

**California Regional Water Quality Control Board
San Diego Region**

**Tentative Order No. R9-2014-0041
Adoption of Conditional Waivers of Waste Discharge
Requirements for Low Threat Discharges
in the San Diego Region**

**Draft Technical Report
April 23, 2014**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

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Documents also are available at: <http://www.waterboards.ca.gov/sandiego>.

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¹ Detailed responses to relevant comments will be incorporated by reference into a Response to Comments document in this Technical Report as Appendix C, prior to the adoption hearing.

Acronyms and Abbreviations

A

ACOE	Army Corps of Engineers
ADC	alternative daily cover
AFO	animal feeding operation

B

BMP	best management practices
BOF	California Board of Forestry

C

CAFO	confined animal feeding operation
CalEPA	California Environmental Protection Agency
CDF	California Department of Forestry
CDFA	California Department of Food and Agriculture
CDFG	California Department of Fish and Game
CDPH	California Department of Public Health
CEQA	California Environmental Quality Act
CHHSL	California Human Health Screening Level
CI	confidence interval
CIWMB	California Integrated Waste Management Board
cm/sec	centimeters per second
CPC	California Plumbing Code
cy	cubic yard

D

DWR	California Department of Water Resources
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E

eFOTG	electronic Field Office Technical Guide
EIR	environmental impact report
e-PRG	ecological preliminary remediation goal
EQIP	Environmental Quality Incentives Program
END	Exotic Newcastle Disease

F

FPR	California Forest Practice Rules
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G

GIS	geographical information system
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L

LEA	local enforcement agency
LOP	local oversight program

M

mg/kg	milligrams per kilogram
MAA	Management Agency Agreement
MADEP	Massachusetts Department of Environmental Protection
MM	management measure
MMs/BMPs	management measures and/or best management practices
MOU	memorandum of understanding
MPR	Monitoring Program Report
MRP	Master Reclamation Permit
MRPP	Monitoring and Reporting Program Plan
MS4	municipal separate storm sewer system
MSW	municipal solid waste

N

NEPA	National Environmental Policy Act
NFS	National Forest Service
NPDES	National Pollutant Discharge Elimination System
NPS	nonpoint source
NRCS	Natural Resources Conservation Service
NTMP	Non-industrial Timber Management Plan

O

OAL	Office of Administrative Law
OEHHA	Office of Environmental Health Hazard Assessment
ORNL	U.S. Department of Energy Oak Ridge National Laboratory
OSPR	Office of Spill Prevention and Response
OWTS	on-site wastewater treatment system

P

PCB	polychlorinated biphenyl
POTW	publicly owned treatment works

Q

QAPP	Quality Assurance Project Plan
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R

RCD	resource conservation district
ROWD	report of waste discharge

S

SMARA	Surface Mining and Reclamation Act
SSL	Soil Screening Level

T

THP	Timber Harvest Plan
TMDL	Total Maximum Daily Load
TTLC	total threshold limit concentration

U

UCCE	University of California Cooperative Extension
UCL	upper confidence limit
USEPA	U.S. Environmental Protection Agency
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service

W

WDR	waste discharge requirement
WQMA	Water Quality Management Agency
WRR	water reclamation requirement

Executive Summary

Section 13269 of the Porter-Cologne Water Quality Control Act (Water Code) gives the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) the authority to waive the requirements of Water Code sections 13260(a) and (c), 13263(a), and 13264(a) for specific discharges or specific types of discharge, provided 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 requirement for a discharger to file a report of waste discharge² (ROWD) pursuant to Water Code sections 13260(a) and (c) and 13264(a), or the issuance of waste discharge requirements (WDRs) pursuant to Water Code sections 13263(a) and 13264(a), or both. Discharges that comply with waiver conditions are expected to pose a low threat to the quality of waters of the State. When a discharge complies with the general and specific waiver conditions, the discharge becomes eligible for enrollment in the waiver.

In February 2014, the eleven waivers issued by the San Diego Water Board, through the adoption of Resolution No. R9-2007-0104,³ expired in accordance with Water Code section 13269(a)(2). Order No. R9-2014-0041 renews nine of the expired waivers, and adds three new waivers.

Order No. R9-2014-0041 identifies 37 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 specific type of discharge, an integrated approach was developed to simplify the proposed waivers. Types of waste discharges that are similar in nature, or originate from a common setting or operation have been grouped together into 12 “discharge classifications.” 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;

² 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.

