



CALIFORNIA FARM BUREAU FEDERATION

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October 18, 2016

Public Comment
Water Quality Enforcement Policy
Deadline: 10/18/16 12:00 noon

Jeanine Townsend
Clerk to the Board State Water Resources Control Board
1001 I Street, 24th floor
Sacramento, CA 95814



Re: Comment Letter – Water Quality Enforcement Policy

Dear Chair Marcus and Members of the Board:

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 53,000 agricultural, associate, and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

Farm Bureau appreciates the opportunity to comment on the amendments to the State Water Resources Control Board’s (“State Board”) Water Quality Enforcement Policy (“Policy”). As stated, the draft amendments to the Policy are intended to ensure better transparency and consistent enforcement of water quality violations by each Regional Water Quality Control Board (“Regional Board”). Some provisions, however, could lead to less certainty and greater penalties, depending on their application, especially to agriculture-related non-point source discharges. As such, Farm Bureau is concerned with the proposed amendments to the Policy since any changes to the Policy could have substantial impacts on our members. Some of Farm Bureau’s concerns include, but are not limited to:

Prioritization of Violations

The proposed amendments revise Class I priority violations, which are generally intended to encompass substantial threat to water quality or the environment, by specifying types of Class I violations. Although the amendments add specific examples in an effort to provide

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more clarity, these examples, however, appear to expand the types of violations that fall under Class I, such as the addition of discharges of fill into wetlands. References to the dredge and fill of wetlands is potentially problematic given the current proposed changes to the Dredge and Fill Procedures for wetlands and the resulting uncertainty regarding expanding the definition and scope of dredge and fill activities. Further, the removal of the Class III category is potentially concerning with regard to the treatment of non-discharge violations, which previously were considered to be Class II or Class III depending on the severity of the violation.

Monetary Assessments

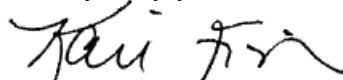
The proposed Policy revises the matrix for calculating penalties in which the scale of harm is multiplied by the classification of the violation (major, moderate, minor) and then by the amount of the discharge. Under the proposed amendments, the numerical factors have been increased for low to moderate harms, in some cases by more than 50%. If implemented, this could result in significantly higher penalties for discharge violations that are not necessarily major violations.

Adjustment Factors

The existing Policy authorizes Regional Boards to apply adjustment factors for each discharge violation. Under the proposed amendments, however, this adjustment factor is eliminated, apart from the potential of a 25% reduction for “exceptional cleanup and cooperation compared to what can reasonably be expected” during cleanup. (See Draft Policy, Table 4 – Violator’s Conduct Factors, page 23.) Consequently, the adjustment factors have been revised to result in less overall potential reductions, and greater increases in penalties associated with discharge violations.

Thank you for the opportunity to provide our comments. Given the concerns expressed above, in addition to those within a comment letter submitted by a coalition of agricultural interests, Farm Bureau encourages the State Board to refrain from adopting the proposed Water Quality Enforcement Policy at this time in order to allow for further discussion and dialogue regarding the proposed changes. We look forward to further involvement and discussion with the State Board on the Policy.

Very truly yours,



Kari E. Fisher
Associate Counsel

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cc: CJ Croyts-Schooley (cj.croyts-schooley@waterboards.ca.gov)