

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2005-0150

REQUIRING KRAFT FOODS, INC.  
VISALIA PLANT  
TULARE COUNTY  
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2005-0149  
(NPDES PERMIT NO. CA0081256)

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

1. On 21 October 2005, the Regional Board adopted Waste Discharge Requirements (WDRs) Order No. R5-2005-0149, prescribing waste discharge requirements for the Kraft Foods, Inc., Visalia Plant (hereafter Discharger) in Tulare County.
2. Waste Discharge Requirements (WDRs), Order No. R5-2005-0149, contains Effluent Limitation No. B.1. which reads, in part, as follows:

*“B. Effluent Limitations (Discharge 001):*

1. *Effluent discharged from Discharge 001 shall not exceed the following limitations:*

<u>Constituents</u>	<u>Units</u>	<u>Average Monthly Limitation</u>	<u>Maximum Daily Limitation</u>
<i>Total Residual Chlorine</i>	<i>mg/L</i>	<i>0.01</i>	<i>0.02</i>

3. The effluent limitations specified in Order No. R5-2005-0149 for total residual chlorine are based on the Basin Plan narrative toxicity objective, but were not prescribed in previous Order No. 97-122.
4. California Water Code (CWC) Section 13300 states: *“Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.”*
5. Federal regulations, 40 CFR Part 122.44 (d)(1)(i), require that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality.

Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.

6. Based upon results of effluent monitoring conducted by the Discharger between December 2000 and November 2003, the Discharger will not be able to consistently comply with the new effluent limitations for total residual chlorine. These limitations are new requirements that only become applicable to the discharge after adoption of WDR Order No. R5-2005-0149, which is well after 1 July 2000, and they require new or modified control measures to comply, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.
7. Immediate compliance with these new effluent limitations for total residual chlorine is not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance as soon as possible, up to a maximum duration of 5 years.
8. A time schedule for the Discharger to develop, submit, and implement methods to comply with these new effluent limitations is reasonable and appropriate, and it should not take longer than one year.
9. CWC Section 13385(h) and (i) require the Regional Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations unless they can be exempted, such as by CWC Section 13385(j). More specifically, CWC Section 13385(j)(3) exempts a discharge from mandatory minimum 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, if all the [specified] requirements are met.*”
10. Provided the Discharger complies with the terms of this Order, it will be exempt from mandatory penalties for violations of effluent limitations for total residual chlorine, in accordance with CWC Section 13385(j)(3). California Water Code 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. Therefore, a pollution prevention plan will be necessary for total residual chlorine to reduce effectively the effluent concentration.
11. As the time schedule for completion of action necessary to bring the waste discharge into compliance does not exceed one year, interim effluent limitations for total residual chlorine are not necessary pursuant to CWC Section 13385(j)(3) and thus, not included in this Order. However, the discharge is subject to the receiving water limit specified in Waste Discharge Requirements (WDRs), Order No. R5-2005-0149, Receiving Water Limitation No. C.17., which implements the Basin Plan narrative toxicity objective.

12. CWC Section 13267 states, in part:

(a) A regional board, in establishing...waste discharge requirements... may investigate the quality of any waters of the state within its region. (b) (1) In conducting an investigation specified in [Section 13267] subdivision (a), the regional 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 region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional 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 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.

13. After due notice to the Discharger and all other affected persons, a public hearing was held on **21 October 2005**, in Rancho Cordova, California at which evidence was received to consider a time schedule to achieve compliance with waste discharge requirements.

14. 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 California Water Code Section 15321(a)(2), Title 14, of the California Code of Regulations.

15. Any person adversely affected by this action of the 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 on which this action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

**IT IS HEREBY ORDERED THAT:**

1. Pursuant to California Water Code Sections 13267 and 13300, Kraft Foods, Inc., shall comply with the Total Residual Chlorine effluent limitations contained in WDRs Order No. R5-2005-0149 in accordance with the following time schedule:

<u>Task</u>	<u>Compliance Date</u>
a. Submit Method of Compliance Workplan and Time Schedule <sup>1</sup>	<b>20 December 2005</b>
b. Submit a Pollution Prevention Plan (PPP) <sup>2</sup> for total residual chlorine.	<b>20 December 2005</b>
c. Begin to implement approved Method of Compliance Workplan pursuant to the Time Schedule.	<b>30 days following EO written approval of task a</b>

<u>Task</u>	<u>Compliance Date</u>
d. Submit written status report <sup>3</sup> .	<b>3 months following completion of task c</b>
e. Complete installation and testing of necessary equipment and accessories; begin continuous monitoring of chlorine residual in dechlorinated effluent.	<b>21 September 2006</b>
f. Full compliance with effluent limitations. Submit certification that the approved method is fully implemented.	<b>23 October 2006</b>

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<sup>1</sup> The Method of Compliance Workplan and Time Schedule shall specify a proposed method of dechlorinating the plant effluent and continuously monitoring the discharge to Mill Creek to ensure consistent compliance with the effluent chlorine residual limitations. A proposed time schedule (not to exceed 12 months from the adoption of this Order) for implementing the proposed method(s) of compliance shall also be included. The Method of Compliance Workplan and Time Schedule is subject to EO approval and Provision E.7 requirements in WDR Order No. R5-2005-0149.

<sup>2</sup> The PPP shall meet the requirements specified in CWC Section 13263.3.

<sup>3</sup> The written status report shall detail what steps have been implemented towards achieving compliance with the Time Schedule and Effluent Limitation B.1.

2. If, in the opinion of the Executive Officer, Kraft Foods, Inc., fails to comply with the provisions of this Order, violations of total residual chlorine effluent limitations are subject to administrative civil liability under CWC Section 13385, and the Executive Officer may apply to the Attorney General for judicial enforcement.

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 21 October 2005.

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THOMAS R. PINKOS, Executive Officer