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

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.

General conditions were developed which are applicable to all specific types of discharge within a discharge classification, and specific conditions were developed for individual types of discharge, if additional or discharge specific conditions were necessary.

Introduction

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is charged with protecting the quality of groundwater and surface waters of the State within the jurisdictional boundaries of the San Diego Region. One of the primary ways the San Diego Water Board protects water quality is by prescribing “requirements as to the nature of any discharge of waste.”⁴ These requirements are called “Waste Discharge Requirements” or “WDRs.” The Porter-Cologne Water Quality Control Act (Water Code) requires any person discharging or proposing to discharge waste within the Region to file with the San Diego Water Board a Report of Waste Discharge⁵ (ROWD).⁶ In general, a person may not initiate a discharge, or materially change a discharge before the San Diego Water Board prescribes WDRs.⁷ The process for obtaining individual WDRs includes the following steps: 1) a person file a ROWD, 2) the San Diego Water Board prescribe WDRs, and 3) a person not initiate a discharge prior to the San Diego Water Board prescribing WDRs are found in the Water Code.⁸

The Water Code also authorizes the San Diego Water Board to waive one or more of these requirements as to a specific discharge or type of discharge.⁹ The San Diego Water Board may grant a waiver of one or more of these requirements (waivers) if the waiver is consistent with any State or regional water quality control plan, the waiver is in the public interest,¹⁰ and the discharge complies with the conditions pursuant to which waivers are granted.¹¹

The *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan) provides the foundation for regulatory activities of the San Diego Water Board. Basin Plan Chapter 4 (Implementation)¹² was amended in September 2002 to “incorporate a waste discharge requirement policy for certain specific types of discharges.”¹³ In October 2007, Chapter 4 of the Basin Plan was amended to incorporate “revised conditional waivers of waste

⁴ Water Code section 13263(a)

⁵ 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.

⁶ Water Code sections 13260(a) and (c)

⁷ Water Code section 13264(a)

⁸ Water Code sections 13260(a) and (c), 13263(a), and 13264(a), respectively.

⁹ Water Code section 13269(a)

¹⁰ Ibid

¹¹ Water Code section 13269(e)

¹² http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/basin_plan/docs/update082812/Chpt_4_2012.pdf

¹³ Resolution R9-2002-0186, *Amendment to the Water Quality Control Plan for the San Diego Region (9) to Incorporate a Waste Discharge Requirement Waiver Policy for Certain Specific Types of Discharges*, adopted in September 2002

http://www.waterboards.ca.gov/sandiego/board_decisions/waivers/docs/resolution2002_0186.pdf

discharge requirements for specific types of discharge within the San Diego Region.”¹⁴
The conditional waivers adopted by the San Diego Water Board in 2007 became effective on February 3, 2009 and expired on February 3, 2014.

The adoption of the conditional waivers will revise and renew nine classifications of waivers adopted by the San Diego Water Board as an amendment to the Basin Plan in Resolution No. R9-2007-0104; and include three new classifications waivers for: discharges of winery process water to lined evaporation ponds at small wineries, discharges of waste to land at composting facilities; and discharges from aquatic animal production facilities. Two of the waiver classifications adopted by Resolution No. R9-2007-0104 will not be renewed for the following reasons:

- Discharges associated with agricultural and nursery operations will be addressed through the issuance of general WDRs developed by the San Diego Water Board;¹⁵ 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.¹⁶

Role of Conditional Waivers

The San Diego Water Board may waive the requirement for a discharger to file a ROWD pursuant to Water Code sections 13260(a) and (c) and 13264(a), or the issuance of WDRs pursuant to Water Code sections 13263(a) and 13264(a), or both. Discharges that comply with waiver conditions are not expected to pose a threat to the quality of waters of the State. A discharge is included in one of the low threat categories and that can comply with applicable waiver conditions becomes eligible for coverage by a conditional waiver.

However, even if a discharger can fully comply with all the conditions of a waiver, the San Diego Water Board may choose to regulate any specific discharge with WDRs. The existence of a waiver does not preclude the San Diego Water Board from deciding to regulate a specific discharge by issuing WDRs.

