

REVISION LOG

Proposed Order No. R3-2021-0040-A1 (Proposed Order), which amends Order R3-2021-0040 (Ag Order 4.0)

Proposed Order Attachment A – Findings (Att. A)

Proposed Order Attachment B – Monitoring and Reporting Program (MRP) (Att. B)

Proposed Order Attachment C – Acronyms, Abbreviations, and Definitions (Att. C)

Proposed Order Attachment D – Assessment of Interim Drinking Water Needs and Costs in Central Coast Areas Affected by Agricultural Nitrate Groundwater Contamination (Att. D)

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Table I: State Water Resources Control Board – Remand Revisions Summary

ID #	Remand	SWRCB Remand Excerpt ¹	Revision Location:
1	Comply with AB 2108	<p>“The Central Coast Water Board will comply with Assembly Bill 2108 to the extent that its reissuance of the General WDRs includes changes to the requirements in the existing General WDRs that go beyond what is needed to comply with Order WQ 2018-0002.”² (SWB Order, Page 4-5, Footnote 12)</p>	Att. A Att. C
2	Consider exceptions to reporting R	<p>“We made it clear in Order 2018-0002 that the requirements for growers to report their A and R data, and for the grower, the third party or the regional water board to calculate each grower’s annual and multi-year A/R ratios and annual and multi-year A-R difference values was precedential statewide for all irrigated lands regulatory programs, with specified exceptions.” (SWB Order, Page 9, last paragraph)</p> <p>“See id. at fn. 92, pp. 34, 40-41. The irrigation and nitrogen management requirements in State Water Board Order WQ 2018-0002 are not precedential for rice growers in the Central Valley region, growers who never apply nitrogen to their fields, and growers who demonstrate that the nitrogen applied to their fields does not percolate below the root zone in an amount that could impact groundwater and does not migrate to surface water through discharges, including drainage, runoff, or sediment erosion. In addition, the regional water boards were given the discretion to apply alternative requirements to some or all growers in the following categories: (1) growers who operate in areas with limited nitrogen impacts, have minimal nitrogen inputs, and have difficulty measuring crop yield (e.g., some growers who operate irrigated pastures), (2) diversified socially disadvantaged growers who do not operate more than 45 acres, have annual sales less than \$350,000, and grow no fewer than an average of two different crops per acre, and (3) other growers who do not operate more than 20 acres and grow no fewer than an average of two different crops per acre. The final three categories of growers are required to report their A values, but the regional water boards were given the discretion to determine when or how these growers will report their R values. We take this opportunity to reiterate to the regional water</p>	Proposed Order Att. A

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		boards that these are currently the only authorized exceptions to our precedential direction in Order WQ 2018-0002. Based on comments we received from the third party, we expect that the Central Coast Water Board will, on remand, consider using this discretion as appropriate.” (SWB Order, Page 9 - 10, Footnote 33)	
3	Modifications to Nitrogen Applied (A) and Nitrogen Removed (R) Do not use discount factors for compost and organic fertilizers	<p>“To the extent growers utilize the Central Coast Water Board’s discount factors for nitrogen applied, they will be using artificially reduced A values, resulting in lower A/R ratio values and A-R difference values than are required to be calculated under Order WQ 2018-0002. And while we support the use of management practices to remove additional nitrogen and expect that growers using those management practices will continue to report their use to the Central Coast Water Board, we are concerned with the lack of uniformity and reliability in determining the amount of nitrogen actually removed with those management practices.” (SWB Order, Page 13, first paragraph)</p> <p>“Accordingly, we remand the General WDRs to the Central Coast Water Board with the instruction to revise the use of nitrogen applied and nitrogen removed data for the purposes of calculating A/R ratio and A-R difference values to be consistent with Order WQ 2018-0002. (SWB Order, Page 13, second paragraph)</p>	Proposed Order Att. A Att. B Att. C
4	Use ESJ A-R Calculation	<p>“Order WQ 2018-0002 designated the calculation of the A-R difference value as a precedential element because it provides information on the magnitude of the amount of nitrogen left in the soil. The A-R difference value that we identified in Order WQ 2018-0002 is simply the nitrogen applied (A) minus the nitrogen removed (R). In the General WDRs, however, the Central Coast Water Board established three compliance pathways, each with a distinct method of calculating the A-R difference” (SWB Order, Page 13, Last Paragraph)</p>	Proposed Order Att. A Att. B Att. C

