to the discharge prohibition.

Permitted dischargers subject to the Conditional Prohibition must notify the Regional Water Board within six months of receiving a Notice to Comply with the Salinity Control Program whether they elect to be regulated under the Conservative or Alternative permitting approaches. Dischargers who do not provide formal notification must meet requirements under the Conservative permitting approach. The following information must be submitted with the discharger's notification to the Regional Board of its permit compliance pathway decision (i.e. within six months of receiving a Notice to Comply).

Conservative Salinity Permitting Approach

Dischargers must submit an assessment of how the discharge complies with the conservative requirements set forth in the approach. If the Regional Board does not concur with the findings of the assessment, the Regional Water Board may use its authority under Water Code section 13267 to request additional information within the submittal deadline provided by the Regional Board.

Alternative Salinity Permitting Approach

Dischargers must submit documentation in the form of a letter from the entity overseeing the Salinity Prioritization and Optimization Study (P&O Study) confirming the discharger's active participation in the P&O Study. Status of the P&O Study must be documented through annual progress reports to the Regional Board from the overseeing entity. Dischargers maintaining active participation in the P&O Study will be deemed in compliance with salinity discharge requirements. During the P&O Study, the discharger must maintain current efforts to control levels of salinity in the discharge.

This Conditional Prohibition shall sunset at the end of Phase I of the Salinity Control Program.

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Conditional Prohibition of Nitrate Discharges to Groundwater

The Conditional Prohibition of Nitrate Discharges shall apply to certain types of permittees. For permittees not subject to the Conditional Prohibition but that also discharge nitrate (e.g., Existing Milk Cow Dairies subject to the General Order, Irrigated Agricultural Operations that are Members of Third Parties), the Regional Water Board shall timely amend waste discharge requirements and/or appropriate monitoring and reporting program orders to include specifically identified milestones for complying with the Nitrate Control Program. For those permittees subject to the Conditional Discharge Prohibition, it shall apply until such time that the permittees existing permit governing the discharge of nitrate is updated to reflect requirements of the Nitrate Control Program, or is affirmatively determined by the Regional Water Board to meet the requirements of the Nitrate Control Program

Starting on the effective date of the Basin Plan Amendment (XX December 2018) and upon receiving a Notice to Comply with the Nitrate Control Program from the Regional Board, discharges of nitrate from the types of facilities identified and that are governed by waste discharge requirements that include authorization to discharge nitrate to groundwater are prohibited unless a discharger is meeting the timelines and milestones required by the Nitrate Control Program. The applicable timelines and milestones include but are not limited to the development of an Early Action Plan (EAP) when so required and initiation of that EAP within 60-days of submittal to the Regional Board unless an extension has been granted by the Executive Officer. The Individual Permitting Approach (Path A) applies to all permitted dischargers unless the discharger elects to participate in the Management Zone Approach (Path B). Compliance timelines vary between priority basins; however, all documents submitted must meet the requirements identified in the Nitrate Control Program.

The types of facilities that are governed by waste discharge requirements, discharge nitrate to groundwater and that are subject to this discharge prohibition include the following: publically owned treatment works, food processing facilities, wineries, industrial facilities, oil and gas operations and other similar point source type facilities. Existing Milk Cow Dairies, Irrigated Agriculture that are Members of Third Parties, ?? and ?? are not subject to the Conditional Discharge Prohibition; however, the Regional Water Board must timely revise Waste Discharge Requirement General Orders and/or Monitoring and Reporting Program Plans for these types of discharges to require compliance with the timelines and milestones in the Nitrate Control Program.

After receiving a Notice to Comply with the Nitrate Control Program, all dischargers must provide either a Notice of Intent to comply under Path A or be included as a participant in a previously submitted Preliminary Management Zone Proposal (Path B). The Notice of Intent

must be submitted within 330 days of receiving the Notice to Comply for Priority 1 Basins and within 452 days for remaining basins.

Path A. When providing their Notice of Intent to the Regional Board, dischargers must provide an Initial Assessment of their nitrate discharge(s). Should the Initial Assessment identify the need for an Early Action Plan (EAP), the proposed EAP must be submitted with the Notice of Intent. Activities proposed under the EAP must be initiated within 60-days after submittal unless the Regional Board deems the EAP to be incomplete. Revised EAPs must meet timelines authorized by the Regional Board. Should the Initial Assessment identify the need for an Alternative Compliance Project (ACP), the proposed ACP must be submitted with the Notice of Intent.

Path B. Dischargers electing to comply under a Management Zone Approach must submit a Preliminary Management Zone Proposal within 270 days (Priority 1 Basins) or within one year (remaining basins) of receiving a Notice to Comply with the Nitrate Control Program. The Preliminary Management Zone Proposal must document all permittees considering compliance under Path B. Should the Preliminary Management Zone Proposal identify the need for an Early Action Plan (EAP), the proposed EAP must be submitted with the proposal. Activities proposed under the EAP must be initiated within 60-days after submittal unless the Regional Board deems the EAP to be incomplete. Revised EAPs must meet timelines authorized by the Regional Board. Within 180 days of receiving comments on the Preliminary Management Zone Proposal, a Final Management Zone Proposal must be submitted to the Regional Board with a final list of participating permittees. Within six months of submittal of the Final Management Zone Proposal unless an extension is granted by the Executive Officer, a Management Zone Implementation Plan must be submitted to the Regional Board and include a timeline and milestones to meet the three overarching goals of the Nitrate Control Program. Progress reports must be provided to the Regional Board every six months and milestones must be met if an extension has been granted by the Executive Officer.