Nevertheless, there are several types or categories of waste discharges for which waivers are desirable. Conditional waivers allow the San Diego Water Board to utilize

¹⁴ Resolution R9-2007-0104, *Amendment to the Water Quality Control Plan for the San Diego Region (9) to Incorporate the Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge within the San Diego Region*, adopted in October 2007.

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

¹⁵ Regulation of Commercial Agriculture and Nurseries

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

¹⁶ http://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders_wb.shtml

fewer resources regulating discharges that pose only a low threat to water quality, allowing the staff resources to focus on discharges that have a higher potential threat to water quality in the Region. Dischargers also benefit from fewer resource requirements when discharging in compliance with a waiver. Therefore, in a number of circumstances waivers are in the best interest of the San Diego Water Board, the dischargers, and the public.

A conditional waiver provides the minimum requirements that are expected of a discharger to minimize or eliminate the discharge or potential discharge of pollutants to waters of the State. Compliance with waiver conditions may not ensure that water quality is protected in every situation. Therefore, a waiver for a specific discharge or specific type of discharge is conditional and *may be terminated at any time* if the San Diego Water Board determines that a specific discharge or specific type of discharge is no longer consistent with the Basin Plan or no longer in the public interest.

A waiver does not authorize any discharge that is otherwise prohibited or regulated. A waiver does not preclude the need for permits, licenses, or certificates that may be required from other local or governmental agencies and entities. If any regulations or ordinances have more restrictive requirements than the applicable waiver conditions, those requirements supersede the waiver conditions. However, if requirements of a waiver are more restrictive than the applicable regulations or ordinances, as they pertain to water quality protection, the discharger must comply with the conditions of the waiver or else file a ROWD with the San Diego Water Board.

Finally, a waiver does not preclude the San Diego Water Board from taking enforcement actions for violation of waiver conditions, or for any discharges that cause or threaten to cause a violation of provisions in the Basin Plan, or that create or threaten to create a condition of nuisance or pollution.

Background

The Water Code defines “waste” as “*sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of disposal.*”¹⁷

“Discharge of waste” occurs whenever a waste is placed upon the ground or enters any “*waters of the State.*” The Water Code defines “*waters of the State*” as “*any surface water or groundwater, including saline water, within the boundaries of the State.*”¹⁸

¹⁷ Defined in Water Code section 13050(d)

¹⁸ Defined in Water Code section 13050(e)

Water Code section 13264(a) states that *“no person shall initiate any new discharge of waste...prior to the filing of the reports required by section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:*

- (1) *The issuance of waste discharge requirements pursuant to section 13263.*
- (2) *The expiration of 140 days after compliance with section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance.*
- (3) *The issuance of a waiver pursuant to section 13269.”*

Water Code section 13260(a)(1) requires that any person (including any city, county, district, State, and the United States to the extent authorized by Federal law)¹⁹ discharging, or proposing to discharge, wastes within any region that could affect the quality of waters of the State, other than into a community sewer system, must file a ROWD with the appropriate California Regional Water Quality Control Board (Regional Water Board).

Water Code section 13263(a) requires that each Regional Water Board prescribe discharge requirements for any existing or proposed waste discharges within its area of jurisdiction, except discharges into a community sewer system. The Regional Water Board is authorized to prescribe waste discharge requirements even if no ROWD has been filed.²⁰

Finally, Water Code section 13269 gives each Regional Water Board the authority to conditionally waive the provisions of sections 13260(a)(1), 13263(a), and 13264(a) for a specific discharge or type of discharge. In order to do so, a Regional Water Board must determine that a waiver for a specific discharge or type of discharge is consistent with the Basin Plan and is not against the public interest.

Because the resources available to the San Diego Water Board are significantly less than those needed to regulate all possible waste discharges in the Region, focusing staff resources on discharges according to their potential threat to water quality is necessary. Most types of discharge that have a higher threat to water quality are typically point sources. Discharges from point sources are readily amenable to regulation and shown to be effectively regulated through the adoption of general or individual WDRs.

¹⁹ Defined in Water Code section 13050(c).

²⁰ Water Code section 13263(d)

However, there are several types of point source, as well as nonpoint source discharges that may not have an adverse affect on the quality of the waters of the State, and/or are not readily amenable to regulation through WDRs. For these types of discharges, issuing a conditional waiver may be appropriate. The types of discharges which may be eligible for a waiver only include discharges to land and groundwater, and discharges to surface waters that are not otherwise subject to National Pollutant Discharge Elimination System (NPDES) regulations.²¹ NPDES regulations are Federal requirements and the State does not have the legal authority to waive NPDES regulations.

