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CENTRAL VALLEY REGION

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TENTATIVE RESOLUTION R5-2025-XXXX

RESOLUTION INFORMATION

Resolution:	Waiver of Waste Discharge Requirements for Small Food Processors and Related Agricultural Processors Within The Central Valley Region
Status:	Tentative
Program:	Non-15 Discharge to Land
Counties:	Modoc, Shasta, Lassen, Plumas, Butte, Glenn, Colusa, Lake, Sutter, Yuba, Sierra, Nevada, Placer, Yolo, Napa, Solano, Sacramento, El Dorado, Amador, Calaveras, San Joaquin, Contra Costa, Stanislaus, Tuolumne, Merced, Mariposa, Madera, Kings, Fresno, Tulare, Kern, Alameda, Alpine, Siskiyou,
Region 5 Offices:	Sacramento (Rancho Cordova), Fresno, and Redding
Prior Resolution:	R5-2020-0002

CERTIFICATION

I, PATRICK PULUPA, Executive Officer, hereby certify that the following is a full, true, and correct copy of the order adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX February 2025.

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PATRICK PULUPA, Executive Officer

FINDINGS

The California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

Regulatory Background

1. Water Code section 13269 authorizes the Central Valley Water Board to conditionally waive the requirements to submit reports of waste discharge (RWDs) and to issue waste discharge requirements (WDRs), as set forth in Water Code sections 13260, 13263, and 13264 (see below), for specific discharges or types of discharges of waste. Pursuant to section 13269, subdivision (a), any such waiver must be consistent with applicable state and regional water quality control plans and in the public interest.

    a. Water Code section 13260, subdivision (a), requires that any person discharging or proposing to discharge waste that could affect the quality of the waters of the Central Valley region, other than into a community sewer system, must file a RWD with the Central Valley Water Board.

    b. Pursuant to Water Code section 13263, subdivision (a), the Central Valley Water Board has a statutory obligation to prescribe WDRs regulating discharges of waste that could affect the waters of the state, except where a waiver of WDRs has been adopted pursuant to Water Code section 13269.

    c. Water Code section 13264, subdivision (a), prohibits waste discharge without discharger submittal of a RWD and Central Valley Water Board adoption of WDRs or a waiver authorizing the discharge.

2. This Resolution constitutes a general waiver of WDRs for specific types of discharges, subject to specific conditions set forth in **Attachment A**. In particular, this Resolution waives the requirement to submit WDRs for:

    a. Small food processors that discharge 1 million gallons or less of process wastewater per year to land (applied at reasonable agronomic and hydraulic rates); and

    b. Small food processors that land apply residual solids associated with processing that results in generation of less than 1 million gallons of wastewater per year.

    For the purposes of this Waiver, the term “food processor” includes nut hulling operators (excluding pistachio nut hullers), crop seed processors, and any other

agricultural commodity processing operator generating waste substantially similar in character to the wastes described in the Initial Study and Mitigated Negative Declaration dated 31 October 2014 (SCH # 2014112022). “Food processor” does not include meat processors, slaughterhouses, or pistachio nut hullers, as such operators not eligible for enrollment under this Waiver.

3. Discharges authorized under this Waiver are grouped into three regulatory tiers based on the wastewater management practices and the amount of waste discharged to land. The application requirements, fees (if any), and monitoring and reporting requirements are linked to and commensurate with the complexity of the discharge regulated under each tier. The Waiver tiers are summarized in Table 1, below:

Table 1—Summary of Waiver Tiers

Waiver Tier	Allowed Management Practices and Discharge Amounts
1	- Land application of up to 10,000 gallons of process wastewater per year for irrigation of landscaping or crops. - Land application of residual solids associated with generation of up to 10,000 gallons of process wastewater per year as a soil amendment for landscaped or cropped areas.
2	- Land application of up to 100,000 gallons of process wastewater per year for irrigation of landscaping or crops. - Land application of residual solids associated with generation of up to 100,000 gallons of process wastewater per year as a soil amendment for landscaped or cropped areas.
3	- Land application of up to 1,000,000 gallons of process wastewater per year for irrigation of landscaping or crops with a minimum of 1.0 acres of land application area per 100,000 gallons of wastewater. - Land application of residual solids associated with generation of up to 1,000,000 gallons of process wastewater per year as a soil amendment for landscaped or cropped areas with a minimum of 1.0 acres of land application area per 100,000 gallons of wastewater.

