

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
May 14, 2014

- ITEM: 10
- SUBJECT: Public Workshop: A public workshop on a tentative Order proposed to adopt conditional waivers of waste discharge requirements for low threat discharges in the San Diego Region (Tentative Order No. R9-2014-0041). The San Diego Water Board will not take any formal action on this item at the workshop. *(Roger Mitchell)*
- PURPOSE: The purpose of this workshop is for the San Diego Water Board to provide information to the Board, receive public input, and discuss the proposed conditional waivers for low threat discharges in the San Diego Region. Tentative Order No. R9-2014-0041 (Tentative Order) was released for public review and comment on April 8, 2014.
- RECOMMENDATION: There is no recommendation as this is an information item and the Board will take no action.
- KEY ISSUES: Tentative Order No. R9-2014-0041:
1. Revises and renews 11 waivers that expired in February 2014;
 2. Issues three new waivers for discharges from aquatic animal production facilities; discharges of winery process water to lined evaporation ponds at small wineries; and discharges of waste to land at composting facilities;
 3. Streamlines the process for enrollment of eligible discharges in the waivers (Supporting Document 3); and
 4. Frees up staff resources that would otherwise be required to develop individual WDRs/waivers to regulate low threat discharges in the San Diego Region.
- DISCUSSION: Section 13269 of the California Water Code (Water Code) gives the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) the authority to

waive certain requirements found in the Water Code. For specific waste discharges or specific types of discharges, the San Diego Water Board may issue a conditional waiver provided that the waiver is consistent with the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan) and is in the public interest. The San Diego Water Board may waive the requirements for a discharger to file a report of waste discharge¹ (ROWD) or forgo the issuance of waste discharge requirements (WDRs),² or both.

The conditional waivers (waivers) included in the Tentative Order include discharges that are expected to pose a low threat to water quality, so long as the dischargers comply with waiver conditions. The draft Technical Report provides the supporting rationale for the waivers (Supporting Document 1). Discharges that comply with the general and specific waiver conditions may become eligible for enrollment in a waiver.

The eleven waivers issued by the San Diego Water Board, through the adoption of Resolution No. R9-2007-0104,³ expired in February 2014.⁴ The Tentative Order renews nine of the expired waivers, and adds three new waivers for additional categories of discharges. The Tentative Order will not renew two of the waivers adopted by Resolution No. R9-2014-0041 for the following reasons:

- Discharges associated with agricultural and nursery operations will be addressed through the issuance of general WDR developed by the San Diego Water Board;⁵ and
- Discharges associated with dredge or fill materials nearby or within surface waters are addressed through general WDRs adopted by the State Water Resources Control Board under Water Quality Order No. 2003-0017-DWQ.⁶

¹ A report of waste discharge is an application submitted by the Discharger to receive waste discharge requirements (i.e., a permit) issued by the San Diego Water Board.

² Water Code sections 13260(a) and (c), 13263(a), and 13264(a)

³ http://www.waterboards.ca.gov/sandiego/board_decisions/adopted_orders/2007/2007_0104.pdf

⁴ As required by Water Code section 13269(a)(2)

⁵ Regulation of Commercial Agriculture and Nurseries

http://www.waterboards.ca.gov/sandiego/water_issues/programs/irrigated_lands/irrigated_ag.shtml

⁶ http://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders_wb.shtml

The Tentative Order identifies 37 specific types of discharges for which the requirements to file a ROWD and/or be regulated under WDRs are appropriately waived. Instead of developing waivers for each individual discharge, an integrated approach was developed to simplify the proposed waivers. Types of discharges that are similar in nature, or originate from a common setting or operation have been grouped together into 12 “discharge classifications.” (Supporting Document 2). The discharge classifications are as follows:

1. Discharges from on-site graywater disposal systems;
2. Discharges of recycled water to land;
3. Miscellaneous “low threat” discharges to land;
4. Discharges of winery process water to lined evaporation ponds at small wineries;
5. Discharges of waste to land at composting facilities;
6. Discharges from silvicultural operations;
7. Discharges from animal operations;
8. Discharges from aquatic animal production facilities;
9. Discharges of slurries to land;
10. Discharges/disposal of solid wastes to land;
11. Aerially discharged wastes overland; and
12. Discharges of emergency/disaster related wastes.

Each conditional waiver category includes general conditions that are applicable to all specific types of discharges within a discharge classification. Specific conditions were developed for individual types of discharge as necessary to ensure that the discharges remain as low threats to water quality.

Dischargers, as a condition of a waiver, may be required to pay an annual fee as determined by the San Diego Water Board.⁷ Pursuant to section 13260 et seq. of the Water Code, annual fees must be assessed in accordance with the current fee schedule promulgated by the State Water Board in Calif. Code Regs. title 23, section 2200. The following waivers are required to pay an annual fee:

⁷ Water Code section 13269(a)(4)

- Discharges of winery process water to lined evaporation ponds at small wineries (Waiver No. 4);
- Discharges of wastes to land at Composting Facilities (Waiver No. 5);
- Discharges from animal operations (Waiver No. 7);
- Discharges from aquatic animal production facilities (Waiver no. 8); and
- Discharges/disposal of solid wastes to land (Waiver No. 10).

The payment of an annual fee, for the waivers specified above, is required to address Staff time assessing:

- The complexity, volume, or frequency of the individual discharge enrolled in the waivers; and/or
- Individual discharger compliance with required reporting and/or monitoring requirements.

The annual fee for discharges enrolled in Waiver Nos. 4, 5, 8, and 10 is based on the threat to water quality and complexity of the discharge in accordance with Calif. Code Regs. title 23, section 2200(a). Discharges enrolled in these waivers will be assigned the lowest threat to water quality and complexity rating of 3-C and will be assessed the corresponding fee for Discharges to Land or surface waters, plus any applicable surcharges required by the fee schedule. Annual fees are subject to change by regulations adopted by the State Water Resources Control Board.

The annual fee for discharges enrolled in Waiver No. 7 is based on the number of animals at the facility, in accordance with Calif. Code Regs. title 23, section 2200(c) plus any applicable surcharges. Annual fees are subject to change by regulations adopted by the State Water Resources Control Board.

The San Diego Water Board staff convened an informal stakeholder meeting on April 22, 2014 (Supporting Document 4). A notice about the Stakeholder meeting was posted on the San Diego Water Board web site⁸ provided to the public via State Water Board's LYRIS email system on April 17, 2014. The staff met with and collected verbal comments from eleven attendees representing private

⁸ http://www.waterboards.ca.gov/sandiego/water_issues/programs/waivers/waivers_mw.shtml

industry, water purveyance agencies, local municipal agencies, the Navy and local NGOs to discuss the proposed waivers in the tentative Order.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

1. Draft Technical Report on the Tentative Order to Adopt Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region, Order No. R9-2014-0041 (**Draft Technical Report**).
2. Appendix A of the Draft Technical Report: Tentative Order to Adopt Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region: **Underline/Strikeout Format**.
3. Appendix B of the Draft Technical Report: Tentative Order to Adopt Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region: Appendices A, B, C, and D, **Notice of Intent Forms**.
4. Agenda for Stakeholder Meeting on April 22, 2014.

PUBLIC NOTICE:

The draft version of the Conditional Waivers were issued for public comment and posted on the San Diego Water Board website⁹ on April 4, 2014. In addition this item was publicly noticed in the Agenda for the May 14, 2014 Board Meeting. Notice was also posted on the San Diego Water Board website. The written public comment period closes on May 19, 2014 at 5:00 P.M.

⁹ http://www.waterboards.ca.gov/sandiego/board_decisions/tentative_orders/index.shtml