

## **PROGRAM REPORT**

### **Waste Discharge Requirements Program**

#### **Overview**

The Waste Discharge Requirements (WDR) Program regulates all point source discharges of waste to land that do not require full containment (which falls under the [Land Discharge Program](#)), do not involve confined animal facilities, and involve no discharge of a pollutant to a surface water of the United States (which falls under the [NPDES Program](#)), but does include discharges to surface waters not subject to the NPDES Program. Each point of potential release of waste constituents, whether a feature for waste storage, treatment, disposal, or recycling, must be evaluated separately to determine under what program it must be regulated. Waste discharge requirements adopted under the WDR Program protect surface water by either proscribing discharge of a pollutant to waters of the U.S. or prescribing requirements for discharge to surface waters not waters of the U.S., and they protect groundwater by prescribing waste containment, treatment, and control requirements. Over 1200 discharges in this Region are regulated by orders adopted under the WDR Program.

#### **Laws**

The California Water Code (CWC) requires any person discharging waste or proposing to discharge waste (other than into a community sewer system) that could affect the quality of waters of the State to file a report of waste discharge (CWC section 13260). Filing of a report of waste discharge requires a [fee](#), [standard forms](#), and supporting technical information. The supporting technical information describes the wastes, the surface features and geology of the site, treatment and control of the waste, nearby land uses, all waters potentially affected by the discharge, et seq. The Central Valley Water Board can waive filing of a report (CWC section 13269) but once a report is filed it must either waive (CWC section 13269) or adopt waste discharge requirements (CWC section 13263). The CWC authorizes imposition of administrative civil liabilities for failure to file a report of waste discharge (CWC section 13261) and for discharge of waste before obtaining either a waiver or waste discharge requirements (CWC section 13265) unless certain conditions are met (CWC section 13264). The law provides 140 days to waive or adopt waste discharge requirements once a filed report of waste discharge has been determined complete, and more time when CEQA documents must be prepared.

Each waste discharge requirements order contains conditions intended to ensure the discharge conforms to the Water Code. Multiple factors must be considered in determining reasonable conditions of discharge and the quality that should be maintained in groundwater (CWC section 13263), including the relevant water quality control plans and water quality objectives. Where a group of discharges are similar, use similar treatment, and occur under similar conditions, a general order containing waste discharge requirements for everyone within the group can be adopted (CWC sections 13263(i) and 13274).

Waste classification determines whether a waste discharge to land must be regulated under the WDR Program or Land Disposal Program (except for sewage, fertilizer, and radioactive material, which are always regulated under the WDR Program). Classification of waste considers the potential risk of impairment to water quality from the biological, chemical, and physical properties of the waste (CWC section 13172). Title 27, California Code of Regulations, section 20005, et seq. (hereafter 27 CCR) contains the regulations that establish the [waste classification system](#). If any constituent in or derived from a waste requires that it be classified as designated waste, and neither the waste nor the waste management unit qualifies as an exception under 27 CCR 20200(a)(1), the waste must be fully contained and regulation falls under the Land Disposal Program. If a waste is not classified as designated waste and also discharged consistent with the basin plan, it can be exempted from containment under 27 CCR 20090 and regulated under the WDR Program.

Title 23, CCR, among other things, establishes the threat and complexity criteria for determining fees (section 2200); defines material change for purposes of when discharge with requirements must file a new report of waste discharge (section 2210); establishes criteria for ensuring a public facility plans for adequate capacity (section 2232) and for when it must implement a formal industrial pretreatment program (section 2233).

Water recycling (CWC section 13512) is encouraged and any person who proposes to produce or use recycled water must file a report (CWC section 13522.5) and obtain water reclamation requirements (CWC section 13523) or a master reclamation permit (CWC section 13523.1). The CWC (sections 13500-13529.4) requires that Department of Health Services (DHS) establish criteria for each type of use of recycled water and the DHS regulations for this purpose are contained in Title 22, CCR. DHS regulations concerning recharge of groundwater with recycled water are pending.

Any waste discharge is a privilege [CWC section 13263(g)], the full waste assimilative capacity of receiving waters need not be authorized [CWC section 13263(b)], and waste discharge requirements may be reviewed and revised at any time, but in any case are subject to periodic review [CWC section 13263(e)]. The established maximum review periods of five, ten, and fifteen years, which correspond with the threat classifications used for fees, are intended to ensure requirements are effective

in precluding unauthorized water degradation and nuisance. Waivers for both individual and categories of discharges must be subjected to review and renewal at least every five years [CWC 13269(a)(2)].

