

**STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF DECEMBER 12-13, 2019**

Prepared on December 27, 2019

**ITEM NUMBER: 14**

**SUBJECT: Release of Draft Ag Order 4.0 for Public Comment**

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**ACTION: Information / Discussion**

**SUMMARY**

This agenda item provides information on the release of Draft General Waste Discharge Requirements for Discharges from Irrigated Lands, otherwise known as Ag Order 4.0. The Central Coast Water Board (Water Board or Board) will seek written public comment on the Draft Ag Order 4.0 and associated documents, including the Draft Environmental Impact Report; the comment period will be for at least 60-days.

Staff will provide a brief presentation for this item. The presentation will include information on when and where to obtain the draft Ag Order 4.0 documents; how to provide comments; a description of the structure of the draft order and associated documents, how to navigate to specific sections, and; our anticipated timeline moving forward towards Ag Order 4.0 adoption.

**BACKGROUND**

The Water Board directed staff in the spring of 2017 to begin developing Ag Order 4.0. Since then, staff has developed an open and transparent public process, a draft order framework and conceptual options documents, and conducted numerous workshops and public meetings to inform and discuss the draft order development process, leading to the issuance of Draft Ag Order 4.0 for written public comment. A few of the milestone events leading to this agenda item are:

1. August 2017: a series of three listening sessions throughout the region, seeking stakeholder input.
2. February 2018: initial study released to the public to begin soliciting input related to environmental review for the California Environmental Quality Act (CEQA). Staff held a series of CEQA scoping meetings throughout the region in March 2018.

3. March 2018: Water Board meeting agenda item discussing surface water quality conditions in agricultural areas.
4. May 2018: Water Board meeting agenda item discussing groundwater quality conditions in agricultural areas.
5. June 2018: Water Board meeting agenda item discussing the precedential requirements outlined in the State Water Board's Eastern San Joaquin River Watershed agricultural order. Precedential requirements are those that must be incorporated in all future agricultural orders in the state.
6. September 2018: a two-day Water Board workshop dedicated to hearing directly from interested parties on Ag Order 4.0.
7. November 2018: an added two-day Water Board meeting at which staff presented options to the Board and stakeholders that described potential paths forward for development of Ag Order 4.0. The options were presented in five tables, now known as the *conceptual options tables* (options tables). The five options tables are titled:
  - a. Table 1: Irrigation and nutrient management for groundwater protection
  - b. Table 2: Irrigation and nutrient management for surface water protection
  - c. Table 3: Pesticide management for surface water and groundwater protection
  - d. Table 4: Sediment and erosion management for surface water protection
  - e. Table 5: Riparian habitat management for water quality protection

The two-day item included recommendations from stakeholders as well, including an agricultural panel that summarized an "Ag Concept Paper" outlining concepts for inclusion in Ag Order 4.0.

8. November 2018 – January 2019: 64-day public comment period on the options tables.
9. March 2019: A two-day Water Board meeting agenda item to discuss written comments received regarding the options tables and to provide direction to staff on proceeding with development of a draft order. Options tables 1-4 were discussed while discussion of options table 5 was rescheduled for the next Water Board meeting. Direction to staff based on the options tables was not provided at this meeting and postponed to the next meeting.
10. May 2019: A two-day Water Board meeting agenda item to discuss options table 5 and to provide Board direction to staff to develop a Draft Ag Order 4.0 based on all five options tables.
11. September 2019: Water Board meeting workshop focused on food safety issues. The Board and public heard from growers, researchers, and the environmental community on the potential impact of the riparian habitat management requirements (options table 5) on implementing food safety measures at the farm field level.

Ag Order 4.0 will replace the current Ag Order 3.0. Ag Order 3.0 is a waiver of waste discharge requirements (WDRs), which have a maximum term of five years. Ag Order 3.0 was adopted in March 2017 with a three-year term because the Board and staff

established a goal of replacing it by March 2020. Ag Order 3.0 was challenged in court and in September 2019, the parties partially resolved the litigation by stipulated judgement; the Sacramento County Superior Court issued a peremptory writ of mandate compelling the Water Board to adopt a new agricultural order (Ag Order 4.0) to replace Ag Order 3.0 by January 31, 2021. Ag Order 3.0 cannot be extended beyond January 31, 2021 without a court order.