Past Waivers for Small Food Processors

4. On 26 March 1982, the Central Valley Water Board adopted Resolution 82-036, which waived WDRs for 23 categories of discharges, including “food processing wastes spread on land.” In adopting this Waiver, the Central Valley Water Board acted as lead agency under the California Environmental Quality Act (CEQA) (Pub. Res. Code, § 21000 et seq.). In accordance with CEQA, the Board adopted

a Negative Declaration, dated 23 December 1981, determining that the adoption of Resolution 82-036 would not result in a significant environmental impact.

5. In 1999, California Senate Bill (SB) 390 amended Water Code section 13269, causing all existing waivers to automatically expire on 1 January 2003 (see Wat. Code, § 13269, subd. (b)(1)). Accordingly, Resolution 82-036 expired on 1 January 2003. SB 390 also introduced a mandate that waivers adopted after 1 January 2000 shall not exceed a term of five years but may be renewed in accordance with the conditions described in section 13269, subdivision (a). (*Id.*, subd. (a).)

6. On 11 July 2003, the Central Valley Water Board adopted Resolution R5-2003-0106, *Waiver of WDRs for Small Food Processors, Including Wineries, Within the Central Valley Region*, which waived WDRs for certain small food processers and wineries. The 2003 Waiver established a streamlined permitting process for numerous small food processing facilities and wineries. Pursuant to Water Code section 13269, the 2003 Waiver expired on 11 July 2008. The Board adopted subsequent replacement waivers, as follows:

   a. 8 October 2009 - Resolution R5-2009-0097 (exp. 8 October 2014).

   b. 5 February 2015 – Resolution R5-2015-0005 (exp. 5 February 2020).

   c. 20 February 2020 – Resolution R5-2020-0002 (exp. 20 February 2025).

Renewal and Revision of Previous Waiver

7. As described in subsequent Findings, the Central Valley Water Board has reviewed the waiver previously issued under Resolution R5-2020-0002 and has determined that a waiver of WDRs for discharges from small food processors and regulated agricultural processors poses a low threat to the quality of waters of the State and is consistent with all applicable state or regional water quality control plans; therefore, the waiver of WDRs for these activities should be renewed.

8. The Board has further determined that renewal of the waiver of WDRs for winery waste discharges is unnecessary because, on 20 January 2021, the State Water Resources Control Board (State Water Board) adopted Order WQ 2021-0002-DWQ, *General Waste Discharge Requirements for Winery Process Water*, which provides unified statewide regulation of wineries and other similar facilities that discharge up to 15 million gallons per year of winery waste to land. Therefore, although this Resolution renews the previous waiver, winery-specific findings and conditions have been removed.

Basin Plans

9. This Waiver implements and is consistent with the Central Valley Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* and *Water Quality Control Plan for the Tulare Lake Basin* (collectively, Basin Plans). The Basin Plans designate the beneficial uses of ground and surface waters in the Central Valley Region. Regional groundwater is generally designated for the following beneficial uses: municipal and domestic water supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).[1] The beneficial uses of regional surface waters are specified in each Basin Plan for specific water bodies including major rivers, creeks, and lakes, and apply to tributaries to these water bodies. These beneficial uses potentially include MUN, AGR, IND, PRO, groundwater recharge, freshwater replenishment, navigation, hydropower generation, water contact recreation, non-contact water recreation, commercial and sport fishing; aquaculture; warm freshwater habitat; cold freshwater habitat, estuarine habitat, wildlife habitat, preservation of biological habitats of special significance, preservation of rare, threatened, or endangered species, migration of aquatic organisms, spawning, reproduction, and/or early development, and shellfish harvesting.

Salt and Nitrate Control Programs

10. The Central Valley Water Board adopted Basin Plan amendments incorporating new programs for addressing ongoing salt and nitrate accumulation in the Central Valley at its 31 May 2018 Board Meeting (Resolution R5-2018-0034). The Basin Plan amendments became effective on 17 January 2020 and were revised by the Central Valley Water Board in 2020 with Resolution R5-2020-0057 (https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/resolutions/r5-2020-0057_res.pdf). The revisions to the Basin Plan amendments became effective on 10 November 2021.