Laws directing requirements of the WDR Program include statewide plans and policies (CWC sections 13140 –13142) of the State Water Resources Control Board (State Water Board) and regional plans and policies (CWC sections 13240 –13145). The plans and policies applied most frequently in the WDR Program are:

#### State Water Board

- [Resolution No. 68-16](#), “Statement of Policy with Respect to Maintaining High Water Quality in California” (a.k.a. “Antidegradation” Policy) – Establishes in general terms that (1) the quality of waters of better quality than water quality objectives in 1968 must be maintained until demonstrated that any degradation from a waste discharge will be of maximum benefit to the people of the State, result in the least degradation necessary, and not result in exceedance of a water quality objective and that (2) the discharge is subjected to best practicable treatment or control.
- [Resolution No. 77-1](#), “Policy with Respect to Water Reclamation in California” (a.k.a. “Reclamation” Policy) – encourages production and use of recycled water in water short areas.
- [Resolution No. 92-49](#), “Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304” (a.k.a. “Cleanup and Abatement” Policy)
- [Resolution No. 2002-040](#), “Water Quality Enforcement Policy” – establishes statewide standards for progressive enforcement and general criteria for setting enforcement priorities.

#### Central Valley Water Board

- *Water Quality Control Plan for the Tulare Lake Basin, Second Edition*
- *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*  
– [These basin plans](#) designate beneficial uses, establish water quality objectives, and contain implementation plans and policies for protection of State waters. The plans and policies of the State Water Board are incorporated by reference, and both basin plans require conformance to these statewide policies and to the waste classification system of Title 27. Both basin plans encourage recycling.

Under the California Environmental Quality Act (CEQA), the Central Valley Water Board as a responsible State agency has an obligation to comment on water quality aspects of CEQA documents circulated by other agencies, and it must also act as lead agency under CEQA for projects where its discretionary authority permits the project.

State Water Board decisions and supporting analysis for review of discharge situations over the years sometimes provide clarification on proper interpretation and application of the above laws under various circumstances. The State Water Board staff also sometimes issues guidance documents. Guidance pertinent to the WDR Program follows:

- [Recycled Water Projects \(pending\) and associated financial assistance](#)

“State Policy for Water Quality Control” requires consolidation of wastewater collection and treatment facilities where feasible and desirable to implement sound water quality management programs. In general, consolidation provides capital and operational savings, increased reliability, and opportunities for recycling that are otherwise not feasible.

#### **Discharges Regulated Under the WDR Program**

Sources: WDR Program discharges are the most diverse of the three core regulatory programs and include:

- Discharge of sewage from municipal treatment plants, private utility treatment plants, small private treatment plants and larger septic tank/ leachfield systems serving commercial, industrial, and residential developments.
- Production of recycled water from municipal sewage and the distribution and use of recycled water by various types of users.
- Treatment and discharge of domestic sewage sludge and biosolids.
- Discharge of processing wastewater from sand and gravel and other mining operations not involving navigable surface water and not subject to Title 27.
- Discharge of industrial wastewater from power plants, oilfield production, etc.

- Discharge of wastewater, waste residuals, treated sludge, and recycled water from food processing plants and operations (packing, cooling, peeling, dicing, fermenting, brining, canning, etc.) for milk, cheese, tomatoes, olives, wine, and many other fruits and vegetables, etc.
- Discharge of wastes from minor surface water dredging projects and all discharges in addition to dredging that occur to surface waters not waters of the United States.
- Discharge of wastes from water supply treatment plants.
- Discharge of treated water supplies for aquifer storage and recovery projects, and similar disposition of untreated water supplies and storm water used for groundwater replenishment and as water banking projects.
- Discharge of treated groundwater from remedial actions at leaking underground tank and other spill sites.

Irrigated Lands. As discharges of runoff from irrigated lands are exempt from the NPDES Program, they are subject to WDR Program requirements. In 2002, a separate Irrigated Lands Program was created with funding taken from the WDR Program. In Fall 2005, some of these positions were restored to the WDR Program but continue to work on irrigated land discharges.

Discharge Methods. Incidental release occurs from collection systems, sumps, treatment units, and surface impoundments (evaporation ponds) of varying construction and integrity, and from surface applications and impoundments of recycled water. Intentional discharge occurs from disposal ponds, seepage pits, leachfields, from spreading or spraying onto the land surface, and direct injection into groundwater.

### **Means of Regulation**

Individual Order. Individual waste discharge requirements orders for specific projects are the most common means of regulation due to the many variables and factors that must be considered in establishing conditions of discharge and ensuring accountability.

General Orders. Similar treatment and discharge conditions have allowed development and use in this program of several general waste discharge requirements orders (a.k.a. “general orders”). A few are still in use but not available for application to new discharges. General orders currently available or soon to be available in this program for waste discharges and water recycling, within the defined parameters, are:

- General Waste Discharge Requirements for the Discharges to Land by Small Domestic Wastewater Treatment Systems, [State Water Board Order No. 97-10-DWQ](#).
- General Waste Discharge Requirements for the Discharge of Biosolids to Land for Use as a Soil Amendment in Agricultural, Silvicultural, Horticultural, and Land Reclamation Activities, [State Water Board Order No. 2004-012-DWQ](#).
- General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside Federal Jurisdiction, [State Water Board Order No. 2004-0004-DWQ](#).
- General Waste Discharge Requirements for Dredged or Fill Discharges, [State Water Board Order No. 2003-0017-DWQ](#).
- General Waste Discharge Requirements for Discharges to Land with a Low Threat to Water Quality, [State Water Board Order No. 2003-0003-DWQ](#).
- General Waste Discharge Requirements for Sewer Collection System Agencies, [State Water Board Order No. 2006-0003-DWQ](#).
- Land Discharge of Groundwater or Surface Water from Cleanup of Petroleum Pollution, [Order No. R5-2003-0044](#).

