

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

ORDER NO. R5-2004-0101

REQUIRING SIERRA PACIFIC INDUSTRIES,  
ANDERSON DIVISION  
TO CEASE AND DESIST

FROM DISCHARGING CONTRARY TO REQUIREMENTS

The California Regional Water Quality Control Board, Central Valley Region (hereafter referred to as Regional Board), finds:

1. On 9 July 2004, the Regional Board adopted Waste Discharge Requirements Order No.-R5-2004-0100, (NPDES No. CA0082066) for Sierra Pacific Industries, Anderson Division (hereafter Discharger). Waste Discharge Requirements Order No. R5-2004-0100 regulates the discharge of plant runoff to the Sacramento River.
2. Waste Discharge Requirements Order (WDRs) No. R5-2004-0100, includes Effluent Limitations for cadmium, copper, and zinc as contained in Section B.1, which reads as follows:
  1. The discharge of wastewater to the Sacramento River in excess of the following limit is prohibited:

<u>Constituent</u>	<u>Unit</u>	<u>Average Monthly Effluent Limit (AMEL)</u>	<u>Maximum Daily Effluent Limit (MDEL)</u>
Settleable Solids	ml/L	0.1	0.2
Cadmium (Total Recoverable)	µg/L	0.138	0.277
Copper (Total Recoverable)	µg/L	10.8	21.6
Zinc (Total Recoverable)	µg/L	59.3	120.2
Lead (Total Recoverable) <sup>1</sup>	µg/L	4.93	9.89

<sup>1</sup> Final effluent limit. Interim effluent limits may supercede as described in this Order.

3. Results of monitoring by the Discharger and Regional Board staff shows the discharge contained concentrations of cadmium as high as 3.1 µg/L, copper as high as 37 µg/L, and zinc as high as 707 µg/L. Based on review of the results of past monitoring, the Discharger threatens to violate the effluent limitations for cadmium, copper and zinc.
4. California Water Code (CWC) Section 13385(h) and (i) require the Regional Board to impose mandatory minimum penalties upon dischargers that violate certain effluent

limitations. CWC Section 13385(j) exempts certain violations from the mandatory penalties. CWC Section 13385(j)(3) exempts the discharge from mandatory penalties “where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300 or Section 13308, if all the [specified] requirements are met.”

5. In accordance with CWC 13385(j)(3), the Regional Board finds that the Discharger is not able to consistently comply with the cadmium, copper, and zinc limitations contained in the Waste Discharge Requirements Order No. R5-2004-0100. The cadmium, copper, and zinc effluent limitations are new requirements that become applicable to the permit after the effective date of adoption of the waste discharge requirements, and after 1 July 2000, for which new or modified control measures are necessary in order to comply with the limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

Operational changes or treatment actions can be taken to correct the violations that would otherwise be subject to mandatory penalties under CWC Section 13385(h) and (i). Cadmium, copper, and zinc, can be minimized by source control, but may require additional treatment to remove these constituents. The Discharger can take reasonable measures to achieve compliance within five (5) years from the date the waste discharge requirements. Since the time schedule for completion of actions necessary to achieve full compliance exceeds one-year, interim requirements are included in this Order.

California Water Code (CWC) Section 13385 (j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to Section 13263.3 of the California Water Code. A pollution prevention plan addresses only those constituents that can be effectively reduced by source control measures.

6. The interim limitations in this Order are based on the current operations and treatment actions. In developing the interim limitations, where there are ten sampling data points or more, sampling and laboratory variability is accounted for by establishing interim limits that are based on normally distributed data where 99.9% of the data points will lie within 3.3 standard deviations of the mean. When there are less than ten sampling data points available, the *Technical Support Document for Water Quality Based Toxics Control* (EPA/505/2-90-001), TSD) recommends a coefficient of variation of 0.6 be utilized as representative of wastewater effluent sampling. The TSD recognizes that a minimum of ten data points is necessary to conduct a valid statistical analysis. The multipliers contained in Table 5-2 of the TSD are used to determine a maximum daily limitation based on a long-term average objective. In this case, the long-term average objective is to maintain, at a minimum, the current plant performance level. Therefore, when there are less than ten sampling points for a constituent, interim limitations are based on 3.11 times the maximum observed sampling point to obtain the daily maximum interim limitation. The interim limitation for zinc is based on 18 samples, however the interim limitations for cadmium and copper are based on only three (3) sample events.

7. Based on the above findings, the Regional Board finds that a discharge of waste is taking place or is threatening to take place in violation of the Effluent Limitations for cadmium, copper, and zinc included in Waste Discharge Requirements Order No. R5-2004-0100.
8. Section 13301 of the California Water Code states, in part:

“When a regional board finds that a discharge of waste is taking place or threatening to take place in violation of requirements or discharge prohibitions prescribed by the regional board or the state board, the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventative action. . . . Cease and desist orders may be issued directly by a board, after notice and hearing.”
9. Compliance with this Order exempts the Discharger from mandatory minimum penalties for violations of cadmium, copper, and zinc limitations, in accordance with California Water Code (CWC) Section 13385 (j)(3).
10. On 9 July 2004, in Sacramento, California, after due notice to the Discharger and all other affected persons, the Regional Board conducted a public hearing at which evidence was received to consider a Cease and Desist Order pursuant to CWC Section 13301 to establish a time schedule to achieve compliance with waste discharge requirements in Order No. R5-2004-0100.
11. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), in accordance with Section 15321 (a)(2), Title 14, California Code of Regulations.
12. Any person adversely affected by this action of the Regional Board may petition the State Water Resources Control Board to review this action. The petition must be received by the State Water Resources Control Board, Office of the Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100, within 30 days of the date in which the action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

**IT IS HEREBY ORDERED PURSUANT TO CALIFORNIA WATER CODE SECTION 13301, THAT:**

1. Sierra Pacific Industries, Anderson Division shall cease and desist from discharging, and threatening to discharge, contrary to Waste Discharge Requirements Order No. 5-2004-0100, Effluent Limitation No.1 for cadmium, copper, and zinc.
2. The Discharger shall comply with the following time schedule to assure compliance with Effluent Limitation B.1. contained in Waste Discharge Requirements Order No. R5-2004-0100, as described in the above Finding No. 2 for cadmium, copper, and zinc:

<u>Task</u>	<u>Compliance Date</u>
Implementation Schedule	<b>1 November 2004</b>
Progress Reports/Pollution Prevention Plan <sup>1</sup>	<b>1 July of each year until full compliance</b>
Achieve Full Compliance	<b>1 July 2009</b>

<sup>1</sup> The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including construction progress, evaluate the effectiveness of the implemented measures and assess whether additional measures are necessary to meet the time schedule. The pollution prevention plan shall identify source control measures implemented and shall be updated as necessary.

- The Discharger shall comply with the following interim effluent limitations for cadmium, copper, and zinc. The final water quality based effluent limitations will become effective on **1 July 2009**. Effluent shall not exceed the following interim priority pollutant limits until that time:

<u>Parameter</u>	<u>Unit</u>	<u>Daily Maximum</u>
Cadmium (Total Recoverable)	ug/L	9.64
Copper (Total Recoverable)	ug/L	115
Zinc (Total Recoverable)	ug/L	840

- If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement or issue a complaint for Administrative Civil Liability. Additionally, the interim limits in this Order may be revoked, and the final limits contained in Order No. R5-2004-0100 will immediately become fully applicable.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 9 July 2004.

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THOMAS R. PINKOS, Executive Officer