ID #	Remand	SWRCB Remand Excerpt ¹	Revision Location:
		<p>“...we remand the General WDRs to the Central Coast Water Board with the instruction to modify the calculation of A-R consistent with Order WQ 2018-0002.” (SWB Order, Page 14, first paragraph)</p>	
5	Use A/R Ratio Values	<p>“...in Order WQ 2018-0002 we directed that the use of both the A/R ratio values and the A-R difference values would be required for all irrigated lands regulatory programs. The Central Coast Water Board chose to rely on its version of the A-R difference values, explaining that it believed that the A-R difference value by itself “is a reasonable proxy for the amount of nitrogen discharge from a ranch, which can be correlated to potential discharges of nitrogen and impacts to water quality. The Central Coast Water Board stated that it would calculate the A/R ratio values, but there is no indication in the record that the Central Coast Water Board intends to share the calculated A/R ratio values with the growers and any applicable third party, as required by Order WQ 2018-0002.” (SWB Order, Page 14-15)</p> <p>“On remand, the Central Coast Water Board shall revise the General WDRs to be consistent with this aspect of Order WQ 2018-0002.” (SWB Order, Page 15, first paragraph)</p>	Proposed Order Att. A
6	Eliminate fertilizer nitrogen application limits	<p>“Focusing on fertilizer nitrogen application alone, without reference to other sources of nitrogen added to a field or nitrogen removed from the field, does not provide meaningful insight into the amount of nitrogen left in the soil with potential to reach groundwater. As such, there is not a clear connection between the amount of fertilizer nitrogen applied and impacts on water quality. Enforceable limitations on fertilizer nitrogen application were not contemplated by Order WQ 2018-0002. The Central Coast Water Board acknowledged this, but apparently concluded that Order WQ 2018-0002 therefore did not preclude enforceable limitations on fertilizer application. However, as explained above, we explicitly stated that “[i]f we move forward with a new regulatory approach in the future, we expect to do so only after convening an expert panel.” (SWB Order, Page 15-16)</p>	Proposed Order Att. A Att. B

ID #	Remand	SWRCB Remand Excerpt ¹	Revision Location:
		<p>“...we remand this portion of the General WDRs to the Central Coast Water Board with the instruction to eliminate the use of enforceable limits based solely on fertilizer nitrogen application rates.” (SWB Order, Page 16, second paragraph)</p> <p>“...the Central Coast Water Board may continue to use the existing fertilizer nitrogen application limits and targets for growers who are not yet reporting nitrogen removed for the limited purpose of requiring additional education for those growers who exceed the targets.” (SWB Order, Page 16, second Paragraph)</p>	
7	Accelerate reporting of R for all growers.	<p>“...the Central Coast Water Board will need to accelerate the timing for collecting R data from all growers on remand” (SWB Order, Page 16, middle of second paragraph)</p>	Att. A Att. B
8	Include an outlier approach	<p>“...the Central Coast Water Board shall add an “outlier” approach similar to that described in Section II.A.5.f of Order WQ 2018-0002.72. The Central Coast Water Board shall also develop a process to include properly calculated interim milestones based on A/R ratio and A-R difference targets. These targets could also be used to inform follow-up by the Central Coast Water Board or third-party program administrator, such as requiring additional education, Irrigation and Nutrient Management Plan certification by a qualified professional, implementing additional or improved management practices, and increased monitoring or reporting, or both monitoring and reporting consistent with Order WQ 2018-0002.” (SWB Order, Page 17, First Paragraph)</p>	Proposed Order Att. A Att. B Att. C
9	Eliminate nitrogen discharge limits	<p>“The Central Coast Water Board’s use of its A-R difference compliance pathways as enforceable nitrogen discharge limits is also a new regulatory approach. Accordingly, as with the fertilizer nitrogen application limits discussed above, we remand this portion of the General WDRs to the Central Coast Water Board with the instruction to eliminate the use of enforceable limits for the A-R difference. The Central Coast Water Board shall add interim targets that are consistent with Order WQ 2018-0002 for purposes other than direct enforcement...”</p>	Proposed Order Att. A Att. B

ID #	Remand	SWRCB Remand Excerpt ¹	Revision Location:
		(SWB Order, Page 18, second paragraph)	
10	Include language on composting general order	<p>“...we remand this portion of the General WDRs to the Central Coast Water Board with directions to revise the General WDRs to be consistent with the qualifications for the on-farm composting conditional exemption from the Composting General Order, including the 25,000 cubic yard limitation. The General WDRs shall also require that any on-farm composting operations that do not qualify for the conditional exemption obtain coverage under the Composting General Order.”</p> <p>(SWB Order, Page 21, first Paragraph)</p>	Proposed Order
11	Final time schedules for A/R and A-R (to cease causing or contributing to exceedances) need to be revisited / established	<p>“For individual dischargers, the General WDRs establish final time schedules for the three nitrogen discharge compliance pathways discussed in Section II.A.2, above. For participating dischargers, the General WDRs establish 2028 deadlines for the nitrogen discharge compliance pathways, but it does not appear that these dates are intended to be the final time schedules. As discussed in Section II.A, we are concerned that the General WDRs’ inconsistencies with the precedential A/R and A-R direction in Order WQ 2018-0002 will understate (or overstate, in the case of fertilizer nitrogen application) the potential for nitrogen to reach groundwater. Because we are remanding the General WDRs to address those inconsistencies, we necessarily must also remand the time schedules based on those inconsistencies.</p> <p>Final time schedules for ongoing discharges to cease causing or contributing to exceedances of nitrate water quality objectives in groundwater consistent with the precedential A/R and A-R direction in Order WQ 2018-0002 must be incorporated in either the revisions to the General WDRs or in third party proposals subject to public comment and approval by the Central Coast Water Board....”</p> <p>(SWB Order, Pages 23-24)</p> <p>“Id., Table C.2-2, p. 54. The Central Coast Water Board indicates that the final time schedule for participating dischargers will be included in the third party’s Groundwater Protection Area workplan described on page 34 of the General</p>	Proposed Order Att. A Att. B