Water Reclamation (or Recycling) Requirements and Master Reclamation Permits. Water recycling requirements are determined by the DHS as necessary for the public health, safety, or welfare and, if a project will not affect water quality, are imposed through a water reclamation requirements order. Master Reclamation Permits allow the permit holder to control recycling by individual users, and they contain waste discharge requirements as necessary to implement effluent limitations and other requirements for protection of groundwater.

Standard Conditions. Many requirements of law are applicable to everyone or to particular groups of dischargers. Others have been developed over the years to ensure consistency and effectiveness of the WDR Program and become standard. As these standard requirements rarely change, can be conditioned as to applicability, and need to be referenced less often than

site-specific requirements, they are listed in a separate document and incorporated by reference into each adopted order. These program documents can be referenced at:

- [Standard Provisions and Reporting Requirements](#) (1 March 1991 edition)

Individual Waivers. An individual waiver of waste discharge requirements can be adopted if appropriate.

General Waivers. General waivers apply to categories of waste discharges. In some cases they waive submittal of a report of waste discharge and in other cases they allow staff to administratively determine, based on the filed report of waste discharge, whether a specific discharge meets the conditions for waiver of waste discharge requirements previously established by the Central Valley Water Board. General waivers currently in effect for this program are:

- Pesticide Applicators and Retail Fertilizer Facilities, [Resolution No. R5-2002-0147](#).
- Various Minor Discharges, [Resolution No. R5-2003-0008](#) (e.g., air conditioner, cooling, and elevated temperature waters; drilling muds; Inert solid wastes; swimming pool discharges; agricultural commodity wastes).
- Small Food Processors, Including Wineries, [Resolution R5-2003-0106](#).

General waivers can also be granted to individual dischargers based upon regulatory oversight by a local public entity that administers a program at least as stringent as the Central Valley Water Board's, typically with a resolution to this effect. Historically, this has included waiver of reports of waste discharge and waste discharge requirements for individual sewage disposal systems for persons in all counties, and for land application of biosolids and of food processing solids residuals in certain cities and counties. General waivers of this nature include biosolids projects under oversight of Merced County (expired and pending renewal) and land application of food processing waste solids under oversight of Stanislaus County (pending).

Technical and Monitoring Reports. Compliance with requirements is monitored under authority to conduct investigations and require technical and monitoring reports (CWC section 13267). The primary means to monitor compliance, and for dischargers to prove compliance, with waste discharge requirements is by means of self-monitoring reports. This includes regularly reporting both general and specific information as well as analytical data that relate to compliance. Special investigations and studies may be required in technical reports. This includes adequate monitoring of groundwater to determine the effectiveness of requirements in meeting the goals of the program. Staff spot-checks receipt of these and the data they contain, and initiates progressive enforcement action when violations are discovered. Efforts are underway to replace the current paper system with electronic reporting and compliance monitoring. Missing, late, and incomplete reports subject a discharger to administrative civil remedies, and falsification of reports is a misdemeanor (CWC section 13268).

Inspections – Validation of conditions described by self-monitoring data must be done through periodic inspection, and inspection is the only means to evaluate system maintenance and observe unreported activities. Inspections are performed by priority, with high-risk sites and registered complaints receiving more attention.

Program Enforcement – The Enforcement Policy emphasizes timely, fair, firm, and consistent enforcement as critical to the success of water quality programs, but whether a violation will result in enforcement is dependent upon resources available and priorities. Formal enforcement within the WDR Program generally will involve one or more of the following priority violations: violation of a specific prohibition, failure to submit a required report, failure to comply with a time schedule, failure to establish and maintain a required formal pretreatment program, violation of a water quality objective or authorized lesser limitation in groundwater, discharge without waste discharge requirements, failure to monitor as required, failure to pay fees and liabilities, public health hazards, and public health nuisance, and false information.

### **Funding and Staffing**

Annual fees provide all the funding allocated to the WDR Program. The Region received a \$3.28 million budget to start FY 2005-2006, which supports the equivalent of 24.3 staff.

### **Program Issues**

Issues affecting the administration of the WDR Program are described in the [Executive Officer's report to the Regional Water Board for the meeting of 26 January 2006](#).

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<sup>1</sup> The estimate is based upon 1999 workload standards that lack any estimate for: CEQA reviews, new responsibilities added by law since then for waivers, work related to or resultant from the AB885 requirement for statewide regulations for septic tank systems, and review of technical reports.

<sup>2</sup> For example, the State of Washington developed a Water Quality Program Permit Writer's Manual that instructs technical staff on how to evaluate and implement it's version of BPTC.