11. For the Salt Control Program, there are two permitting approaches: the conservative permitting approach (Path 1) and the alternative permitting approach (Path 2). Path 1 requires immediate and ongoing compliance with applicable water quality standards. For dischargers that cannot comply with Path 1's stringent salinity requirements, Path 2 provides an alternative compliance pathway whereby dischargers are deemed in compliance with

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[1] Certain ground waters addressed in the *Water Quality Control Plan for the Tulare Lake Basin* (*Tulare Lake Basin Plan*) are not designated for all four beneficial uses listed here; however, all are designated for MUN. (See *Tulare Lake Basin Plan*, Table 2-2.)

applicable water quality standards if they meet performance-based requirements and participate in the regionwide Prioritization and Optimization Study (P&O Study), an ongoing planning effort to develop a long-term salinity strategy for the Central Valley. Tier 1 dischargers are exempt from compliance with the Salt Control Program because their low-volume discharges are not anticipated to impact the quality of surface or ground waters. However, the Executive Officer may direct additional actions for Tier 1 dischargers if deemed necessary. Tier 2 and 3 dischargers will be subject to Path 2 of the Salt Control Program unless it is demonstrated to the Executive Officer that Path 1 is more appropriate for a particular discharge.

12. For the Nitrate Control Program, there are two permitting approaches: the individual permitting approach (Path A) and the management zone permitting approach (Path B). Path A requires immediate and ongoing compliance with applicable water quality standards. For dischargers that cannot comply with Path A's stringent nitrate requirements, Path B provides an alternative compliance pathway whereby dischargers may obtain exceptions from the water quality objective for nitrate if they participate in a basin-specific Management Zone. Tier 1 dischargers are exempt from compliance with the Nitrate Control Program because their low-volume discharges are not anticipated to impact the quality of surface or ground waters. The Executive Officer may direct additional actions as necessary. Tier 2 and 3 dischargers comply with the Nitrate Control Program by submitting the information required for enrollment under this Waiver and implementing all applicable Waiver conditions. The Executive Officer may direct additional actions as necessary.

Antidegradation Policy

13. State Water Board Resolution 68-16, *Statement of Policy with Respect to Maintaining High Quality Waters of the State* (Antidegradation Policy), which is incorporated as part of the Basin Plans, prohibits the Central Valley Water Board from authorizing degradation of "high quality waters" unless it is shown that the discharge(s) causing such degradation will be consistent with the maximum benefit to the people of California, will not unreasonably affect beneficial uses, and will not result in water quality worse than applicable water quality objectives (WQOs). Any discharge to high quality waters must meet requirements that will result in the best practicable treatment or control (BPTC) necessary to assure that pollution or nuisance will not occur and the highest water quality consistent with the maximum benefit to the people of the State will be maintained.

14. Due to variations in soil and groundwater conditions throughout the Central Valley region, it cannot be stated with certainty that discharges of waste subject to this Waiver will not degrade some high-quality ground waters to some extent—even when such discharges comply with the various conditions

prescribed herein. It can, however, be stated that such degradation will not result in groundwater falling below established WQOs in the operative Basin Plan. Additionally, the requirements and conditions specified in this Waiver are intended to minimize degradation, prevent exceedances of WQOs and impacts to beneficial uses, and constitute BPTC for the types of discharges to which they apply.

15. The economic prosperity of Central Valley communities benefits the people of the State. Dischargers that will be regulated under this Resolution are primarily very small facilities located in rural areas that do not have public sewer service. Small food processing businesses have become an important part of the local economy in several Central Valley Region counties because they employ people who work in the growing areas and processing facilities.

    Prior to adoption of the 2003 Waiver (Resolution R5-2003-0106), most small food processors discharged all of their wastewater to septic systems regulated by county environmental health departments. The level of treatment and control provided by septic systems is far less than what is required by this Waiver, and discharges to septic systems pose a higher threat to groundwater quality than a well-managed land application and waste recycling program. Although treatment technology is available to reduce the mass of biochemical oxygen demand (BOD) and nitrify/denitrify wastewater, the capital and operation/maintenance costs of such advanced treatment systems would likely be infeasible for the majority of small businesses subject to this Waiver. Experience with numerous larger food processors in the Central Valley region has shown that the threat to water quality posed by the BOD and nitrogen content of the waste can be adequately reduced by a well-managed land application/recycling program to prevent significant groundwater degradation, even in areas where groundwater is very shallow.

    Therefore, the economic benefits derived from this low-cost, streamlined form of regulation support allowing limited, localized groundwater degradation if the terms of the Basin Plan are met.

16. Based on the above, this Waiver is consistent with the Antidegradation Policy because it includes specific requirements and conditions of discharge that will minimize water quality degradation. Noncompliance with Waiver conditions may result in enforcement action including, but not limited to, monetary penalties and termination of coverage under this Waiver.

