

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER R5-2011-0014

REQUIRING ROCKWELL AUTOMATION, INC. AND
PORTERVILLE UNIFIED SCHOOL DISTRICT
GROUNDWATER CLEANUP SYSTEM
TULARE COUNTY

TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R5-2011-0013
(NPDES PERMIT NO. CA0082708)

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

1. On 3 February 2011, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2011-0013, prescribing waste discharge requirements for Rockwell Automation, Inc. and Porterville Unified School District (hereafter collectively referred to as Discharger) at the Groundwater Cleanup System (hereafter Facility), Tulare County.
2. Order R5-2011-0013, contains Final Effluent Limitations IV.A.1.a., which read, in part, as follows:

Table 6. Effluent Limitations

| Parameter | Units | Effluent Limitations | | | |
|-----------------------------|----------------|----------------------|---------------|-----------------------|-----------------------|
| | | Average Monthly | Maximum Daily | Instantaneous Minimum | Instantaneous Maximum |
| Ammonia, un-ionized (as N) | mg/L | -- | 0.025 | -- | -- |
| Mercury, Total Recoverable | µg/L | 0.05 | 0.13 | -- | -- |
| Selenium, Total Recoverable | µg/L | 2.9 | 8.9 | -- | -- |
| pH | standard units | -- | -- | 6.5 | 8.3 |

3. 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.
4. Federal regulations, 40 CFR §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.

5. CWC subsections 13385(h) and (i) require the Central Valley Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) provides protection from mandatory minimum penalties for violations of an effluent limitation when:

...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 13308, if all of the following requirements are met:

(A) The ... time schedule order is issued on or after July 1, 2000, and specifies the actions that the discharger is required to take in order to correct the violations that would otherwise be subject to subdivisions (h) and (i).

(B) The regional board finds that, for one of the following reasons, the discharger is not able to consistently comply with one or more of the effluent limitations established in the waste discharge requirements applicable to the waste discharge:

(i) The effluent limitation is a new, more stringent, or modified regulatory requirement that has become applicable to the waste discharge after the effective date of the waste discharge requirements and after July 1, 2000, new or modified control measures are necessary in order to comply with the effluent limitation, and the new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days.

...

(C) (i) The regional board establishes a time schedule for bringing the waste discharge into compliance with the effluent limitation that is as short as possible, taking into account the technological, operational, and economic factors that affect the design, development, and implementation of the control measures that are necessary to comply with the effluent limitation. Except as provided in clause (ii), for the purposes of this subdivision, the time schedule shall not exceed five years in length.

...

(iii) If the time schedule exceeds one year from the effective date of the order, the schedule shall include interim requirements and the dates for their achievement. The interim requirements shall include both of the following:

(I) Effluent limitations for the pollutant or pollutants of concern.

(II) Actions and milestones leading to compliance with the effluent limitation.

(D) The discharger has prepared and is implementing in a timely and proper manner, or is required by the regional board to prepare and implement, a pollution prevention plan pursuant to Section 13263.3.

In accordance with CWC section 13385(j)(3), and based upon effluent monitoring results, the Discharger is unable to consistently comply with the final un-ionized ammonia (as N), mercury, selenium, and instantaneous maximum pH effluent limitations contained in Order R5-2011-0013.

The effluent limitations specified in Order R5-2011-0013 for pH and un-ionized ammonia (as N) are based on implementation of the Basin Plan objectives for surface waters. The effluent limitations for mercury and selenium are based on implementation of the California Toxics Rule. The effluent limitations for pH, un-ionized ammonia (as N), mercury, and selenium are new limitations, which were not prescribed in previous Order R5-2005-0092, adopted by the Central Valley Water Board on 24 June 2005.

6. On 13 September 2010, the Discharger submitted an Infeasibility Report for pH, un-ionized ammonia (as N), mercury, and selenium. The Discharger states it is unable to immediately comply with the new effluent limitations and requests a time schedule order and interim effluent limitations. The Discharger provided a schedule for completing items to comply with the new effluent limitations. The Discharger proposes to collect influent and groundwater data, determine appropriate treatment technologies, and conduct field pilot testing of selected technologies.
7. New or modified control measures will need to be implemented to comply with the final effluent limitations, and these new or modified control measures cannot be completed and put into operation within 30 calendar days. This Order requires the Discharger to prepare and implement a pollution prevention plan pursuant to CWC section 13263.3 for un-ionized ammonia (as N), mercury, and selenium.
8. This Order provides a time schedule that is as short as possible for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities or constructing necessary treatment facilities to meet the final effluent limitations described herein.
9. Since the time schedule for completion of actions necessary to bring the waste discharge into compliance exceeds one year, this Order includes interim requirements and dates for their achievement. The time schedule does not exceed 5 years.
10. The compliance time schedule in this Order includes interim performance-based effluent limitations for un-ionized ammonia (as N), mercury, selenium, and instantaneous maximum pH. The interim effluent limitations consist of a maximum daily effluent concentration for un-ionized ammonia (as N), mercury, and selenium, and an instantaneous maximum for pH, derived using sample data provided by the Discharger. In developing the interim limitations, where there are 10 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 percent of the data points will lie within 3.3 standard deviations of the mean (*Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986*). Where actual sampling shows an exceedance of the proposed 3.3 standard deviation interim limit, the maximum detected concentration has been established as the interim limitation. In developing the interim limitations, when there are less than 10 sampling data points available, the USEPA *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 10 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 10 sampling points for a constituent, an interim limitation is based on 3.11 times the maximum observed effluent concentration to obtain the daily maximum interim limitation (TSD, Table 5-2).