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		<p>WDRs. (Central Coast Water Board Response to Petitions, p. 66.) While the workplan is required to include final targets, it is not clear that it is also required to include final time schedules. On remand, the Central Coast Water Board should clearly indicate either the final time schedules or the process for approving final time schedules.</p> <p>(SWB Order, Pages 23-24, Footnote 101)</p>	

¹ Order WQ 2023-0081: https://www.waterboards.ca.gov/public_notices/petitions/water_quality/docs/2023/wqo2023-0081.pdf

² Order WQ 2018-0002: https://www.waterboards.ca.gov/rwqcb1/board_info/board_meetings/02_2019/pdf/4/Order%20WQ2018-0002.pdf

Table II: State Water Resources Control Board – Directives Summary

ID	Directive	SWRCB Directive Excerpt	Revision made in:
TSO	TSOs for dischargers within each watershed	<p>“The General WDRs extended the final compliance dates for two groups of TMDLs: TMDLs that were adopted exclusively as “single permitting actions”¹⁴⁰as part of an earlier Central Coast irrigated lands order, and TMDLs that were adopted as basin plan amendments.¹⁴¹We are not concerned about the process that the Central Coast Water Board used to extend the TMDL final compliance dates for the subset of TMDLs that were adopted exclusively as “single regulatory actions,” because there was no quasi-legislative action taken by the Central Coast Water Board for these TMDLs; the General WDRs themselves serve to implement the TMDLs.”</p> <p>(SWB Order, page 32, second paragraph)</p> <p>“The Central Coast Water Board acted improperly, however, in using the General WDRs to extend final compliance dates for TMDLs that were adopted as basin plan amendments.”</p> <p>(SWB Order, page 32, third paragraph)</p> <p>“...the Central Coast Water Board should consider adopting a series of watershed-wide time schedule orders that apply to all dischargers within each watershed that has a TMDL with a final compliance date established in its Basin Plan. In addition, however, the Central Coast Water Board must initiate the process to amend its Basin Plan to reflect the changes in final compliance dates for those TMDLs.”</p> <p>(SWB Order, Section H, pages 33-34)</p>	Proposed Order Att. A
AWSP	Development of an Alternative Water Supply Program	<p>“We also direct the Central Coast Water Board ... to develop an alternative water supply program.”</p> <p>(SWB Order, page 1, first paragraph)</p>	Proposed Order Att. A Att. B Att. C Att. D

ID	Directive	SWRCB Directive Excerpt	Revision made in:
		<p>“...because of the critical drinking water impacts associated with groundwater nitrate contamination, we hereby direct the Central Coast Water Board to incorporate a requirement or reach an agreement in which dischargers or their third-party representatives provide short-term and long-term alternative water supplies for residents relying on groundwater in areas where the maximum contaminant level (MCL) for nitrate is exceeded as a result of agricultural operations. The Central Coast Water Board shall take into account the experience gained through the Central Valley Water Board’s CV-SALTS program and the Central Coast Water Board’s own Salinas Basin Agricultural Stewardship Group interim replacement water settlement agreement, but shall also consider mechanisms that would include funding by dischargers with program management by an independent organization that focuses on providing alternative water supplies. The Central Coast Water Board could incorporate such a requirement in its water quality control plan or in cleanup and abatement orders, or reach an agreement with the dischargers that is incorporated into the General WDRs, in order to justify a longer final time schedule for ceasing to cause or contribute to nitrate water quality objectives exceedances in groundwater, similar to the maximum 35-year time schedule authorized under CV-SALTS. The Central Coast Water Board shall invite representatives of impacted communities, environmental justice organizations and other stakeholders, as well as State Water Board staff with experience in alternative water supplies, to participate in the development of such a requirement or agreement and shall report its progress to the State Water Board semi-annually.”</p> <p>(SWB Order, page 24-25, third paragraph page 24)</p>	

Table III: Additional Revision Categories

Revision Category	Revision Details	Revisions Included in:
General Revisions	Accessibility revisions, internal bookmark links, updated data/information, revised section titles, revised document structure for ease of navigation.	Proposed Order Att. A Att. B Att. C
Editorial Revisions	Correct typos and punctuation, improve clarity, and ensure consistency.	Proposed Order Att. A Att. B Att. C