

**California Regional Water Quality Control Board
Los Angeles Region**

RESOLUTION NO. 2003-001

**Resolution Amending the Water Quality Control Plan
for the Los Angeles Region to Incorporate Language Authorizing Compliance Schedules
in NPDES Permits**

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (hereinafter Regional Board), finds that:

1. An updated Water Quality Control Plan for the Los Angeles Region (Basin Plan) was adopted by the Regional Board on June 13, 1994, approved by the State Water Resources Control Board (SWRCB) on November 17, 1994, and approved by the Office of Administrative Law (OAL) on February 23, 1995.
2. National Pollutant Discharge Elimination System (NPDES) permits are issued for discharges of waste to surface waters pursuant to the federal Clean Water Act. Pursuant to authority provided by the California Water Code (Sections 13370 et seq.), the Regional Board issues NPDES permits in lieu of direct regulation of surface water waste discharges by the U.S. Environmental Protection Agency (EPA).
3. NPDES permits specify effluent limitations and other provisions that must be achieved to assure compliance with the water quality standards of the affected receiving waters. In some cases, immediate compliance with the effluent limitations in NPDES permits may be infeasible.
4. When immediate compliance with effluent limitations cannot be achieved because the discharger has not acted responsibly, an enforcement order to compel compliance with the effluent limitations is appropriate. An enforcement order results from a finding of permit violation. Permit violations may expose the discharger to citizen suits pursuant to Section 505 of the Clean Water Act.
5. In some circumstances, existing dischargers may be unable to comply immediately with effluent limitations based on new, revised or newly interpreted water quality standards adopted by the Regional Board, SWRCB or EPA through no fault of their own. In these cases, it is reasonable and appropriate to include a schedule for compliance in the NPDES permit. Provided that the discharger acts in conformance with the permit-specified schedule, then the discharger would have time to come into compliance without a finding of permit violation.
6. Furthermore, there have been several circumstances in which the Regional Board deemed that immediate compliance with permit-specified effluent limits was not feasible. For these dischargers, the Regional Board's only course of action was to issue a Time Schedule Order, since the Basin Plan did not explicitly authorize compliance schedules in NPDES permits.
7. A permit-specified compliance schedule would provide the Regional Board with an additional regulatory tool that could be used when justified. This allows the Regional Board

two ways of addressing the inability of an existing discharger to achieve immediate compliance with a new or revised water quality standard – either by issuing an enforcement order or by incorporating a compliance schedule in a NPDES permit. These are different regulatory tools – one an enforcement action, the other a legal condition of a permit.

8. In addition, the option of adopting TMDLs as single permitting actions is available to the Regional Board. In these cases, it is the intent of the Regional Board to authorize compliance schedules in the permit consistent with implementation schedules for TMDLs adopted as Basin Plan Amendments.
9. An order by the U.S. Environmental Protection Agency Administrator (*In the Matter of Star-Kist Caribe, Inc.* (NPDES Appeal No. 88-5)) defines the constraints on the inclusion of compliance schedules in NPDES permits. Schedules of compliance can be included in permits for those effluent limits that implement new (adopted after July 1, 1977), revised pre-1977 or newly interpreted water quality standards, if explicit authorization for such schedules is included in the Basin Plan.
10. With certain exceptions, the Basin Plan does not include explicit authorization for compliance schedules in NPDES permits.
11. To assure water quality and beneficial use protection in a reasonable and fair manner, it is appropriate to amend the Basin Plan to incorporate language authorizing the inclusion of compliance schedules in NPDES permits under certain circumstances.
12. The Regional Board incorporated definitions of "infeasible," "existing discharger," and "new discharger" that are consistent with definitions previously adopted by the State Water Resources Control Board in its Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Board Resolution 2000-015).
13. The Regional Board does not intend the accompanying Basin Plan amendment to limit its authority to require shorter or allow longer implementation periods for subsequent water quality objectives amendments to the Basin Plan. Moreover, the Regional Board recognizes that it may continue to rely on alternate implementation provisions authorized pursuant to State Water Resources Control Board policies for water quality control, state regulations, or federal regulations.
14. The Regional Board prepared and distributed written reports (staff reports) regarding adoption of the Basin Plan amendment in accordance with applicable state and federal environmental regulations (California Code of Regulations, Section 3775, Title 23, and 40 CFR Parts 25 and 131).
15. The process of basin planning has been certified by the Secretary for Resources as exempt from the requirement of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) to prepare an Environmental Impact Report or Negative Declaration. The Basin Plan amendment package includes staff reports, an Environmental Checklist, an assessment of the potential environmental impacts of the Basin Plan amendment, and a discussion of alternatives. The Basin Plan amendment, Environmental Checklist, staff reports, and supporting documentation are functionally equivalent to an Environmental Impact Report or Negative Declaration.

16. On January 30, 2003, the Regional Board held a Public Hearing to consider the Basin Plan amendment. Notice of the Public Hearing was given to all interested persons and published in accordance with California Water Code Section 13244.
17. The Basin Plan amendment must be submitted for review and approval by the SWRCB, OAL and EPA. Once approved by the SWRCB, the amendment is submitted to OAL and EPA. The Basin Plan amendment will become effective upon approval by OAL and EPA. A Notice of Decision will be filed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Regional Board adopts the amendment to the Water Quality Control Plan for the Los Angeles Region (Region 4) as set forth in the attachment.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the SWRCB in accordance with the requirement of Section 13245 of the California Water Code.
3. The Regional Board requests that the SWRCB approve the Basin Plan amendment in accordance with the requirements of Sections 13245 and 13246 of the California Water Code and forward it to the Office of Administrative Law and the U.S. Environmental Protection Agency for approval.
4. If during its approval process the SWRCB or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes.
5. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

I, Dennis Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on January 30, 2003.

Original signed by Dennis Dickerson on January 30, 2003

Date

Dennis Dickerson
Executive Officer