

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION**

**SECOND ADDENDUM TO TENTATIVE ORDER
GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF
GROUNDWATER**

This addendum shows revisions to the [Tentative Order](#) for the General Waste Discharge Requirements for Discharges of Groundwater originally distributed for public comment between January 17, 2025, and February 18, 2025, as revised by an [addendum](#) distributed for public comment between July 3, 2025, and August 4, 2025. The first addendum revised the Tentative Order to remove receiving water limitations in response to the U.S. Supreme Court ruling in *City and County of San Francisco, California v. Environmental Protection Agency* (2025) 145 S.Ct. 704, which held that NPDES permits may not include end-result requirements under the Clean Water Act.

This addendum further revises the Tentative Order in response to the California Court of Appeal ruling in *Camarillo Sanitary District et al. v. State Water Resources Control Board* (2025) 113 Cal.App.5th 407 (Petn. for Review Pending, Petn. Filed Sept. 15, 2025). The Court of Appeal held that the use of the Test of Significant Toxicity to determine compliance with NPDES permits conflicts with federal law, but that the State Board had otherwise properly adopted the *State Policy for Water Quality Control: Toxicity Provisions* (Toxicity Provisions) as state policy for water quality control. The Regional Water Board relies on an exemption in the Toxicity Provisions that requires a permit relying on the exemption to include the aquatic toxicity water quality objectives as receiving water limitations. To this end, this addendum revises the Tentative Order (as revised by the first addendum that removed all receiving water limitations) to add receiving water limitations for aquatic toxicity water quality objectives as state-only requirements. The changes to the relevant portions of the Tentative Order are shown below.

Interested persons are invited to submit written comments concerning the changes. At this time, the Regional Water Board will accept comments pertaining only to revisions in this addendum. Comments on this addendum must be submitted in person, by email, or by mail to the attention of Marcos De la Cruz (marcos.delacruz@waterboards.ca.gov) by 5:00 p.m. on **November 17, 2025**. Written comments should be sent to the Regional Water Board at 1515 Clay Street, Suite 1400, Oakland, CA, 94612.

The Regional Water Board will respond to comments received regarding this addendum and to comments on the original Tentative Order and previous addendum received during the previous public comment periods. There is no need to re-submit comments regarding the Tentative Order and previous addendum.

The Regional Water Board will hold a public hearing on the Tentative Order during its regular meeting on December 10, 2025, at 9:00 a.m.

Revisions to Tentative Order as revised by the first addendum are shown below with underline text for additions and strikethrough ~~text~~ for deletions.

A. We revised section 2.3 of the Tentative Order (Findings), as follows:

Provisions and Requirements Implementing State Law. Discharge Prohibitions 3.4 and 3.5 and the receiving water limitations in section 5 of this Order are below is included to implement ~~§~~State law only. ~~This prohibition~~ Discharge Prohibitions 3.4 and 3.5 and the receiving water limitations in section 5 are is not required or authorized under the federal CWA; consequently, violation of this these prohibitions and the receiving water limitations in section 5 are is not subject to the enforcement remedies that are available for NPDES violations.

B. We revised section 5 of the Tentative Order as follows:

RECEIVING WATER LIMITATIONS

~~This Order does not contain receiving water limitations.~~ Discharges shall not cause an exceedance of the aquatic toxicity objectives specified in section II.C of the State Policy for Water Quality Control: Toxicity Provisions (Toxicity Provisions) in the receiving waters.

C. We revised Attachment F section 3.2 as follows:

California Environmental Quality Act (CEQA)

Under Water Code section 13389, this action to adopt an NPDES permit is exempt from the provisions of the California Environmental Quality Act (CEQA), Public Resources Code division 13, section 3 (commencing with § 21100). This Order includes Discharge Prohibition 3.4 and the receiving water limitations in section 5 of the Order under ~~§~~State law only. ~~This~~ These §State law requirements are is not subject to the exemption under Water Code section 13389. However, the previous order imposed ~~this~~ requirements to address nuisance and toxicity that required similar compliance methods. As such, ~~retaining this including these requirements~~ is not a project subject to CEQA because ~~it~~ doing so will not cause a direct or indirect physical change in the environment (Public Resources Code §§ 21065, 21080).

