

Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
Wednesday, December 13, 2017
Regional Water Board Office
Santa Rosa, California

ITEM: 8

SUBJECT: Public Hearing on Order No. R1-2017-0039 to consider adoption of Conditional Waiver of Waste Discharge Requirements for Specific Categories of Waste Discharge in the North Coast Region (*Charles Reed*)

BOARD ACTION: The Board will consider adoption of Conditional Waiver of Waste Discharge Requirements R1-2017-0039 (Proposed Conditional Waiver).

BACKGROUND: The California Water Code (Water Code) section 13260 requires that any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate regional water board a report of waste discharge, containing the information which may be required by the regional water board.

Water Code section 13269 authorizes regional water boards to waive reports of waste discharge and waste discharge requirements for specific discharges or types of discharge if the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The waiver may not exceed five years in duration but may be renewed by a regional water board in five year increments. The waiver is to be conditional and may be terminated at any time by the regional water board. For those discharges that the regional water board determines pose minimum threat to water quality, monitoring requirements may be waived.

The Regional Water Board last renewed the Policy for Waiving Waste Discharge Requirements for Specific Types of Waste Discharges on December 6, 2012, adopting Resolution No. 2012-0099 (Categorical Waiver). Every five years, before the expiration date of the waiver of waste discharge requirements, Regional Water Board staff reviews the Categorical Waiver categories and waiver conditions established in Attachment A of the resolution to assess whether the resolution remains in the public interest and, as necessary, recommends changes to the resolution.

ISSUES: Staff has reviewed Resolution No. R1-2012-0099, Policy for Waiving Waste Discharge Requirements for Specific Types of Waste Discharge and each of the waiver categories and waiver conditions cited in Attachment A of the Resolution. Based on this review staff has made the following proposed changes prior to its renewal:

1. Adoption of the conditional waiver of waste discharge requirements as a Board Order (Order No. R1-2017-0039) to improve enforceability.
2. The elimination of the waiver category titled "Winery Operations."

This waiver category is no longer necessary because all small wineries that could be covered under this categorical waiver are now required to obtain coverage under Order No. R1-2016-0003 Conditional Waiver of Waste Discharge Requirements for Discharges of Wine, Beverage, and Food Processor Waste to Land in the North Coast Region (WBF Processors Conditional Waiver), which was adopted by the Regional Water Board on January 28, 2016.

3. The addition of a new waiver category titled "Existing Onsite Wastewater Treatment Systems from Small Wine, Beverage, and Food Processing Facilities with Combined Domestic Wastewater and Process Wastewater Treatment and Disposal Systems."

The WBF Processors Conditional Waiver provides a waiver of waste discharge requirements for discharges of process wastewater to land from facilities that include wineries, breweries, cider houses, non-alcoholic beverage producers, distilleries, fruit and vegetable processors, dairy product manufacturers, and other facilities with similar waste processing and discharge characteristics. The WBF Processors Conditional Waiver was developed to cover only small wine, beverage, and food processors that have separated their process wastewater treatment and disposal systems from their domestic septic systems. The characteristics of combined process/domestic wastewater are sufficiently different from process wastewater so that these combined systems were not included as waste discharges eligible for coverage under the WBF Processors Conditional Waiver.

This waiver category is needed in the proposed Conditional Waiver to provide a streamlined path for the Regional Water Board to issue a conditional waiver for existing, small wineries that are not eligible for coverage under the WBF Processors Conditional Waiver because process wastewater is combined with domestic wastewater before final disposal of the effluent. Regional Water Board staff estimates that the number of existing, small wineries that are not eligible for coverage under the WBF Processors Conditional Waiver as a result of this circumstance is large. The alternatives to issuance of a conditional waiver under the Proposed Conditional Waiver are to develop a conditional waiver tailored to these specific dischargers or adopt individual WDRs or waivers of WDRs for each discharger. The availability and use of the Proposed Conditional Waiver will make efficient use of staff resources. To be eligible for coverage under the Proposed Conditional Waiver, the existing, small winery with combined process and domestic wastewater must obtain all relevant approvals from local agencies and comply with the specific conditions of the Conditional Waiver.

4. The elimination of the waiver category titled “Individual Sewage Disposal Systems and Small Community, Commercial, Institutional, and Industrial Operations which Utilize On-site Wastewater Treatment and Disposal for Domestic Wastes.”

