

Conditional Waiver No. 11 – Aerially Discharged Wastes Over Land

Conditional Waiver No. 11 is for wastes that have been discharged aerially over land, which may be a source of pollutants that can adversely affect the quality of waters of the state.

The following types of discharge not regulated or authorized under WDRs may be eligible for Conditional Waiver No. 11:

- Discharges of wastes related to fireworks displays over land
- Other wastes discharged aerially over land that may adversely affect the quality of the groundwaters of the state, but determined to be “low threat” by the San Diego Water Board

These types of discharge can have similar environmental settings and potential threat to water quality. Therefore, wastes discharged aerially over land were grouped into one discharge classification. Wastes discharged aerially over land that comply with the waiver conditions are not expected to pose a threat to the quality of waters of the state.

For waste discharges related to fireworks displays, available studies suggest annual or infrequent fireworks displays present a low threat to groundwater quality. However, there may be potential water quality impacts that are cumulative for shallow groundwaters used as drinking water sources with recurring fireworks displays. With proper planning and management, the potential threat to groundwater quality from wastes related to fireworks discharged over to land can be eliminated. Therefore, waiver conditions must require proper planning and management of fireworks displays over land to minimize or eliminate the discharge of pollutants to waters of the state.

There may be other aerially discharged wastes in the San Diego Region that are determined to pose a low threat to the quality of groundwaters of the state. These aerially discharged wastes would likely require the same minimum conditions to be protective of the quality of groundwaters of the state.

The permitting process and permits issued by other public agencies (e.g., air pollution control districts, municipalities, fire departments) can provide preliminary information and data to the San Diego Water Board to determine compliance with conditions of a waiver for aerially discharged wastes. Obtaining the proper permits, licenses, or certifications from appropriate public agencies can be a waiver condition that serves as the method of enrollment for a conditional waiver.

However, waiver conditions should be developed in order for members of the public, cities, counties, local agencies and organizations, and/or the San Diego Water Board to determine if aerially discharged wastes are in conformance with the conditional waiver, or causing significant adverse effects on the waters of the state. Significant adverse effects include, but are not limited to, one-time observations of exceedences of drinking water maximum contaminant levels in reservoirs and groundwater source water wells,

persistent pollutant concentrations in the water column that exceed water quality objectives for surface waters, and persistent pollutant concentrations in the sediments of surface water bodies that exceed sediment screening levels or sediment criteria.

If dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation and required to correct deficiencies in order to be eligible for Conditional Waiver No. 11. If dischargers violate any waiver conditions, the San Diego Water Board has the option to terminate the conditional waiver for the discharge and begin regulating the discharge with individual WDRs and/or take other enforcement actions.

In order to be eligible for Conditional Waiver No. 11, discharges must comply with certain conditions to be protective of water quality. The waiver conditions applicable to wastes discharged aerially over land include the following:

11.I.A. General Waiver Conditions for Aerially Discharged Wastes Over Land

11.II.A. Specific Waiver Conditions for Discharges of Waste Related to Fireworks Displays Over Land

Wastes discharged aerially over land that comply with the general and specific waiver conditions in Conditional Waiver No. 11 are not expected to pose a threat to the quality of waters of the state.

11.I.A. General Waiver Conditions for Aerially Discharged Wastes Over Land

1. Aerially discharged wastes cannot be discharged directly over and/or into surface waters of the state (including ephemeral streams and vernal pools).
2. Aerially discharged wastes must not cause or threaten to cause a condition of contamination, pollution, or nuisance.
3. Aerially discharged wastes must not impact the quality of groundwater in any water wells or surface water in any drinking water reservoirs.
4. Dischargers must comply with any local, state, and federal ordinances and regulations and obtain any required approvals, permits, certifications, and/or licenses from authorized local agencies.
5. Discharger must submit a Notice of Intent or technical and/or monitoring program reports when directed by the San Diego Water Board.

11.II.A. Specific Waiver Conditions for Discharges of Waste Related to Fireworks Displays Over Land

1. No more than one fireworks display may be conducted from a launch site or within 1.0 mile of another launch site within a 48-hour period.¹ If the organizer will have more than one fireworks display within a 48-hour period, the organizer must file a Notice of Intent containing information about the fireworks to be used, location of launch area and nearby water bodies and groundwater basins, surrounding land uses, planned period of and frequency

¹ This condition is intended to alleviate spatial and temporal accumulation of fireworks-related chemical contaminants.

- of discharge, copies of any permits obtained from other public agencies, and measures that will be taken to minimize or eliminate the discharge of pollutants that might affect surface water and groundwater quality. Sufficient information must be submitted before the discharge may begin.
2. All fireworks-related debris must be cleaned up from land surface areas.
 3. Launch areas and deposition areas of fireworks displays may not be located within areas designated as Zone A for groundwater source area protection, as defined by the California Department of Public Health's Drinking Water Source Assessment Protection Program. This condition may be waived if the owner or operator of a groundwater drinking water source, through a permit, specifically allows the fireworks display launch area and/or deposition area within an area designated as Zone A for groundwater source area protection.
 4. Launch areas and deposition areas of fireworks displays may not be located within areas designated as Zone A for surface water source protection, as defined by the California Department of Public Health's Drinking Water Source Assessment Protection Program. This condition may be waived if the owner or operator of a surface water source reservoir or intake structure, through a permit, specifically allows the fireworks display launch area and/or deposition area within an area designated as Zone A for surface water protection.
 5. The fireworks display must be permitted by all relevant public agencies that require permits for fireworks displays (e.g., fire departments, municipal governments, law enforcement, water supply agencies). Copies of any permits must be available on site for inspection.
 6. The San Diego Water Board and/or other local regulatory agencies must be allowed reasonable access to the site in order to perform inspections and conduct monitoring