17. The Basin Plans' policy for implementing the State Water Board's Antidegradation Implementation Policy states:

> *Pursuant to this policy, a Report of Waste Discharge [RWD], or any other similar technical report required by the Board pursuant to Water Code Section 13267, must include information regarding the nature and extent of the discharge and the potential for the discharge to affect surface or ground water quality in the region. This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives. The extent of information necessary will depend on the specific conditions of the discharge. For example, use of best professional judgment and limited available information may be sufficient to determine that ground or surface water will not be degraded. In addition, the discharger must identify treatment or control measures to be taken to minimize or prevent water quality degradation.*

Dischargers submitting a RWD to apply for coverage under this Waiver are not required to include a detailed site-specific analysis of the waste, groundwater conditions, or potential water quality impacts. As noted above, the character of food processing wastes is well-documented in industry publications and Central Valley Water Board records. However, the RWD technical information form requires complete disclosure of sufficient information about enrolled facilities' operations to allow Central Valley Water Board staff to determine whether enrollment is appropriate or if additional information is needed to show that the proposed discharge will be consistent with the conditions of this Waiver.

CEQA

18. On 5 February 2015, the Central Valley Water Board adopted a Mitigated Negative Declaration (MND) (SCH # 2014112022) evaluating its issuance of Resolution R5-2015-0005, which established the 2015 iteration of this Waiver (see Resolution R5-2015-0004). In adopting Resolution R5-2020-0002, which renewed the 2015 Waiver, the Board found that the renewal constituted a continuation of the project evaluated in the MND and, thus, further CEQA evaluation was unnecessary.

19. This Resolution renews the 2020 Waiver, with revisions to remove winery-related elements and to incorporate the Salt and Nitrate Control Programs. These revisions do not constitute substantial changes to the previously evaluated project or the circumstances under which the project will be undertaken that would require major revisions to the MND. Nor is there any new information of substantial importance that was not known and could not have been known with

the exercise of reasonable diligence at the time the MND was adopted showing that the project will have any significant effects not discussed in MND. Consequently, no further environmental review is required under CEQA. (See Pub. Res. Code, § 21166; Cal. Code Regs., tit. 14, § 15162.)

20. Additionally, adoption of this Resolution is exempt from CEQA insofar as it continues to provide regulatory coverage, in the form of a conditional waiver per Water Code section 13269, for existing facilities and operations; there are no substantial expansions in operations authorized under this Resolution and Waiver. (See Cal. Code Regs., tit. 14, § 13301.) To the extent that existing facilities are expanded or new facilities are constructed, such activities remain subject to local agency approval and permitting, which will allow for a site-specific environmental review wherein potential impacts to other resources may be evaluated and mitigated (if necessary).

Other Regulatory Considerations

21. The Board's waiver of WDRs for discharges that will cause no or insignificant impairment to water quality and that pose little risk of creating a nuisance condition is in the public interest because this action will reduce the operating cost of regulated facilities that produce innocuous or small amounts of waste, impose conditions on covered discharges to minimize or eliminate potential water quality impacts, and allow Central Valley Water Board staff to direct resources towards addressing waste discharges that have significant potential to degrade water quality or create nuisance conditions.

22. Water Code section 13269, subdivisions (a)(2)-(3) provide in pertinent part as follows:

> Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public. … The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

Although waste discharges that comply with this Resolution do not pose a significant threat to water quality, the Central Valley Water Board is not waiving monitoring requirements for all discharges regulated under this Resolution. However, groundwater monitoring and analysis are not necessary due to the low volume of the discharges, the fact that waste character is well known, the nature and concentrations of the waste constituents, existing monitoring information from other regulated facilities, and information about salinity is available through the CV-SALTS initiative.

23. Federal regulations for storm water discharges have been promulgated by the U.S. Environmental Protection Agency (40 C.F.R. §§ 122, 123, 124) and require that specific categories of industrial facilities that discharge storm water obtain an NPDES permit. Most food processors that have uncovered outdoor processing areas are regulated under one of these specific categories. The State Water Board adopted Order 2014-0057-DWQ[2] (NPDES Permit No. CAS000001) specifying WDRs for discharges of storm water associated with industrial activities. Order 2014-0057-DWQ requires submittal of a Notice of Intent by all affected industrial storm water dischargers. Therefore, it is appropriate to require all parties applying for coverage under this Waiver to show that the operation is already covered or specifically excluded from obtaining coverage under Order 2014-0057-DWQ, or any subsequent order,[1] by providing a copy of one of the following:

    a. The Notice of Intent that has been submitted to apply for coverage under Order 2014-0057-DWQ or subsequent revision thereto; or

    b. A Notice of Non-Applicability (NONA); or

    c. A No Exposure Certification (NEC).

