



State Water Resources Control Board

NOTICE OF OPPORTUNITY FOR PUBLIC COMMENT ON CONVENING AN EXPERT PANEL FOR THE IRRIGATED LANDS REGULATORY PROGRAM

The State Water Resources Control Board (State Water Board) committed to consider convening a Second Statewide Agricultural Expert Panel to evaluate the data currently collected as part of the State's Irrigated Lands Regulatory Programs and consider the approaches adopted in the State Water Board [Order WQ 2018-0002](#), In the Matter of Review of Waste Discharge Requirements General Order No. R5-2012-0116 for Growers Within the Eastern San Joaquin River Watershed that are Members of the Third-Party Group (East San Joaquin Petition Order) and State Water Board [Order WQ 2023-0081](#), In the Matter of Review of General Waste Discharge Requirements for Discharges from Irrigated Lands Order No. R3-2021-0040 (Central Coast Ag Petition Order).

NOTICE IS HEREBY GIVEN THAT WRITTEN COMMENTS WILL BE ACCEPTED by the State Water Board on the 1) proposed questions for the Second Statewide Agricultural Expert Panel (Attached), 2) areas of expertise to be considered for selection of members of the Second Statewide Agricultural Expert Panel, and 3) data proposed to be given to the Second Statewide Agricultural Expert Panel for consideration, e.g., statewide available Irrigation and Nitrogen Management Plan (INMP) data, Total Nitrogen Applied (TNA) data reported to the Central Coast Region, scientific papers, and other relevant data and sources of information.

The State Water Board will consider all comments submitted in writing and received by the contact listed below during the 45-day comment period that begins on the date of issuance of this notice (May 13, 2024) and ends at **5:00 p.m. on June 28, 2024**.

Electronic submittals are strongly encouraged. Electronic submittals may be sent to ILRP@waterboards.ca.gov.

Written comments may alternatively be sent via mail to:
State Water Resources Control Board
Attn: Kelsey Moore, Division of Water Quality
1001 I Street, 15th Floor
Sacramento, CA 95814

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

Background: Water quality impacts associated with agriculture are complex and addressing them requires pooling and focusing the knowledge, expertise, and resources of all interested parties, including growers and their representatives, regulatory agencies, environmental advocates, and environmental justice communities. The State Water Board and the regional water quality control boards must develop and implement a long-term sustainable Irrigated Lands Regulatory Program that protects the quality of waters of the state while supporting the viability of agriculture. Collectively, with the help of our partners, the Water Boards made substantial progress in defining a science-based approach that we believe provides a solid foundation for our next steps. Due to the complexity of the impacts of agriculture on water quality, the Irrigated Lands Regulatory Program is constantly evolving.

In 2018, the State Water Board adopted the East San Joaquin Petition Order. Prior to development of the East San Joaquin Petition Order, the State Water Board convened an agricultural expert panel (the “First Agricultural Expert Panel”) to assess existing agricultural nitrate control programs and to develop recommendations to ensure that ongoing efforts are protective of groundwater quality. The First Agricultural Expert Panel delivered its [report](#) to the State Water Board in 2014. Based on the recommendations from the First Agricultural Expert Panel, the State Board established new statewide precedential requirements for the Irrigated Lands Regulatory Program in the East San Joaquin Petition Order. Among these precedential requirements was the requirement for growers to report nitrogen applied (A) and nitrogen removed (R) values to their third-party group to calculate outliers based on similar crops and similar growing practices. The First Agricultural Expert Panel determined there was insufficient knowledge and data to set regulatory limits using the A/R metric. The East San Joaquin Petition Order requires the use of A/R to determine which growers should receive additional education to improve management practices. The East San Joaquin Petition Order additionally required the calculation of A-R.

In 2021, the Central Coast Regional Water Board adopted [R3-2021-0040](#), General Waste Discharge Requirements for Discharges from Irrigated Lands (2021 Central Coast Ag Order). The 2021 Central Coast Ag Order includes regulatory limits on nitrogen application and nitrogen discharge using an A-R metric. The 2021 Central Coast Ag Order also allows growers to factor in certain discounts of A and additional credit considerations for R. The State Water Board reviewed the Central Coast Ag Order on petition and remanded it to the Central Coast Regional Water Board.

