

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF JUNE 18, 2021

Prepared on May 9, 2021

ITEM NUMBER: 6

SUBJECT: ORDER NO. R3-2021-0008, TERMINATION OF CERTAIN INDIVIDUAL WASTE DISCHARGE REQUIREMENTS ORDERS UPON THE REGULATED FACILITY'S ENROLLMENT IN AN APPROPRIATE GENERAL ORDER

STAFF CONTACT: Danial Woldearegay, (805) 549-3892,
Danial.Woldearegay@waterboards.ca.gov

KEY INFORMATION

Location: Various locations throughout Region 3
Facility: Various facilities throughout Region 3

ACTION: Adopt Order No. R3-2021-0008

SUMMARY

Proposed Order No. R3-2021-0008 allows for the termination of 136 existing individual waste discharge requirements orders (permits) for various facilities listed on Attachment 1 when the facility is enrolled in an appropriate general permit.

The Central Coast Regional Water Quality Control Board (Central Coast Water Board) has approximately 160 facilities regulated by individual waste discharge requirements permits. Some of these permits were issued many years ago and are outdated. More recently adopted statewide or regional general permits that may apply to these facilities are more protective of water quality. For facilities that are currently regulated by individual permits and for which there is now a general permit available and appropriate to regulate the facility, staff will request the facility enroll in the general permit instead of recommending the Central Coast Water Board consider a revised individual permit. Currently, when a facility regulated by an individual permit seeks enrollment in a general permit, staff does not enroll the facility in the general permit until the Central Coast Water Board terminates the individual permit. Therefore, the current process for transitioning a facility from regulation under an individual permit to a general permit requires staff to bring a termination order for each facility to a Central Coast Water Board hearing for adoption before the facility can be regulated by a general permit. This impedes the Central Coast Water Board's ability to effectively regulate facilities with permits that are more protective of water quality in an efficient and timely manner.

The adoption of Order No. R3-2021-0008 will enable staff and the Central Coast Water to more efficiently transition facilities from regulation by individual permits into more protective general permits. Adoption of Order No. R3-2021-0008 will not change anything immediately for the facilities currently regulated by an individual permit. Order No. R3-2021-0008 will terminate the existing individual permit if and when the facility is enrolled in an appropriate general permit. The transition process to update the regulatory mechanism will occur over the next several years.

DISCUSSION

Background

At the January 31, 2020 Central Coast Water Board meeting, staff shared the waste discharge requirements program's strategy to increasingly develop and use general permits. The strategy grows programmatic efficiency, while at the same time increasing consistency of regulation for similar types of facilities regulated by this program. This strategy includes enrolling facilities with outdated individual permits into general permits that have requirements and monitoring and reporting programs that are generally more protective of water quality than the existing individual permits and then terminating those individual permits. Most of the facilities regulated by individual permits in this program are similar in nature and can be enrolled in a newer general permit. Attachment 1 of Order R3-2021-0008 identifies 136 facilities that may be appropriate to enroll in an existing general permit in the future.

The Executive Officer can administratively enroll facilities in general permits, whereas the termination of individual permits requires Central Coast Water Board consideration and approval at a public hearing. The process of taking each individual permit to a Central Coast Water Board hearing for termination prior to enrolling the facility in a general permit is inefficient because it significantly increases the amount of staff and board time it takes to transition facilities into general permits. Allowing for the termination of individual permits upon enrollment in a general permit will decrease delays in general permit enrollments and water quality improvements associated with improved and consistent regulatory requirements.

On September 25, 2020, the Central Coast Water Board adopted a key component of our strategy to develop and utilize general permits by approving a new general permit, *General Waste Requirements Order No. R3-2020-0020 for Discharges from Domestic Wastewater Systems with Flows Greater than 100,000 Gallons Per Day* (Large Domestic General Permit). The Large Domestic General Permit simultaneously terminates up to 43 existing individual permits when the corresponding facility is enrolled in the general permit. The Large Domestic General Permit states:

It is further ordered that where a Wastewater System discharge is currently regulated by an individual permit, that permit is terminated upon the enrollment of the Wastewater System into this General Permit.

Proposed Order R3-2021-0008 takes the same approach for other facilities that may enroll in other general permits by terminating the individual permit upon enrollment in the appropriate general permit.

Discussion

The 136 facilities listed in Attachment 1 of Order R3-2021-0008 are currently regulated by individual permits and may be eligible for enrollment into an existing general permit. Attachment 1 lists each individual permit and the general permit the facility may be enrolled in. Some facilities in Attachment 1 list two proposed general permit options as the facility may qualify for multiple general permits. Attachment 2 of Order R3-2021-0008 describes the various general permits referenced in Attachment 1.

Many of the facilities listed in Attachment 1 are “small” domestic wastewater treatment and disposal facilities (less than 100,000 gallons per day) and eligible for enrollment a statewide general permit (Order No. 2014-0153-DWQ, the Small Domestic General Permit). Some of the domestic wastewater facilities are larger and may be applicable for coverage under the Large Domestic General Permit (Order No. R3-2020-0020) as noted in Attachment 1. Domestic wastewater facilities that have permitted flows of 500,000 gallons per day or greater are not included in Attachment 1 because those facilities would be enrolled in the Large Domestic General Permit. The Large Domestic General Permit already contains language that terminates a facility’s individual permit when the facility is enrolled in the Large Domestic General Permit, and they therefore do not need to be listed in Attachment 1. Domestic facilities with permitted flows between 100,000 gallons per day and 500,000 gallons per day are shown in Attachment 1 as potentially able to be enrolled in either the small or large general permit. For example, a facility with a permitted flow of 150,000 but an actual flow of 70,000 may choose to reduce their permitted flow to 100,000 gallons per day and enroll in the Small Domestic General Permit and not the Large Domestic General Permit.