24. Water Code section 13267, subdivision (b), states:

> *In conducting an investigation specified in subdivision (a), the Regional Water Board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its*

[2] Order 2014-0057-DWQ, which became effective 1 July 2015, replaces Order 97-03-DWQ, which expired on 30 June 2015. Order 2014-0057-DWQ will expire on 30 June 2020.

> *region shall furnish, under penalty of perjury, technical or monitoring program reports which the Regional Water Board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the Regional Water Board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*

The technical reports required under this Resolution and the attached **Monitoring and Reporting Program Order R5-2025-00XX** (MRP) are necessary to evaluate enrolled dischargers' compliance with waiver conditions.

25. The waiver of WDRs renewed and revised by this Resolution regulates discharges of waste that may impact disadvantaged and/or tribal communities. Pursuant to Water Code section 13149.2, the Central Valley Water Board has reviewed readily available information and information raised to the Board by interested persons concerning anticipated water quality impacts in disadvantaged and tribal communities that may result from the adoption of this Waiver. The Board also considered environmental justice concerns within its authority and raised by interested persons with regard to those impacts. The Board anticipates that the issuance of this Waiver will not result in water quality impacts and/or environmental justice concerns within the scope of the Board's authority.

26. Pursuant to Water Code section 13263, subdivision (g), the ability to discharge waste is a privilege, not a right. Neither the adoption of this Resolution, nor the receipt of a formal notification of waiver coverage shall be construed as creating a vested right to continue in the discharge of such waste.

27. The dischargers and interested agencies and persons have been notified of the Central Valley Water Board's intent to conditionally waive WDRs for these discharges, and they have been provided an opportunity to submit written comments and an opportunity for a public hearing.

28. All comments pertaining to the discharges were heard and considered in a public hearing.

IT IS HEREBY RESOLVED THAT:

1. In accordance with Water Code section 13269, the Central Valley Water Board adopts the *Waiver of Waste Discharge Requirements for Small Food Processors* (Small Food Processor Waiver), waiving the requirements to obtain WDRs and/or, in some cases, to submit a RWD and filing fee, for discharge types that meet the conditions set forth in **Attachment A**. Pursuant to Water Code

section 13269, this action waiving the issuance of WDRs for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Central Valley Water Board from administering enforcement remedies (including civil liability) pursuant to the Water Code.

2. Discharges that result from emergency work or emergency projects, as described in Water Code section 13269, subdivision (c), are not affected by this action.

3. Discharges of waste to surface waters, wetlands, drainage courses, or biologically or culturally sensitive areas are prohibited.

4. The Central Valley Water Board may terminate the applicability of this Waiver as to any type of discharge or individual discharger at any time when such termination is in the public interest or the activity could affect the quality or beneficial uses of the waters of the State.

5. The Central Valley Water Board may review this Waiver at any time and may modify or terminate the Waiver in its entirety, as applicable for a specific type of discharge, or for individual dischargers, as is appropriate.

6. This Waiver shall expire on **<five years from adoption of the Resolution>**, unless terminated or renewed by the Central Valley Water Board.

Noncompliance with the conditions of this Waiver may result in enforcement action, including but not limited to, termination of coverage under this Waiver or assessment of administrative civil liability (i.e., monetary penalties) up to $10,000 per violation, per day, depending on the violation, pursuant to the Water Code, including sections 13268, 13350, and 13385. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Resolution, except that if the 30th day following the date of this Resolution falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.pm on the next business day. Copies of the law and regulations applicable to filing petitions will be provided upon request or may be found on the State Water Board Water Quality Petitions webpage: (http://www.waterboards.ca.gov/public_notices/petitions/water_quality).

I, PATRICK PULUPA, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on XX February 2025.

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PATRICK PULUPA, Executive Officer

Attachments:
All attachments are incorporated by reference as a part of this Resolution.
Attachment A: Conditions of Discharge
Attachment B: Monitoring and Reporting Program Order (MRP)
Attachment C: Application Forms
Attachment D: Information Sheet