In the Central Coast Ag Petition Order, the State Water Board committed to convening a Second Statewide Agricultural Expert Panel to evaluate the data collected as part of the State’s Irrigated Lands Regulatory Programs so far and consider the approaches adopted in the East San Joaquin Petition Order and the Central Coast Ag Order.

Process of Convening the Second Statewide Agricultural Expert Panel: The State Water Board will consider comments received on the draft questions to be posed to the panel. The State Water Board is pursuing a contract with Sacramento State University to facilitate the expert panel. Sacramento State University, acting as the facilitator, will consider the comments received on the areas of expertise to select potential members of the panel. The Second Statewide Agricultural Expert Panel will develop a report

responding to the proposed questions, considering all supplemental data provided by the contractor, and informed through public comments received. It is anticipated the Second Statewide Agricultural Expert Panel will provide a report with recommendations in late 2025 or early 2026.

May 13, 2024
Date


Courtney Tyler
Courtney Tyler
Clerk to the Board

Attachment

Proposed Questions for the Second Statewide Agricultural Expert Panel

1. Is there enough data and scientific research to set final nitrogen-related limits that are protective of groundwater beneficial uses and also support sustainable crop production levels from an economic, environmental, and public health perspective? If yes, what methodology would be used for developing those limits and what would the limits be? If no, what data needs to be collected and/or what research needs to be conducted to support the development of final nitrogen-related limits that are protective of groundwater beneficial uses? Does the data being collected, and any additional research currently underway, support a viable pathway to setting final nitrogen-related limits that are protective of groundwater beneficial uses?
2. Based on the data and scientific research that is currently available, what interim nitrogen-related limits can be set now to ensure growers make progress towards final nitrogen-related limits that are protective of groundwater beneficial uses?
3. Are there any scientific or technical considerations that the State Water Board should take into account in future policy decisions regarding the direct enforceability of the interim and/or final limits described above?
4. Is A-R an appropriate metric to evaluate and quantify nitrogen discharges to groundwater on a statewide basis (either on its own or used in conjunction with A/R)?
5. Order WQ 2018-0002 includes additional aspects not specifically recommended by the First Agricultural Expert Panel. For example, the Order requires the submission of INMP summary tables.
 - a. Are these tables, as they currently stand, an effective tool for evaluating A and R data?
 - b. Is the current INMP data that is being reported, including the format for that data reporting, effective for the Water Board to assess reductions in nitrogen discharges to groundwater and improvements in management practices, both on an individual grower basis and an overall basis? Is the data capable of being used to confirm that follow-up actions are being appropriately prioritized (e.g., by distinguishing between overapplication on large farms vs overapplication on small farms)?
 - c. What improvements should be made (if any) to data collection, reporting practices and Quality Assurance Plans?
 - d. For the data being collected through anonymous identifiers, is the level of auditing appropriate to ensure accurate and reliable data?
6. The 2021 Central Coast Ag Order established nitrogen application limits (A_{FER}) based on percentiles of known grower practices in the region and considered the California Fertilization Guidelines on the California Department of Food and Agriculture website: California Crop Fertilization Guidelines. This approach was

remanded in the Central Coast Ag Petition Order. Is A_{FER} an appropriate metric for interim limits to protect groundwater? If yes, what should those limits be?

7. The 2021 Central Coast Ag Order included discount factors to A (compost [A_{COMP}], organic fertilizer [A_{ORG}]) and additional components of R ($R_{SCAVENGE}$, R_{TREAT} , and R_{OTHER}) in compliance pathways. Are the discount factors and additional components of R included in the 2021 Central Coast Ag Order's compliance pathways appropriate measurements to include in A and R calculations when measuring the potential to discharge nitrogen to groundwater?
 - a. Do the discount factors fully account for the nitrogen that has the potential to discharge to groundwater?
 - b. Will including these additional components of R result in valid and comparable A/R and A-R values?
 - c. Are there other ways to incentivize the use of compost, organic fertilizers, cover crops, other treatments, etc., that properly account for these practices in the calculations of the potential to discharge nitrogen to groundwater (e.g., A/R and A-R)?
 - d. Should there be incentives for the use of high nitrogen groundwater for irrigation (e.g., by excluding nitrogen in irrigation water from the calculation of total nitrogen applied)?
8. Is there sufficient evidence to suggest small operations (less than five or ten acres) are operated in a fundamentally different manner or have a reduced environmental impact sufficient to warrant different requirements or be subject to certain exclusions?