# STATE OF CALIFORNIAREGIONAL WATER QUALITY CONTROL BOARDCENTRAL COAST REGION

## **SUPPLEMENTAL SHEET FOR REGULAR MEETING OF APRIL 14-15, 2021**

### Prepared on April 13,2021

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| ITEM NUMBER: | 3 |
| SUBJECT: | Consideration of Order No. R3-2021-0040, General Waste Discharge Requirements for Discharges from Irrigated Lands |
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| KEY INFORMATION: | Staff-recommended changes to Order No. R3-2021-0040. |

## DISCUSSION

Central Coast Water Board staff proposes making the following changes to the proposed Order identified after the public comment period for the proposed Order. References to the Order document (i.e., Order, Attachment A, Attachment B, or Attachment C), page number(s), and paragraph number(s) are from the clean version of the document posted on the Irrigated Lands Program website on the [Renewal of Agricultural Order (Ag Order 4.0) webpage](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/ag_order4_renewal/2021april/pao4_order_clean.pdf)*.*

### Proposed Order Changes

**Page 10, paragraph 46 - delete brackets from last sentence and move to page 15 as paragraph 32:**

The Executive Officer may make non-substantive changes to the Order to correct typographical errors or to maintain consistency within the Order or between the Order and its Attachments, e.g., to conform changes made during the revision process that were inadvertently not carried through the entire Order. **~~[~~**The Board will provide public notice of the non-substantive changes.**~~]~~**

**Page 10 - include as new paragraph 33 on page 15:**

**Interested persons may seek discretionary review by the Central Coast Water Board of the Executive Officer’s approval or denial of the following work plans:**

* **Third-party program groundwater quality trend monitoring and reporting.**
* **Third-party program surface receiving water quality trend monitoring and reporting.**
* **Individual and third-party program follow-up surface receiving water implementation.**

**Interested persons seeking discretionary review by the Central Coast Water Board must submit their request in writing no later than 30 days from the date of the Executive Officer’s approval or denial of the work plans noted above.**

NOTE: Discretionary review language is now included for follow-up surface receiving water implementation work plans. As such, the language relating to a 30-day public comment period prior to Executive Officer approval of the follow-up surface receiving water implementation work plans has been removed (refer to recommended change below regarding “Page 38, paragraph 19”).

**Page 11, paragraph 5 – revise as shown in bold text:**

Dischargers who were enrolled in Order R3-2017-0002 as of the effective date of this Order are automatically enrolled in this Order. **Within 120 days of Order adoption, enrolled Dischargers must update their eNOI.**

**Page 12, paragraph 12** **– revise as shown in bold text:**

Dischargers or groups of Dischargers seeking regulatory requirements tailored to their specific operation, ranch, geographic area, or commodity may submit an ROWD to obtain an individual order **~~or~~ and** MRP, or request the development of a general order for a specific type of discharge (e.g., commodity-specific general order). This Order remains applicable to those Dischargers until the Central Coast Water Board adopts such an individual order, MRP, or general order, and, if applicable, the Dischargers are enrolled in the general order.

**Page 16, paragraph 36 – revise as shown in bold text:**

Dischargers who elect to join **~~a~~ one or more** third-party **~~program~~ programs** to facilitate compliance with this Order must retain their membership with the ~~third-party~~ **third parties** in good standing. If the Discharger does not meet the requirements of membership in **~~the~~ a particular** third-party program, then the Discharger is responsible for complying with **~~all~~ the applicable** requirements in this Order individually **~~unless the approved third-party administered alternative compliance pathway or approved third-party work plan allows for specific deviations from the individual requirements~~. If the Discharger is in good standing of another third-party program for another purpose, that third-party program’s requirements still apply. For example, a Discharger may no longer be a member in good standing of the third-party alternative compliance pathway program but could still be a member in good standing for a third-party surface receiving water quality trend monitoring and reporting program. For this example, Dischargers may become eligible to rejoin the third-party alternative compliance pathway program by demonstrating compliance with individual groundwater protection requirements.**

**Page 20, paragraph 10 – revise as shown in bold text:**

Dischargers must report on mitigation measure implementation electronically in the Annual Compliance Form (ACF), as described in the MRP. **~~Draft mitigation monitoring and reporting is available for review in the FEIR.~~**

**Page 22, paragraph 7 – revise as shown in bold text:**

As shown in Table C.1-2, the fertilizer nitrogen application limits go into effect **~~during the second year of the this Order (~~**December 31, 2023**~~)~~**.

**Page 22, paragraph 8 – revise as shown in bold text:**

As shown in Table C.1-3, the nitrogen discharge targets go **~~in to~~ into** effect **~~during the second year of this Order (~~**December 31, 2023**~~)~~** and nitrogen discharge limits go **~~in to~~ into** effect **~~during the fifth year of this Order (~~**December 31, 2027**~~)~~**.

**Page 31, paragraph 4 – revise as shown in bold text:**

As shown in Table C.2-1, the fertilizer nitrogen application targets go **~~in to~~ into** effect **~~during the third year of the this Order (~~**December 31, 2024**~~)~~** for participating Dischargers in the third-party alternative compliance pathway.