The following table summarizes the calculations of the interim performance-based effluent limitations for un-ionized ammonia (as N), mercury, selenium, and instantaneous maximum pH:

Interim Effluent Limitation Calculation Summary

| Parameter | Units | MEC | Mean | Standard Deviation | Number of Samples | Interim Limit |
|--|----------------|-------|-------|--------------------|-------------------|--------------------|
| Ammonia, un-ionized (as N) ¹ | mg/L | 0.067 | 0.013 | 0.015 | 27 | 0.067 ² |
| Mercury, Total Recoverable ¹ | µg/L | 0.43 | 0.075 | 0.083 | 29 | 0.43 ² |
| Selenium, Total Recoverable ¹ | µg/L | 64.6 | 6.6 | 12.1 | 29 | 65 ² |
| pH | standard units | 8.48 | 8.22 | 0.22 | 28 | 9.0 ³ |

¹ One-half of the Method Detection Limit was substituted for non-detects in calculating the mean and standard deviation of the data set

² Limit expressed as a maximum daily effluent limitation

³ Limit expressed as an instantaneous maximum effluent limitation

11. The Discharger can, in addition to other treatment and control options, undertake source control to maintain compliance with the interim limitations included in this Order. Interim limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim limitations, however, establish an enforceable ceiling concentration until compliance with the effluent limitation can be achieved.

12. On 3 February 2011, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Central Valley Water Board conducted a public hearing at which evidence was received to consider a Time Schedule Order under CWC section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

13. 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 CWC section 13389 and California Code of Regulations, title 14, section 15321 (a)(2).

IT IS HEREBY ORDERED, pursuant to sections 13300 and 13267 of the California Water Code, that:

1. The Discharger shall comply with the following time schedule to ensure compliance with the un-ionized ammonia (as N), mercury, selenium, and instantaneous maximum pH effluent limitations at Section IV.A.1.a. contained in Order R5-2011-0013 as described in the above Findings:

| <u>Task</u> | <u>Date Due</u> |
|--|---|
| Submit Method of Compliance Work Plan/Schedule | Within 6 months of the adoption date of this Order |
| Submit Pollution Prevention plan (PPP) ¹ pursuant to CWC section 13263.3 for un-ionized ammonia (as N), mercury, and selenium | Within 1 year after adoption of this Order |
| Implement PPP ¹ pursuant to CWC section 13263.3 for un-ionized ammonia (as N), mercury, and selenium | Within 2 years after adoption of this Order |
| Progress Reports ² | 1 July, annually , until final compliance |
| Full compliance with un-ionized ammonia (as N), mercury, selenium, and instantaneous maximum pH effluent limitations | 3 February 2014 |

¹ The PPP shall be prepared for un-ionized ammonia (as N), mercury, and selenium, as appropriate, and shall meet the requirements specified in CWC section 13263.3

² The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

2. The following interim effluent limitations shall be effective upon adoption of this Order. The interim effluent limitations at Discharge Point 001 for un-ionized ammonia (as N), mercury, selenium, and instantaneous maximum pH shall be effective up through **2 February 2014**, or when the Discharger is able to come into compliance, whichever is sooner.

| Parameter | Units | Maximum Daily Effluent Limitation |
|-----------------------------|-------|-----------------------------------|
| Ammonia, un-ionized (as N) | mg/L | 0.067 |
| Mercury, Total Recoverable | µg/L | 0.43 |
| Selenium, Total Recoverable | µg/L | 65 |

| Parameter | Units | Instantaneous Maximum Effluent Limitation |
|-----------|----------------|---|
| pH | standard units | 9.0 |

3. For the compliance schedule required by this Order, the Discharger shall submit to the Central Valley Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.
4. 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. If compliance with these effluent limitations is not achieved by the Full Compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review the action in accordance with CWC section 13320 and California Code of Regulations, title 23, section 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday or State holiday, the petition must be received by the State Water Resources Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

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I, PAMELA C. CREEDON, 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 3 February 2011.

PAMELA C. CREEDON, Executive Officer