

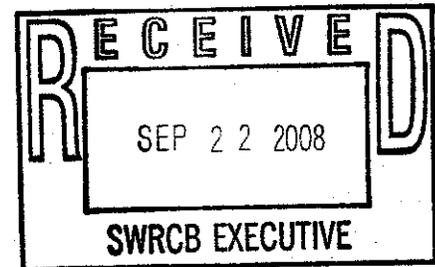


Public Comment
San Diego-Conditional Waiver
Deadline: 9/22/08 by 12 noon

THE CITY OF SAN DIEGO

September 19, 2008

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street,
Sacramento, CA 95814



Re: Amendment to the Water Quality Control Plan for the San Diego Basin to incorporate Revised Conditional Waivers. Resolution No. R9-2007-0104; 8.II.B. Specific Waiver Conditions for Discharges to Composting Operations.

Dear Ms. Townsend:

I am writing to urge the State Water Board to revise the wording contained in Section 8.II.B., Specific Waiver Conditions for Discharges to Composting Operations, of the subject resolution. Environmental Services Department staff met with San Diego Regional Water Quality Control Board (RWQCB) staff on 9/16/08 and it was apparent that the waiver conditions could be open to misinterpretation, especially by the general public.

The resolution referenced above contains text that provides for minor non-substantive changes to the language of the waiver: "If, during the approval process for this amendment, the San Diego Water Board, State Water Board, or Office of Administrative Law 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 San Diego Water Board of any such changes."

The current wording for composting operations or facilities that store more than 500 cubic yards on site at any one time, or other CIWMB-regulated composting activities, includes: "Compost pile(s) should be protected with a roof or cover, or at a minimum be covered with plastic sheeting if precipitation is forecast within the next 24 hours, to prevent direct contact between precipitation and compost."

The RWQCB staff stressed during the 9/16/08 meeting that they would interpret "should be protected..." as if "should" was a suggestion and was not meant to infer that it was mandatory. RWQCB staff said that it would not be necessary to apply any covers if there are no impacts to receiving waters.



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In our experience with a variety of regulations, this is an unusual interpretation of the word "should" in a regulation and could easily be misinterpreted. We request that the State Water Board change this wording to:

"Compost pile(s) may be protected with a roof, cover, or sheeting if precipitation is forecast within the next 24 hours, to prevent direct contact between precipitation and compost, if this is necessary to protect receiving waters."

If this change is not made to the regulation, there could be significant disruption to the composting operations in San Diego County that are not currently operating under a Nation Pollutant Discharge Elimination System permit, if this language is interpreted to be mandatory. The language in the waiver, as written could reasonably be interpreted by a court of law to mean that a cover is required.

We thank you for your consideration of this request and urge you to support this change. If you have any questions related to these comments, please contact Stephen Grealy, Waste Reduction Program Manager, at (858) 573-1275.

Sincerely,



Chris Gonaver

Environmental Services Director