D. We revised Attachment F section 3.3.9 as follows:

Endangered Species Act Requirements. This Order does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code §§ 2050 to 2097) or Federal Endangered Species Act (16 U.S.C.A. §§ 1531 to 1544). This Order requires compliance with effluent limits,

aquatic toxicity receiving water limitations, and other requirements to protect the beneficial uses of waters of the State, including protecting rare, threatened, or endangered species. Dischargers are responsible for meeting all applicable Endangered Species Act requirements.

E. We revised Attachment F section 3.3.4 as follows:

Toxicity Provisions. The State Water Board adopted the *State Policy for Water Quality Control: Toxicity Provisions* (Toxicity Provisions) on October 5, 2021. U.S. EPA approved the Toxicity Provisions on May 1, 2023. Toxicity Provisions sections II.C.1 and II.C.2 establish numeric chronic and acute toxicity objectives that apply to all inland surface waters, enclosed bays, and estuaries in the State with aquatic life beneficial uses. The Toxicity Provisions include related implementation provisions and require that compliance with the chronic toxicity water quality objectives be assessed using U.S. EPA's Test of Significant Toxicity (TST) (U.S. EPA, National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document [EPA/833-R-10-003], June 2010).

The Toxicity Provisions were challenged in *Camarillo Sanitary District v. State Water Resources Control Board* (2025) 113 Cal.App.5th 407 (Petn. for Review Pending, Petn. Filed Sept. 15, 2025). The Court of Appeal held that the use of the Test of Significant Toxicity to determine compliance with NPDES permits conflicts with federal law, but that the State Water Board had otherwise properly adopted the Toxicity Provisions as state policy for water quality control. This Order implements the Toxicity Provisions in a manner consistent with the Court of Appeal decision.

F. We revised Attachment F section 4.3.3.3.1 as follows:

Acute and Chronic Toxicity. Dischargers covered by this Order are exempt from toxicity requirements. Toxicity Provisions section III.C.11 exempts insignificant non-stormwater discharges from acute and chronic toxicity requirements if they do not have reasonable potential to cause or contribute to the exceedance of toxicity water quality objectives. In accordance with Toxicity Provisions section III.C.11, reasonable potential analysis does not need to include the analysis methods in Toxicity Provisions section III.C.3. The discharges covered by this Order are insignificant and do not have reasonable potential to cause or contribute to the exceedance of toxicity water quality objectives. Dischargers covered by this Order often discharge directly to storm drains on a short-term basis. During the previous orders terms, Dischargers conducted toxicity tests in at least 300 instances, and ~~it~~ toxicity was not observed in any discharge, except a single instance where high salinity ~~was likely the~~ caused ~~of~~ the toxicity. In that instance, the high salinity did not cause toxicity in the estuarine receiving water. As required by the Toxicity Provisions, discharges covered by this Order may not cause an

exceedance of water quality objectives for aquatic toxicity in receiving waters (see section 5 of the Order).

G. We revised Attachment F section 4.4.1 as follows:

Anti-Backsliding. This Order complies with the anti-backsliding provisions of CWA sections 402(o) and 303(d)(4), and 40 C.F.R. section 122.44(l), which generally require effluent limitations in a reissued permit to be as stringent as those in the previous order. The requirements of this Order are at least as stringent as those in the previous orders.

For Class 1 and Class 2 discharges, this Order does not retain WQBELs for chloride, total dissolved solids, and turbidity because data no longer indicate reasonable potential to cause or contribute to exceedances of water quality objectives. For Class 4 discharges, this Order does not retain WQBELs for acute toxicity, chromium III, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, and turbidity because data no longer indicate reasonable potential to cause or contribute to exceedances of water quality objectives.

