

CV-SALTS

Options to Require Early Participation in P&O and Early Actions to Address Nitrates

Assuming Certified Mail for notification under all alternatives. Currently identifying all dischargers that must be notified.

Approach	Concept	Pros	Cons
1. General Amendment to Existing WDRs	Board would amend all existing WDRs in one single permitting action. (Action would be a General WDR Amendment with an attachment that would describe all of the WDRs that the amendment would apply to.) General Amendment would replace existing salt and nitrate requirements with new provisions. New salinity provisions would require dischargers to either comply with strict ¹ salinity limits or start participating in the P&O Study. New nitrate provisions would require dischargers to either comply with strict nitrate limits or implement early actions.	<ul style="list-style-type: none"> • Would have clearly-enforceable WDR provisions for every discharger after General Amendment issued. • Could tier off of CEQA work done for the Basin Plan Amendments. 	<ul style="list-style-type: none"> • WDRs set many, many different types of salt and nitrate provisions. General Amendment would require consideration of all of those different limits. • Would likely need additional CEQA work. • Could potentially require revision of Anti-deg provisions, time schedules, and other findings in existing permits (salt and nitrate limitations lie at the core of many WDRs).
2. Global Time Schedule Order (TSO)	Board would issue a Time Schedule Order that would cover every permittee. TSO would provide a time schedule that would set interim compliance requirements in lieu of compliance with existing permit limits. Interim compliance requirements would require participation in early phases of P&O study and/or implementation of early actions to address nitrate.	<ul style="list-style-type: none"> • Since Board has delegated authority to issue TSOs to the Executive Officer, no Board hearing would be required. • As an enforcement order, the TSOs would be exempt from CEQA. • Could discriminate between priority areas and non-priority areas. (TSO would not need to apply in areas where early action isn't required.) 	<ul style="list-style-type: none"> • WDRs must have a provision that is being violated in order for the Board to have authority to issue the TSO (i.e., the discharger would need to be violating whatever salt/nitrate limits are in their permit). Some permits have flexible requirements that are currently being met. • TSO would probably need to have an attachment reciting each permit term in each permit that the TSO would address. • Dischargers might be required to disclose that they are subject to "enforcement" on financial disclosures.

¹ It is acknowledged that what is meant by "strict" salinity or nitrate limits is still the subject of debate.

3. Conditional Prohibition	The Basin Plan Amendments would establish conditional prohibitions for salt and nitrate discharges. The prohibitions would prohibit any discharges of salt or nitrates unless the discharge was consistent with the implementation provisions in the proposed Basin Plan Amendments. (The salinity implementation provisions require dischargers to either comply with strict salinity limits or start participating in the P&O Study. The nitrate implementation provisions require dischargers to either comply with strict nitrate limit or implement early actions.)	<ul style="list-style-type: none"> • Doesn't require modifying individual permits to be enforceable. • Would require additional CEQA work, which would need to be incorporated into Staff Report/Env. Analysis before the Basin Plan Amendments are approved. 	<ul style="list-style-type: none"> • "Conditional Prohibition" is a term that could alienate many dischargers, particularly in ag community (avoiding a "prohibition" is why many are participating in CV-SALTS). Could be overcome by messaging, but probably not enough time to communicate the nuances of what this prohibition actually would do in the time remaining. • Difficult to craft language (including off-ramps) that addresses situations faced by a wide variety of dischargers. • Tracking participation is difficult.
4. Hybrid Approach: Revise ILRP General Orders (perhaps Dairy, too) and Establish Conditional Prohibition for All Others	ILRP WDRs would be amended in one single action as per Option 1. Conditional Prohibition described in Option 3 would apply to all other dischargers.	<ul style="list-style-type: none"> • By addressing ILRP General Orders separately, messaging regarding the conditional prohibition becomes much easier. • Doesn't require modifying non-ILRP WDRs in order to establish enforceable requirements on remaining dischargers. • Modification of ILRP General Orders likely falls within scope of ILRP Programmatic EIR, minimizing the amount of additional CEQA work. 	<ul style="list-style-type: none"> • Although the revisions to the ILRP General Orders would only target salt and nitrate provisions, this is still not an easy task. • Additional CEQA work required for conditional prohibition.
5. "Elective" General Order that could Replace Nitrate/Salinity Terms in existing WDRs	The Board would adopt a General Order that would replace WDR provisions relating to salt and nitrate for any discharger that chose to enroll in the General Order. After adopting the General Order, the Board would mail out 13260 notices to all dischargers - the notices would tell the dischargers that they would either need to sign up for the General Order or submit a ROWD to the Board to have their WDRs amended to incorporate strict salt and nitrate limits.	<ul style="list-style-type: none"> • Only need to update permits that don't apply for GO. • Could tier off of CEQA work done for the Basin Plan Amendments. • Would have clearly-enforceable WDR provisions after General Amendment Order issued and dischargers signed up or have their WDRs modified. 	<ul style="list-style-type: none"> • Tracking who has enrolled in the General Order and who has not is difficult. • GO would likely need additional CEQA work separate from the Basin Plan Amendment.