The remaining facilities in Attachment 1 of Order R3-2021-0008 primarily consist of domestic wastewater recycling or reuse facilities, fruit and vegetable processing and industrial wastewater processing facilities subject to either regional or statewide general permits, and wineries subject to the statewide winery general permit.¹

When a facility regulated by an individual permit is enrolled in a general permit, it is appropriate to terminate the individual permit at that time to avoid multiple permits imposing similar or contradictory requirements. Proposed Order No. R3-2021-0008 allows for the termination of the outdated individual permits referenced in Attachment 1 upon the issuance of a notice of applicability to enroll the facility in an appropriate general permit. With the adoption of Order No. R3-2021-0008, staff will be able to redirect resources towards facilitating enrollments instead of drafting proposed individual termination orders for board consideration during a public hearing for the various outdated individual permits. This will enable staff to transition more facilities

¹ Most of the wineries in the Central Coast Region are currently enrolled under a regional general permit and will be transitioned into the statewide winery general order over time.

from individual permits into more protective general permits in a timely and efficient manner.

Staff will follow these steps to transition a facility into a general permit:

1. Review existing individual permits and determine which facilities are appropriate to enroll in a general permit. Prioritization of facilities will be based on age of permit, compliance history, and threat to water quality.
2. Send a letter to the facility stating that staff has determined the facility is more appropriately regulated by a general permit and requesting an application (notice of intent, standard Form 200, or report of waste discharge).
3. Review the application and work with facility representatives as needed to obtain any additional information or clarification.
4. Issue a notice of applicability enrolling the facility in the general permit and letting the facility know that their existing individual permit has been terminated by Order No. R3-2021-0008.
5. Provide notice of the general permit enrollment at the next Central Coast Water Board meeting as part of the Executive Officer's report as is customary for general permit enrollments.

Compliance History

The compliance histories of the facilities listed in Attachment 1 of Order R3-2021-0008 vary. The transition of the facilities from regulation under individual permits to general permits will improve consistency and staff's ability to provide compliance oversight for the facilities regulated by this program. In each case, regulation of the facility will continue based on a compliance evaluation and general risk assessment conducted during the general order prioritization and enrollment process, and any outstanding compliance issues will continue to be addressed under the general permit.

Human Right to Water

California Water Code section 106.3, subdivision (a) states that it is "the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes." On January 26, 2017, the Central Coast Water Board adopted Resolution No. R3-2017-0004, which affirms the realization of the human right to water and the protection of human health as the Central Coast Water Board's top priorities.

Transitioning facilities from outdated individual permits into newer general permits is consistent with Resolution No. R3-2017-0004 as it ensures regulatory consistency and protection of groundwater because many of the older individual permits are less protective of groundwater quality than the newer general permits.

Disadvantaged Communities

The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of people of all ethnicities, cultures,

backgrounds and income levels, including disadvantaged communities (DACs). Additionally, the Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities.

According to 2016 census data, there are multiple DAC census block groups in various communities located throughout the Central Coast Region that discharge to wastewater systems listed in Attachment 1 of Order R3-2021-0008. Regulation of these publicly and privately owned treatment works in compliance with the general permits should improve water quality and regulatory consistency between facilities; therefore, any impact to DACs should be positive. If surface water or groundwater is degraded by discharges regulated by the proposed general permits, Central Coast Water Board staff will help facilitate outreach and education programs to inform potentially affected parties and connect them with available resources while also working with dischargers to address the pollution sources and associated impacts as appropriate.

Facility Outreach

On February 26, 2021, Central Coast Water Board staff sent a notice to all facilities referenced in Attachment 1 of Order R3-2021-0008 stating that at the June 17-18, 2021 Central Coast Water Board meeting, staff planned to recommend the board adopt an order that would terminate their existing individual permit upon enrollment in a general permit. Staff provided a 30-day period for questions or comments on the proposed order.

During the facility outreach comment period, staff was contacted by two facilities and answered their questions about the proposed order. Staff received one late comment letter for a facility that will be transitioned into the Large Domestic General Permit and reached out to the facility to explain that Order R3-2021-0008 would not apply to them and the facility is therefore not listed in Attachment 1 of Order R3-2021-0008. Pursuant to the Large Domestic General Permit, their individual order will be terminated by the Large Domestic General Permit, not by Order R3-2021-0008 once they are enrolled in the general permit.

Climate Change

The Central Coast faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, Central Coast Water Board staff has launched the Central Coast Water Board's Climate Action Initiative, which identifies how our work relates to climate change and prioritizes actions that promote adaptation and mitigation to improve resilience and protect beneficial uses. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.

Increasing programmatic efficiencies and transitioning facilities into general permits will help the waste discharge requirements program increase its capacity to evaluate and prioritize sites for appropriate climate change response.

CONCLUSION

Proposed Order No. R3-2021-0008 improves the efficiency of regulating facilities under general permits by terminating outdated existing individual waste discharge requirement orders upon a facility's enrollment in an appropriate general permit. Staff will continue to notify the board and public of general permit enrollments, including the transitions associated with the facilities listed on Attachment 1 of the proposed order, as part of the Executive Officer's report for regular public meetings.

RECOMMENDATION

Adopt Order No. R3-2021-0008.

ATTACHMENT

1. Proposed Order No. R3-2021-0008
 - a. Attachment 1: List of Facilities Currently Regulated by Individual Permits that may be Appropriately Regulated Under a General Permit
 - b. Attachment 2: General Permit Descriptions

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