The removal of these limitations is consistent with State Water Board Order WQ 2001-16, in which the State Water Board held that anti-backsliding does not necessarily dictate that a pollutant that was limited in a prior permit must have a limit in a later permit, even though there is no reasonable potential that the pollutant discharge will cause or contribute to a water quality standard exceedance. The State Water Board stated that where the anti-backsliding exception in CWA section 303(d)(4)(B) is met (see section 4.4.2 below), the limit may be removed. The removal of these effluent limitations is consistent with antidegradation policies as explained below

As discussed in Fact Sheet sections 5 and 6.4, this Order removes the receiving water limitations that were included in the previous orders. This Order also removes ~~and a two~~ discharge prohibitions that were included in the previous orders (Discharge Prohibitions III.B and III.D of Order R2-2017-0048, and Discharge Prohibitions III.C and III.H of Order R2-2018-0026). ~~The One~~ discharge prohibition prohibited discharge of silt, sand, clay, or other earthen materials in a manner that would affect or threaten to affect beneficial uses in receiving waters. The other discharge prohibition prohibited discharges to storm drains that cause scouring, erosion, excessive sedimentation, or flooding of the storm drain system or receiving water downstream of the point of discharge. This Order also removes part of the nuisance provision contained in the previous orders (Discharge Prohibition III.E of Order R2-2017-0048 and III.G of R2-2018-0026), retaining the remainder as a State-only requirement (see Fact Sheet section 6.4). The removal of these requirements, as a matter of

federal law, is consistent with the U.S. Supreme Court's holding in *City and County of San Francisco, California v. Environmental Protection Agency* (2025) 145 S.Ct. 704. However, as discussed in Fact Sheet section 4.3.4.4.5, the Regional Water Board has determined that the requirements in this Order are sufficient to ensure the discharge complies with Clean Water Act section 301(b)(1)(C) (33 U.S.C. § 1311(b)(1)(C)). As a result, the removal of the receiving water limitations and the discharge prohibition does not authorize the additional discharge of pollutants or authorize the violation of water quality standards. This Order does not, therefore, authorize either backsliding or further degradation of water quality.

H. We revised Attachment F section 4.4.2. as follows:

Antidegradation. This Order complies with the antidegradation provisions of 40 C.F.R. section 131.12 and State Water Board Resolution 68-16. It does not authorize lowering water quality as compared to the level of discharge authorized in the previous order, which is the baseline by which to measure whether degradation will occur. This Order does not allow for an increased flow, a reduced level of treatment, or increased effluent limitations relative to the previous orders.

This Order does not retain WQBELs for acute toxicity, chloride, total dissolved solids, turbidity, chromium III, benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, dibenz(a,h)anthracene, and indeno(1,2,3-cd)pyrene from the previous order because data no longer indicate reasonable potential for these pollutants to exceed water quality objectives. The quantities of these pollutants are not expected to exceed the quantity discharged under the previous order when the effluent limitations were in place because these WQBELs did not drive treatment performance. Treatment performance is maintained by the remaining effluent limitations imposed by this Order. Furthermore, the effluent limitations for chloride, total dissolved solids, and turbidity were based on secondary Maximum Contaminant Levels that protected aesthetic characteristics rather than aquatic life or human health, such as taste and odor, for receiving waters with "Municipal and Domestic Supply" or "Groundwater Recharge" beneficial uses. Discharge Prohibition 3.31.6, and turbidity monitoring requirements in Attachment E (MRP) will maintain controls on turbidity to protect beneficial uses.

This Order removes the generalized receiving water limitations and at two discharge prohibitions that were included in the previous orders (Discharge Prohibitions III.B and III.D of Order R2-2017-0048, and Discharge Prohibitions III.C and III.H of Order R2-2018-0026). The One discharge prohibition prohibited discharge of silt, sand, clay, or other earthen materials in a manner that would affect or threaten to affect beneficial uses in receiving waters. The other discharge prohibition

prohibited discharges to storm drains that cause scouring, erosion, excessive sedimentation, or flooding of the storm drain system or receiving water downstream of the point of discharge. As discussed in Fact Sheet section 4.3.3.3.3, the effluent limits established in this Order are sufficient to protect receiving waters. The removal of the generalized receiving water limitations and discharge prohibitions will not result in an increased volume or concentration of pollutants in the discharge. As explained in Fact Sheet section 4.3.3.3.3, the technology and water quality-based effluent limits established in this Order are sufficient to drive treatment system performance in a manner comparable to the previous orders and to ensure that water quality and beneficial uses are protected. Additionally, this Order includes receiving water limits related to toxicity pursuant to State law only (see Fact Sheet section 5). This Order does not, therefore, authorize further degradation of water quality.

