

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
NOVEMBER 4, 2008**

ITEM 8

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO BAY BASIN (BASIN PLAN) TO INCORPORATE REVISED CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR SPECIFIC TYPES OF DISCHARGE WITHIN THE SAN DIEGO REGION

DISCUSSION

On October 10, 2007, the San Diego Regional Water Quality Control Board (San Diego Water Board) adopted [Resolution No. R9-2007-0104](#) amending the Basin Plan to incorporate revised conditional waivers of waste discharge requirements for specific types of discharge within the San Diego Region. The purpose of this Basin Plan amendment is to include waivers whose conditions are intended to minimize or eliminate the discharge or potential discharge of pollutants to waters of the State, as well as to allow additional types of discharges to be eligible for conditional waivers.

The existing conditional waivers became effective January 1, 2003 and expired on December 31, 2007. The intent is to renew the existing conditional waivers so that they can again be available to dischargers as appropriate.

A conditional waiver provides the minimum requirements that are expected of a discharger to minimize or eliminate the discharge or potential discharge of pollutants to waters of the State. Compliance with waiver conditions may not ensure that water quality is protected in every situation. Therefore, a waiver for a specific discharge or specific type of discharge is conditional and may be terminated at any time if the San Diego Water Board determines that a specific discharge or specific type of discharge is no longer consistent with the Basin Plan or no longer in the public interest.

The waiver conditions are fully enforceable by the San Diego Water Board. In addition, nothing in the conditional waiver precludes the San Diego Water Board from taking enforcement action for any discharges that cause or threaten to cause violation of Basin Plan provisions, or that create or threaten to create a condition of nuisance or pollution.

The State Water Resources Control Board (State Water Board) is currently working with other agencies to establish uniform criteria for green waste and composting operations. The San Diego Water Board amendment includes conditional waivers for certain green waste and composting operations. These specific provisions are in Items 3.I.C., 4.I.C., 5.I.B, and 8.II.B. of Appendix D to the Basin Plan, covering composting manure from animal operations, composting green waste from agricultural and nursery operations, composting green waste during/from silvicultural operations, and discharges to composting operations, respectively. It is necessary

[†] Changes to the version circulated for the October 21 board meeting are reflected in strikeout-underline.

for the State Water Board to disapprove these four items to ensure that they will not be inconsistent with the ongoing state efforts.

POLICY ISSUE

Should the ~~State Water Resources Control Board~~ (State Water Board) approve the amendment to incorporate the revised conditional waivers of waste discharge requirements for specific types of discharge within the San Diego Region, except for Items 3.I.C., 4.I.C., 5.I.B., and 8.II.B to Appendix D of the Basin Plan concerning green waste and composting operations?

FISCAL IMPACT

San Diego Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL WATER BOARD IMPACT

Yes, approval of this resolution will amend the San Diego Water Board's Basin Plan.

STAFF RECOMMENDATION

That the State Water Board:

1. Except for Items 3.I.C., 4.I.C., 5.I.B., and 8.II.B of Appendix D to the Basin Plan, Approves the amendment to the Basin Plan as adopted under San Diego Water Board Resolution No. R9-2007-0104.
2. Authorizes the Executive Director or designee to submit the amendment adopted under San Diego Water Board Resolution R9-2007-0104 to the Office of Administrative Law for approval of the regulatory provisions.

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**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2008-**

**APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE
SAN DIEGO BAY BASIN (BASIN PLAN) TO INCORPORATE REVISED CONDITIONAL
WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR SPECIFIC TYPES OF
DISCHARGE WITHIN THE SAN DIEGO REGION**

WHEREAS:

1. On October 10, 2007, the San Diego Regional Water Quality Control Board (San Diego Water Board) adopted [Resolution No. R9-2007-0104](#) amending the Basin Plan to incorporate revised conditional waivers of waste discharge requirements for specific types of discharge within the San Diego Region.
2. The San Diego Water Board found that the analysis contained in the staff report, the California Environmental Quality Act (CEQA) checklist, notice of public hearing, and notice of filing prepared by San Diego Water Board staff comply with the requirements of the State Water Resources Control Board's (State Water Board's) certified regulatory CEQA process, as set forth in the CEQA, Title 23, section 3775 et seq.
3. The San Diego Water Board found that adoption of this amendment would result in no adverse effect on wildlife, and the amendment would be consistent with the State Antidegradation Policy ([State Water Board Resolution No. 68-16](#)) and federal antidegradation requirements.
4. The State Water Board finds that the Basin Plan amendment is in conformance with the California Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans.
5. The purpose of this Basin Plan amendment is to revise the conditional waivers in the Basin Plan to include waiver conditions intended to minimize or eliminate the discharge or potential discharge of pollutants to waters of the state, as well as allow additional types of discharge to be eligible for conditional waivers.
6. There are 35 (26 existing and nine new) types of discharge for which the San Diego Water Board would waive the requirement to file a report of waste discharge and has adopted conditional waivers of waste discharge requirements. Instead of developing conditional waivers for each specific type of discharge, an integrated approach was developed to simplify the conditional waivers. Types of discharge that are similar in nature or originate from a common setting or operation have been grouped together into a "discharge classification."
7. The State Water Board is working with other agencies to establish uniform criteria for green waste and composting operations. Four amendments the San Diego Water Board proposed for its Basin Plan concern green waste and composting operations. These amendments are Item 3.I.C. General Waiver Conditions for Composting Manure from Animal Operations (Page D-14), Item 4.I.C. General Waiver Conditions for Composting Green Waste from Agricultural and Nursery Operations (Page D-22), Item 5.I.B. General Waiver Conditions for

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Composting Green Waste During/From Silvicultural Operations (Page D-26), and Item 8.II.B. Specific Waiver Conditions for Discharges to Composting Operations (Page D-36) in Appendix D to the Basin Plan. The State Water Board disapproves these four amendments to the Basin Plan in order to ensure they will not be inconsistent with ongoing state efforts.

8. The disapproval of the four amendments in whereas paragraph 7 does not change the conclusions of the environmental or antidegradation analysis performed by the San Diego Water Board.
9. The Basin Plan amendment must be submitted for review and approval by the State Water Board and the Office of Administrative Law (OAL). Once approved by the State Water Board, the amendment is submitted to OAL. The Basin Plan amendment will become effective upon approval by OAL.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Except for the four amendments incorporating conditional waivers for Item 3.I.C. General Waiver Conditions for Composting Manure from Animal Operations, Item 4.I.C. General Waiver Conditions for Composting Green Waste from Agricultural and Nursery Operations (Page D-22), Item 5.I.B. General Waiver Conditions for Composting Green Waste During/From Silvicultural Operations (Page D-26), and Item 8.II.B. Specific Waiver Conditions for Discharges to Composting Operations (Page D-36) in Appendix D to the Basin Plan, approves ~~Approves~~ the amendment to the Basin Plan as adopted under San Diego Water Board Resolution No. R9-2007-0104.
2. Directs the Executive Director to make any conforming changes to the Basin Plan language and accompanying documents to implement resolved paragraph 1.
3. Authorizes the Executive Director or designee to submit the amendment as adopted under San Diego Water Board Resolution No. R9-2007-0104 to OAL for approval of the regulatory provisions.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 4, 2008.

Jeanine Townsend
Clerk to the Board