**Page 31, paragraph 5** **– revise as shown in bold text:**

As shown in Table C.2-2, the nitrogen discharge targets go **~~in to~~ into** effect **~~during the third year of this Order (~~**December 31, 2024**~~)~~** for participating Dischargers in the third-party alternative compliance pathway.

**Page 32, paragraph 12 – revise as shown in bold text:**

Participating Dischargers that discharge nitrogen in excess of the **year 2024 or 2026** nitrogen discharge targets in Table C.2-2 for a two-year running average, must obtain annual INMP certification by a qualified professional until nitrogen discharge targets are achieved for a two-year running average. The INMP certification must include the certification language outlined in Part 2, Section C.1.

**Page 33, paragraph 15.d – revise as shown in bold text:**

Criteria and associated follow-up actions or consequences that the third-party alternative compliance pathway program administrator will implement if **individual** participating Dischargers do not meet collective numeric interim and final targets, and third-party program membership eligibility requirements including membership probation and revocation to address recalcitrant participating Dischargers.

**Page 34, paragraph 19 – revise as shown in bold text:**

Participating Dischargers in a GWP area that exceed the GWP collective numeric interim **~~and~~ or** final targets by 20% or more, as evaluated individually and on an annual basis, are subject to follow-up by the approved third-party alternative compliance pathway program administrator, which could include additional education or implementation of additional or improved management practices.

**Page 38, paragraph 19** **–** **revise as shown in bold text:**

Dischargers must develop a follow-up surface receiving water implementation work plan, either individually or through a third-party program. **~~The work plans per the MRP requirements are subject to Executive Officer approval following a 30-day period to receive written public comments.~~** The work plan due date is based on the Surface Water Priority of the ranch.

NOTE: Discretionary review language is now included for follow-up surface receiving water implementation work plans. As such, the language relating to an additional 30-day public comment period prior to Executive Officer approval of the follow-up surface receiving water implementation work plans has been removed (refer to recommended change above regarding “Page 10 - include as new paragraph 33 on page 15”).

**Page 42, paragraph 7:**

Dischargers who apply fertilizers, fumigants, pesticides, herbicides, rodenticides, or other chemicals through an irrigation system must have functional and properly maintained backflow prevention devices installed at the well or pump to prevent pollution of groundwater and surface water that comply with any applicable DPR requirements or local ordinances. Backflow prevention devices used to protect water quality must be those approved by the United States Environmental Protection Agency (USEPA), DPR, **~~California Department of Public Health (CDPH)~~ State Water Board Division of Drinking Water**, or the local public health or water agency.

**Page 43, paragraph 16 – revise as shown in bold text:**

Dischargers must implement best practicable treatment **~~and~~ or** control (BPTC) measures for the construction and maintenance of farm roads to minimize erosion and sediment discharges that contribute to nonpoint source pollution.

### Proposed Attachment A (Findings) Changes

**Page 58, paragraph 170 – revise as shown in bold text:**

The ESJ Order found that the WDRs, as revised by the State Water Board, implemented best practicable treatment **~~and~~ or** control through requirements for farm evaluations and irrigation and nutrient management plans, the use of the A and R values, and the development and refinement of management plans to address exceedances, among other provisions.

**Page 59, paragraph 176 – revise as shown in bold text:**

*AGUA* also references the Resolution No. 68-16 Guidance Memorandum in discussing the appropriate analyses required to determine maximum benefit and Best Practicable Treatment **~~and~~ or** Control (BPTC).

**Page 75, heading before paragraph 231 – revise as shown in bold text:**

Best Practicable Treatment **~~and~~ or** Control (BPTC)

**Page 81, paragraph 257.b – revise as shown in bold text:**

This Order requires all Dischargers to develop and implement a Sediment and Erosion Control Plan (SEMP). Dischargers must develop a SEMP for all ranches because all ranches have the potential to cause erosion and discharge sediment that may degrade surface waters and/or cause nuisance. The exact management practices included in the SEMP and implemented on the ranch will depend on the site-specific characteristics of the ranch. (Order, Part 2, **~~Section C.4~~ Section C.3**; ACF section of the MRP).

**Page 81, paragraph 258.b – revise as shown in bold text:**

This Order requires Dischargers to develop and implement an Irrigation and Nutrient Management Plan (INMP) and to monitor and report on irrigation management practices, including irrigation volume applied, evapotranspiration information, and the volume of irrigation water that discharges from the ranch. Dischargers are required to report on this information in the INMP Summary report. Submittal of the INMP report is based on the ranch’s Groundwater Phase; ultimately, an INMP will be required for all ranches. (Order, Part 2, **~~Section B~~ Section C.1**).

**Pages 84-85, paragraph 261.b – revise as shown in bold text:**

This Order requires Dischargers to use coefficients to convert the amount of plant material removed from the ranch to the amount of nitrogen removed. Removal through other methods, such as treatment systems, is not calculated using conversion coefficients, but rather must be calculated using methods applicable to the type of removal being accounted for. (Order, Part 2, **~~Section B~~ Section C.1**; INMP section of MRP).