I. We revised Attachment F section 5 as follows:

RATIONALE FOR RECEIVING WATER LIMITATIONS

This Order removes the generalized receiving water limitations contained in section V of the previous orders. Those limitations that served as backstops for unanticipated circumstances or changes to effluent quality that could affect water quality. The receiving water limitations made the Discharger responsible for the quality of the receiving water without specifying specific requirements (e.g., effluent limitations) or other actions the Discharger must take that apply at or before the discharge point. The Regional Water Board removed the receiving water limitations to be consistent with the U.S. Supreme Court's ruling in *City and County of San Francisco, California v. Environmental Protection Agency* (2025) 145 S.Ct. 704, which held that NPDES permits issued by the U.S. EPA may not include end-result requirements under the Clean Water Act. End-result requirements are provisions that do not spell out what the Discharger must do or refrain from doing; rather, they make the Discharger responsible for the quality of the water in the body of water into which it discharges pollutants.¹

Section 5 of the Order includes receiving water limitations for aquatic toxicity objectives under State law only. The Toxicity Provisions require the Regional Water Board to include receiving water limitations for the aquatic toxicity objectives when applying the exemption for insignificant discharges. As described in Fact Sheet section 4.3.3.3.1, the discharges covered by this Order are insignificant discharges as defined in the Toxicity Provisions. The inclusion of the receiving water limitations as State-only requirements is consistent with *City and County of San Francisco v. U.S. EPA* and *Camarillo Sanitary District v. State Water Resources Control Board* as both cases addressed requirements in NPDES permits relying on federal authority.

The requirements in this Order will ensure that the discharge satisfies Clean Water Act section 301(b)(1)(C) (33 U.S.C. § 1311(b)(1)(C)), which requires that the permit include any more stringent limitation, including those necessary to meet water quality standards. See Fact Sheet section 4.3.3.3. If unanticipated circumstances or changes to effluent quality occur during the permit term, the Regional Water Board may reopen the permit to include any limitations necessary to protect water quality.

^[1] While the Regional Water Board removed generalized receiving water limitations in accordance with the U.S. Supreme Court's decision interpreting the Clean Water Act's NPDES requirements, the Regional Water Board may decide in the future to include other similar requirements as a matter of State authority.

J. We revised Attachment F section 6.4 as follows:

Discharge Prohibition and Receiving Water Limitations from Previous Orders Retained to Implement State Law Only

Discharge Prohibitions III.E of Order R2-2017-0048 and III.G of R2-2018-0026 (the previous orders) stated, "Wastewater collection, treatment, or discharge of pollutants that causes pollution, contamination, or nuisance as defined by Water Code section 13050 is prohibited." Consistent with the holding in *City and County of San Francisco, California v. Environmental Protection Agency* (2025) 145 S. Ct. 704 (discussed in Fact Sheet section 4.3.4.4.5), this Order does not retain this prohibition as a federal requirement. However, this Order does retain a modified version of this prohibition in section 3.5 as a matter of State law: "the treatment of pollutants shall not create nuisance as defined by California Water Code section 13050." This requirement does not address the discharge of pollutants or pollution or contamination because this Order includes technology-based and water quality-based effluent limitations sufficient to prevent nuisance or contamination in receiving waters associated with discharges covered by this Order.