This waiver category is no longer necessary because individual sewage disposal systems (also known as onsite wastewater treatment systems or OWTS) with projected wastewater flows under 10,000 gallons per day (Tier 2) or 3,500 gallons per day (Tier 1) are regulated entirely by the local regulatory agency in accordance with the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy), which was adopted by the State Water Resources Control Board on June 19, 2012 and adopted by the Regional Water Board on June 19, 2014. In addition, small domestic wastewater treatment systems, with monthly average flow rates of 100,000 gallons per day or less, that discharge to land, are eligible for coverage under State Water Resources Control Board Order WQ 2014-0153-DWQ General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems, which was adopted by the State Water Resources Control Board on September 23, 2014.

5. The addition of a new waiver category titled “Existing Onsite Wastewater Treatment Systems with Shallow Effluent Dispersal Systems.”

The OWTS Policy does not provide authorization for a local agency to approve under its Local Agency Management Program (LAMP) new or replacement OWTS that have less than two feet separation between the bottom of the effluent dispersal system and groundwater. However, there are many existing OWTS in the region that were installed prior to current local building codes with effluent dispersal system (i.e., leachlines) in areas where seasonal high groundwater comes within two feet of the bottom of the effluent dispersal system. Local agencies have indicated the need for flexibility to consider and approve non-standard OWTS that include pretreatment of septic tank effluent and/or low-dose effluent dispersal methods that can mitigate for a reduction of filtering soil between the effluent dispersal systems and groundwater.

The OWTS Policy directs owners of OWTS whose OWTS cannot meet the conditions of an approved LAMP to notify the Regional Water Board by submitting a report of waste discharge for Regional Water Board staff’s review and consideration for possible establishment of waste discharge requirements or a waiver of waste discharge requirements for the OWTS discharge. The number of OWTS that could request issuance of individual and general permits and waivers for these existing OWTS is large, and processing these requests could overwhelm the region’s limited permitting staff resources and cause unacceptably long delays in the issuance of local building permits.

Therefore, this waiver category is needed to provide a streamlined path for the Regional Water Board to issue a conditional waiver of waste discharge requirements

for existing OWTS in high groundwater areas. Including this new waiver category and issuance of the Conditional Waiver would allow the local agency to review, authorize, and permit OWTS with less than two feet of separation between the bottom of the effluent dispersal system and groundwater, where the OWTS is upgraded to include supplemental treatment components to substantially improve OWTS effluent quality or for OWTS where the effluent dispersal system has been designed to mitigate for lacking a minimum of 2 feet separation between the bottom of the effluent dispersal system and the seasonal, high groundwater.

This category of the Conditional Waiver will apply only to OWTS for which a replacement OWTS is needed to comply with the OWTS Policy and for OWTS replaced in accordance with an approved LAMP. To be eligible for coverage under the Proposed Conditional Waiver, the OWTS must have been originally constructed and operated prior to the effective date of the OWTS Policy (May 19, 2013) or for which a construction permit was issued prior to the effective date of the OWTS Policy. To be eligible for coverage under the Proposed Conditional Waiver, the existing OWTS with shallow effluent dispersal systems must obtain all relevant approvals from local agencies and comply with the specific conditions of the Conditional Waiver.

In accordance with the provisions of Water Code section 13269, Regional Water Board staff has determined that in each case, the discharges for which the existing and new proposed waiver categories are established, will not be subject to general or individual waste discharge requirements at this time, and the issuance of waivers for these categories of waste is consistent with the Water Quality Control Plan for the North Coast Region and is in the public interest.

A draft of this Order was available for public comment from July 14, 2017, to August 14, 2017. Comments were received from The OWTS Residents of the Russian River, who requested changes to the Proposed Conditional Waiver for clarity. Regional Water Board staff made minor clarifying changes to the Proposed Conditional Waiver to respond to those comments. A detailed response to the written comments is presented in the attached Response to Comments document.

RECOMMENDATION: Adopt Order No. R1-2017-0039, as proposed.

SUPPORTING DOCUMENTS:

1. Proposed Order No. R1-2017-0039
2. Attachment A - Summary Table
3. Attachment B - Notice of Intent (NOI)
4. Attachment C - Technical Information Form (TIF)
5. Staff Response to Comments
6. Public Comments
7. Public Notice