



California Regional Water Quality Control Board

San Diego Region



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TO: Darrin Polhemus
Chief, Division of Water Quality
State Water Resources Control Board

In Reply Refer To:
WQS:79-0060.02: lpardy

FROM: 
John H. Robertus
Executive Officer
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

DATE: August 2, 2006

SUBJECT: MINOR, NON-SUBSTANTIAL CHANGE TO THE BASIN PLAN
AMENDMENT ADOPTED UNDER RESOLUTION NO. R9-2005-0238

I received your memorandum dated August 1, 2006, requesting a minor, non-substantial change to the Basin Plan amendment adopted under Resolution No. R9-2005-0238. I agree with the proposed deletion of the sentence "*NPDES requirements may not include a compliance time schedule that extends beyond five years from the date of order issuance, reissuance or modification.*"

The California Regional Water Quality Control Board, San Diego Region, intended to limit the length of compliance time schedules in NPDES requirements to 5 years from the date of order issuance, reissuance or modification. Thus, the following sentence should be inserted in place of the deleted sentence: "*Compliance time schedules in NPDES requirements shall be as short as practicable but in no case exceed five years from the date of order issuance, reissuance, or modification.*" We discussed adding this sentence to the Basin Plan amendment with Nirmal Sandhar and Liz Haven of your staff, and with counsel Sheila Vassey. All agreed to the addition of the sentence. The revised Basin Plan amendment is attached to this letter.

Enclosure

cc: Michael Levy, OCC
John Richards, OCC
Ken Harris, DWQ
Rik Rasmussen, DWQ
Nirmal Sandhar, DWQ
Liz Haven, DWQ
Sheila Vassey, OCC

California Environmental Protection Agency

**ATTACHMENT A
TO RESOLUTION NO. R9-2005-0238**

**AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE
SAN DIEGO BASIN (9) TO INCORPORATE AUTHORIZATION FOR
COMPLIANCE TIME SCHEDULES IN NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM REQUIREMENTS
(BASIN PLAN ISSUE NO. 6)**

This Basin Plan amendment incorporates authorization for compliance time schedules in Waste Discharge Requirements that implement National Pollutant Discharge Elimination System regulations and federal Clean Water Act requirements issued by the California Regional Water Quality Control Board, San Diego Region. Chapter 4 of the Basin Plan is amended as follows:

Chapter 4, Implementation

Revise the first sentence of the section titled "National Pollutant Discharge Elimination System (NPDES)" as follows:

Waste Discharge Requirements that implement federal National Pollutant Discharge Elimination System (NPDES) regulations ("NPDES requirements" or "NPDES permits") are issued to regulate discharges of "pollutants" from point sources to "waters of the United States" to ensure that the quality and quantity of such discharges does not adversely affect surface water quality or beneficial uses.

Add the following section after the section titled "National Pollutant Discharge Elimination System (NPDES)."

COMPLIANCE TIME SCHEDULES

The Regional Board may establish compliance time schedules in NPDES requirements where the Regional Board determines that, for an existing discharger,² achieving immediate compliance in a discharge with new or more stringent water quality based effluent limitations or receiving water limitations that implement new, revised, or newly interpreted water quality objectives,³ and/or that resulted from new knowledge on

² "Existing discharger" means any discharger that is not a new discharger. An existing discharger includes an increasing discharger (i.e., an existing facility with treatment systems in place for its current discharge that is or will be expanding, upgrading, or modifying its existing permitted discharge after a new, revised, or newly interpreted water quality objective becomes applicable). A "new discharger" is defined as any building, structure, facility, or installation from which there is or may be a "discharge of pollutants" (as defined in 40 CFR section 122.2) to surface waters of the San Diego Region, the construction of which commences after a new, revised, or newly interpreted water quality objective becomes applicable.

³ "New, revised, or newly interpreted water quality objectives means" objectives as defined in section 13050(h) of Porter-Cologne, issued, revised or newly interpreted after November 9, 2005. Objectives may be narrative or numeric.

the characteristics and impacts of the discharge is infeasible.⁴ New knowledge about the characteristics and impacts of the discharge that can result in new or more stringent WQBELs or receiving water limitations include, but are not limited to, the following situations:

- *Pollutants previously unregulated in an existing discharge are newly regulated because the new information indicates a reasonable potential for the discharge to exceed an applicable water quality objective in the receiving water;*
- *Pollutants are newly detected in an existing discharge due to improved analytical techniques;*
- *The point of compliance for a receiving water limitation is changed; and*
- *The dilution allowance for an existing discharge is changed.*

Compliance time schedules are authorized by this provision only for new or more stringent effluent and/or receiving water limitations that implement water quality objectives issued, revised, or newly interpreted after November 9, 2005, or that resulted from new knowledge on the characteristics and impacts of the discharge for any pollutant for which a water quality objective was issued, revised, or newly interpreted after July 1, 1977.

The compliance time schedule shall include a time schedule for completing or achieving specific actions (including interim effluent limitations) that demonstrate reasonable progress toward compliance with water quality based effluent limitations or receiving water limitations and, thereby, attainment of water quality objectives. The compliance time schedule shall contain a final compliance date, based on the shortest practicable time (determined by the Regional Board at a public hearing after considering the factors identified below) required to achieve compliance. In addition, in all cases, the findings of the NPDES requirements shall specify the final effluent limitations.

NPDES requirements may not include a compliance time schedule that extends beyond five years from the date of order issuance, reissuance or modification. Compliance time schedules in NPDES requirements shall be as short as practicable but in no case exceed five years from the date of order issuance, reissuance, or modification. The Regional Board may grant an additional extension of up to five years, but only where the discharger has demonstrated satisfactory progress toward achieving compliance with applicable water quality based effluent limitations and receiving water limitations and the Regional Board concurs with the demonstration. In no case, shall a compliance time schedule for these discharges exceed ten years from the date of adoption, revision, or interpretation of the applicable water quality objective, whichever is the shorter period of time.

Nothing in this provision limits the Regional Board's authority (1) to develop alternate implementation provisions for water quality objectives adopted or revised in the future, or (2) to rely on alternate implementation provisions authorized pursuant to State Board

⁴ "Infeasible" means that discharger compliance cannot be accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

policies for water quality control, State regulations, or federal regulations. Compliance time schedules to meet WQBELs and receiving water limitations that implement California Toxics Rule criteria will be limited by the provisions of the State Board "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California."

To document the need for and justify the duration of any such compliance time schedule, a discharger must submit the following information, at a minimum: (1) the results of a diligent effort to quantify pollutant levels in the discharge and the sources of the pollutant(s) in the waste stream; (2) Identification of the sources of the pollutant in the waste stream, documentation of source control efforts currently underway or completed, including compliance with any pollution prevention programs that have been established, and a proposed schedule for additional source control measures or waste treatment needed to meet the WQBELs and/or receiving water limitations; (3) evidence that the discharge quality is the highest that can reasonably be achieved until final compliance is attained; and (4) a demonstration that the proposed schedule is as short as practicable, taking into account economic, technical and other relevant factors. The need for additional information and analyses will be determined by the Regional Board on a case-by-case basis. The need for and justification of the duration of any such compliance time schedule will be subject to Regional Board review and approval.