January Water Board meetings are typically scheduled for the latter part of the month, often the last two business days. The superior court ordered that Ag Order 3.0 be replaced by January 31, 2021. Staff will not wait until the end of January 2021 to present the Proposed Ag Order 4.0 for Water Board adoption; we anticipate that the Proposed Ag Order 4.0 will be scheduled for adoption in the latter part of 2020.

### **DOCUMENTS FOR REVIEW DURING COMMENT PERIOD**

Documents will be available for public review and written comment on our website.

<https://www.waterboards.ca.gov/centralcoast/>

The documents for public review and comment will include:

1. Draft Ag Order 4.0
2. Attachment-A: Findings
3. Attachment-B: Monitoring and Reporting Program
4. Attachment-C: Acronyms, Abbreviations, and Definitions
5. Draft Environmental Impact Report

The Draft Ag Order 4.0 begins with general regulatory and policy findings followed by the proposed requirements generally arranged in a numerical sequence similar to the five options tables discussed over the past year. Attachment 1 to this staff report contains an outline version of the five options tables and refers the reader to the location of the associated requirements in Draft Ag Order 4.0; Attachment 1 to this staff report is not an exhaustive key to locating all requirements described in the order. The reader can refer to the full conceptual options tables discussed in item 3 of the May 2019 Water Board meeting here:

[https://www.waterboards.ca.gov/centralcoast/board\\_info/agendas/2019/may/index.html](https://www.waterboards.ca.gov/centralcoast/board_info/agendas/2019/may/index.html)

Draft Ag Order 4.0 Attachment-A: Findings, includes factual, legal, and technical findings in addition to those provided in the body of the Order. These findings are generally arranged in the numerical sequence of the five options tables. Additional discussion is provided, where appropriate, to provide background and justification of the proposed requirements.

Draft Ag Order 4.0 Attachment-B: Monitoring and Reporting Program requirements includes requirements associated with surface water and groundwater monitoring and reporting; irrigation and nutrient management plan (INMP) reporting, which includes nitrogen applied and nitrogen removed reporting; annual compliance form and more.

Draft Ag Order 4.0 Attachment-C: Acronyms, Abbreviations and Definitions helps the reader understand regulatory terms commonly used in the draft documents.

The Draft Environmental Impact Report (DEIR) is prepared to comply with CEQA and describes the potential environmental impacts associated with the implementation of Ag Order 4.0. The DEIR presents an analysis of alternatives to the proposed project, including a: 1) no project alternative, 2) agricultural organization alternative, and 3) environmental advocate alternative.

### **TIMELINE FORWARD**

Staff will hold workshops in the northern and southern parts of the region during the 60-day public comment period (tentatively planned for February 2020).

After the 60-day comment period closes, staff will schedule an agenda item to discuss the Draft Ag Order 4.0 and seek final direction from the board, including a target date for the adoption hearing. At this time, we anticipate receiving final direction from the board at the May 2020 Water Board meeting. The Water Board controls the scheduling of the adoption hearing including consideration of the superior court issued a judgement compelling the Water Board to replace Ag Order 3.0 by January 2021.

If the Board directs staff to incorporate significant changes to the Draft Ag Order 4.0 released in January 2020, an additional public comment period may be necessary prior to the adoption hearing; in this case, a Revised Draft Ag Order 4.0 will be made available for another round of written public comment. Staff anticipates knowing whether another comment period will be necessary after receiving direction from the Board at the May 2020 meeting.

### **SUMMARY**

Draft Ag Order 4.0, the Draft Environmental Impact Report and associated documents will be available on the Water Board's website for a 60-day public review and written comment period.

Staff, the Water Board and interested parties have engaged in a public process to develop Ag Order 4.0 beginning in August 2017. Draft Ag Order 4.0 is the result of listening and outreach sessions, workshops, Water Board meeting agenda items and comment periods.

Draft Ag Order 4.0 is generally arranged in a sequential order similar to the five options tables discussed over the past year. A reference key describing where to find and review the requirements in Draft Ag Order 4.0 is provided in Attachment 1 to this staff report; Attachment 1 to this staff report is not an exhaustive key to locating all requirements described in the order.

Staff will seek the Board's direction to prepare the Proposed Ag Order 4.0 and schedule an adoption hearing date; we anticipate receiving this direction at the May 2020 Water Board meeting.

### **ATTACHMENT**

Attachment 1: Referral to Requirements in Draft Documents