

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
February 9, 2011

ITEM: 10

SUBJECT: The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) will consider adoption of Resolution No. R9-2011-0020, that will amend Conditional Waiver No. 4 for Agricultural and Nursery Operations (from Resolution No. 2008-0081) to define the term "agricultural and nursery operations" as it appears in the Resolution. The proposed definition specifies that only commercial operations that generate gross sales of at least \$1,000 per year, as an average, are subject to the Waiver's requirements. The amendment also provides that growers must supply information to substantiate their claim of exemption if the San Diego Water Board requests such information. (Pete Peuron)

PURPOSE: The San Diego Water Board may approve, modify, or reject adoption of Resolution No. R9-2011-0020.

PUBLIC NOTICE: On December 24, 2010, a notice of the public hearing was posted on the San Diego Water Board website and distributed to known interested parties.

DISCUSSION: On October 10, 2007, the San Diego Water Board adopted Conditional Waiver No. 4 (as part of Resolution R9-2007-0104, along with 10 other waivers). This Basin Plan Amendment was later approved by the State Water Resources Control Board (as Resolution No. 2008-0081) on November 4, 2008.

Conditional Waiver No. 4 (the Ag Waiver or Waiver) addresses discharges from agricultural and nursery operations which contain pollutants that can percolate to groundwater or runoff to surface waters. The Waiver requires growing operations to implement Best Management Practices (BMPs) to reduce or eliminate discharges of agricultural waste which typically include fertilizers, pesticides, salts (total dissolved solids, chlorides), and sediment. Other major requirements of the Ag Waiver include: 1) Enrollment in the waiver by January 1, 2011. 2) Submittal of a plan to perform water quality

monitoring by January 1, 2012. 3) Submittal of a monitoring report by December 31, 2012.

Growers have the option of enrolling either as a member of a monitoring group or as an individual grower. The cost for compliance for any grower is significantly less when they join a monitoring group because the costs associated with preparing a monitoring plan, conducting monitoring and reporting the results of monitoring are shared among many monitoring group members instead of being borne by one individual discharger.

The Ag Waiver applies to "agricultural and nursery operations." However, a clear definition of the term "agricultural and nursery operations" is not included within the Waiver. Therefore, questions have arisen with regard to who is required to enroll. Other agricultural waiver programs in California typically require only agricultural operations that are involved in commercial production of agricultural commodities to enroll and do not require enrollment from non-commercial entities.

Resolution No. R9-2011-0020 proposes to amend the Ag Waiver to include a definition of a commercial growing operation within the Waiver. The definition is intended to make it clear that conditions only apply to growers that operate businesses (or commercial operations), and furthermore, to define businesses that require enrollment as being operations that gross at least \$1,000 per year (on average). The revised Waiver also provides that the San Diego Water Board can require growers who claim to qualify as non-commercial entities to provide information to substantiate their claim for exemption under penalty of perjury.

No comments concerning this matter have been received as of January 20, 2011.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

- (1) Resolution No. R9-2011-0020
- (2) Conditional Waiver No. 4 - Discharges from Agricultural and Nursery Operations (revised)
- (3) Technical Analysis for Resolution No. R9-2011-0020
- (4) Report and CEQA Environmental Checklist

RECOMMENDATION: Adoption of Resolution No. R9-2011-0020.