**Page 89, paragraph 268.b – revise as shown in bold text:**

This Order requires groundwater trend monitoring to be conducted either cooperatively or individually. The Central Coast Water Board encourages Dischargers to perform groundwater quality trend monitoring and reporting cooperatively to take advantage of cost savings associated with economies of scale. (Order, Part 2, **~~Section C~~ Section C.1**; Groundwater Monitoring and Reporting section of MRP).

**Page 90, paragraph 269.d – revise as shown in bold text:**

For Dischargers that do not participate in the third-party program, this Order establishes nitrogen discharge targets and limits based on the calculation of nitrogen applied (A) minus nitrogen removed (R). For Individual Dischargers not participating in the third-party program, the Groundwater Protection Formula is therefore A-R. The Groundwater Protection Value that will be protective of the drinking water beneficial use is 50 pounds of nitrogen per acre per year. The ESJ Order contemplated a Groundwater Protection Formula and Groundwater Protection Value to be applied in aggregate at a township level but stated that the regional water boards could apply a “similar methodology.” Setting Groundwater Protection Values at the ranch level in this Order is equally or more effective in achieving the purpose of these values, (i.e., facilitating dischargers to collectively achieve compliance with the drinking water standard in their groundwater basin or sub-basin area). This Order establishes a step-down approach to achieving that final value, beginning with several years of nitrogen discharge targets and continuing into several years of nitrogen discharge limits. For the purposes of this Order, the difference between the nitrogen discharge targets and limits is that an exceedance of a target does not constitute non-compliance with the Order, whereas an exceedance of a limit does constitute non-compliance. This Order ultimately requires compliance with nitrogen discharge limits and the final Groundwater Protection Value, and therefore is protective of water quality. The adoption process for this Order, including its public comment period and public hearing satisfy the direction in the ESJ Order to approve the Groundwater Protection Formula, Values, and Targets following public review and comment for individual Dischargers not participating in a third-party program. (Order, Part 2, Section C.1; Order, Part 2, **~~Table C.1-2~~** **Table C.1-3**).

**Page 91, paragraph 270.g – revise as shown in bold text:**

If prior to 2027 or anytime thereafter an expert panel finds that another regulatory method would be more protective of water quality, or if the more protective regulatory methods are identified through other sources, the Central Coast Water Board will review the requirements of this Order and will make modifications as appropriate. (Order, Part 2, Section C.1; Order, Part 2, **~~Table C.1-2~~ Table C.1-3**).

### Proposed Attachment B (Monitoring and Reporting Program) Changes

**Page 1, paragraph 6, footnote 2 - revise footnote link as shown in bold text:**

Certified laboratories can be found online **in the List of Qualified Laboratories for Groundwater Monitoring: ~~https://www.waterboards.ca.gov/centralcoast/water\_issues/programs/ag\_waivers/docs/gw\_labs\_6\_16.pdf~~** [**https://www.waterboards.ca.gov/centralcoast/water\_issues/programs/ag\_waivers/docs/labs\_rev\_072320.pdf**](https://www.waterboards.ca.gov/centralcoast/water_issues/programs/ag_waivers/docs/labs_rev_072320.pdf)**.**

**Page 11, section C, opening paragraph – remove bold emphasis:**

This section contains four types of monitoring and reporting related to the evaluation of groundwater and drinking water quality: On-Farm Domestic Wells, Irrigation Wells Prior to Start of Groundwater Quality Trend Monitoring, **~~and~~** andGroundwater Quality Trends which are required of all Dischargers and *Ranch-Level Groundwater Discharge* that must be completed when required by the Executive Officer.

**Page 12, paragraph 5 – remove bold emphasis:**

**Beginning in 2022, ~~all~~** all Dischargers, must conduct annual sampling of all on-farm domestic drinking water supply wells (see definition in Attachment C) between March 1 and May 31. Dischargers must report monitoring results by July 31 each year.

**Page 14, paragraph 16 – revise as shown in bold text:**

At a minimum, samples must be analyzed for nitrate as nitrogen or nitrate + nitrite as nitrogen, total dissolved solids (TDS), and field parameters as specified in **~~Table MRP‑5~~ Table MRP‑6**.

**Page 17, paragraph 24.a – revise as shown in bold text:**

Identification and description of wells used for groundwater quality trend monitoring (in narrative form and in map view) with supporting technical rationale justifying the effectiveness of the well(s) in assessing ranch level groundwater quality trends over time**~~8~~.8**

### Proposed Attachment C (Definitions) Changes

**Page 15, paragraph 73 - move to between paragraphs 78 and 79:**

**Nitrogen-Removal Coefficient (R-Coefficient)**. Percent of nitrogen content in the dry matter of plant tissue. The R-coefficient multiplied by the weight of plant material removed from the fields, can be used to estimate the nitrogen removed from the marketable portion of a crop.

## RECOMMENDATION

Adopt Order No. R3-2021-0040 with staff recommended edits.