The Regional Water Board has maintained this prohibition as a State law requirement to implement Water Code section 13263, which identifies the need to prevent nuisance as a factor to consider when issuing waste discharge requirements. The U.S. Supreme Court's decision in *City and County of San Francisco v. U.S. EPA* did not interpret the Water Code. Furthermore, there is no provision of the Water Code analogous to the NPDES permit shield that was a part of the basis of the U.S. Supreme Court's decision. Likewise, the Porter-Cologne Water Quality Control Act has consistently recognized the ability of the Water Boards to regulate to prevent nuisance, and the Porter-Cologne Water Quality Control Act does not share the legislative history of the federal Clean Water Act. This Order, therefore, maintains the ~~requirements~~ prohibition identified above to continue its protections as a matter of State law.

Section V of the previous orders contained receiving water limitations related to discharges containing toxicity. Specifically, section V.9 prohibited the discharge of “Toxic or other deleterious substances in concentrations or quantities that cause deleterious effects on...aquatic biota...either at levels created in the receiving waters or as a result of biological concentration.” Section V.C stated, “Discharge shall not cause a violation of any water quality standard for receiving waters adopted by the Regional Water Board or State Water Resources Control Board (State Water Board) as required by the CWA and regulations adopted thereunder,” which now includes the objectives in the Toxicity Provisions. Consistent with *City and County of San Francisco, California v. Environmental Protection Agency* and *Camarillo Sanitary District v. State Water Resources Control Board*, this Order does not retain these receiving water limitations as federal requirements. This Order does, however, include receiving water limitations for aquatic toxicity in section 5 as a matter of State law only.

The Regional Water Board included the receiving water limitations as State-only requirements to implement the Toxicity Provisions. The Toxicity Provisions require the Regional Water Board to include receiving water limitations for aquatic toxicity objectives when applying the exemption for insignificant discharges. As described in Fact Sheet section 4.3.3.3.1, the discharges covered by this Order are insignificant discharges as defined in the Toxicity Provisions.

As required by Water Code section 13263, the Regional Water Board has considered the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the factors listed in Water Code section 13241 in establishing these State law requirements. The Water Code section 13241 factors are considered below.

- 6.4.1. **Past, present, and probable future beneficial uses of water.** Basin Plan Chapter 2 identifies designated beneficial uses for water bodies in the San Francisco Bay Region. Beneficial uses of water relevant to this Order are also identified above in Fact Sheet section 3.3.1. The Regional Water Board has taken beneficial uses into account in establishing the requirements of this Order. Neither the prohibition against nuisance nor the receiving water limitations in section 5 of this Order will not adversely affect present and future beneficial uses of water.
- 6.4.2. **Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.** The environmental characteristics of freshwater and non-freshwater receiving waters in the San Francisco Bay Region are described in Basin Plan Table 2-1. Neither the prohibition against nuisance nor the

receiving water limitations in section 5 of this Order will ~~not~~ adversely affect the environmental characteristics of these receiving waters.

- 6.4.3. **Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.** By complying with the CWA-mandated requirements established through this Order, the Dischargers will ensure control over factors that could affect water quality. The requirement to prevent nuisance and the receiving water limitations in section 5 of this Order will ensure that the treatment processes do not result in environmental conditions that could adversely affect the surrounding community.
- 6.4.4. **Economic considerations.** The Dischargers have reliably operated their treatment systems, some over several permit terms, without creating nuisance conditions or exceeding the receiving water limitation in section 5 of this Order. Therefore, this prohibition and the receiving water limitation are ~~is~~ unlikely to impose additional economic costs on Dischargers. In the unlikely event that the Dischargers incur additional costs to prevent nuisance or the exceedance of the receiving water limitations in relation to ~~associated with~~ their treatment systems, the costs would be justified and necessary to properly operate and maintain the treatment systems and protect public health and the environment. If a nuisance or an exceedance of the receiving water limitations were to occur, it would have a negative economic impact on tourism, recreation, and affected residents in the area.
- 6.4.5. **The need for developing housing within the region.** ~~Neither~~ the requirement to prevent nuisance nor the receiving water limitations in section 5 of this Order will ~~not~~ adversely affect the development of housing within the region.
- 6.4.6. **The need to develop and use recycled water.** ~~Neither~~ the requirement to prevent nuisance nor the receiving water limitation in section 5 of this Order will have an ~~no~~ impact on the development and use of recycled water.