The San Diego Water Board developed and formally issued conditional waivers for specific types of discharge in the San Diego Region with a resolution adopted in 1983.²² The conditional waivers were incorporated into the Basin Plan in 1994 to centralize the information in one location for the public.

Water Code sections 13269 (pertaining to waivers) and 13350 (pertaining to civil liability) were amended in 1999.²³ The amendments to section 13269 require the San Diego Water Board to do the following:

- For waivers in effect on January 1, 2000, review the terms, conditions and effectiveness of each waiver issued;
- Renew waivers for specific discharges or types of discharge by January 1, 2003 (failure to renew a waiver automatically results in termination of the waiver);
- Determine if general or individual WDRs should be issued for ongoing discharges where waivers have been terminated;
- Establish waiver conditions;
- Enforce waiver conditions; and
- Renew each waiver every five years (or each waiver will expire automatically).

The amendments to section 13350 specify that any person that discharges waste in violation of a waiver condition shall be liable civilly and remedies may be proposed, in accordance with Water Code section 13350(d) or (e). Therefore, waiver conditions are enforceable.

Waivers must be consistent with the Basin Plan and in the public interest. The consistency requirement means that a waiver cannot permit dischargers to violate water

²¹ Defined in Code of Federal Regulations Title 40 section 122.3

²² Resolution No. 83-21, *A Resolution Conditionally Waiving Adoption of Waste Discharge Requirements for Certain Specific Types of Discharges*, adopted in July 1983

²³ On October 10, 1999, Senate Bill 390 was ratified and effectively amended Water Code sections 13269 and 13350.

quality objectives or Basin Plan prohibitions. In order for the waivers to be consistent with the Basin Plan, the following general overall conditions apply to each specific type of discharge for which a waiver of WDRs and/or the requirement to file ROWDs may be issued:

- The discharge shall not create a nuisance²⁴ or pollution²⁵ as defined in the Water Code;
- The discharge shall not cause a violation of any applicable water quality standard for receiving waters adopted by the San Diego Water Board, or the State Water Resources Control Board (State Water Board), as required by the Clean Water Act; and
- The discharge of any substance in concentrations toxic to animal or plant life is prohibited.

In addition to the general overall conditions listed above, issuing conditional waivers would not be against the public interest under one or more of the following circumstances:

- The type of discharge is effectively regulated by other public agencies; or
- The type of discharge does not adversely affect the quality or the beneficial uses of the waters of the State; or
- The type of discharge is not readily amenable to regulation through adoption of WDRs, but warrants San Diego Water Board oversight to ensure compliance with the mandated conditions (e.g., Basin Plan water quality objectives).

The San Diego Water Board adopted waivers for low threat discharges in the San Diego Region in accordance with the amendments to Water Code section 13269 in September 2002, and again in September 2007.²⁶

²⁴ "Nuisance" is defined by Water Code section 13050(m) as anything which meets all of the following requirements: (1) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; (2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and (3) Occurs during, or as a result of, the treatment or disposal of wastes.

²⁵ "Pollution" is defined by Water Code section 13050(l)(1) as an alteration of the quality of the waters of the State by waste to a degree which unreasonably affects waters for beneficial uses or facilities which serve these beneficial uses. Pollution may include contamination.

²⁶ Resolution No. R9-2002-0186, *Amendment to the Water Quality Control Plan for the San Diego Region (9) to Incorporate a Waste Discharge Requirement Waiver Policy for Certain Specific Types of Discharges*, adopted September 11, 2002

Purpose of Order No. R9-2014-0041

The purpose of Order No. R9-2014-0041 (Order) is to:

- Revise and renew several of the waivers that expired in February 2014; and
- Issue a 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.

In addition, the Order also:

- Group the specific types of discharge into discharge classifications;
- Provide general waiver conditions applicable to a discharge or discharge operations for all specific types of discharge within a discharge classifications; and
- Provide specific waiver conditions for each specific type of discharge within a discharge classification, if applicable.

Before renewing an expired waiver, the conditions of each expired waiver must be reviewed for their effectiveness in minimizing or eliminating the discharge of pollutants and protecting water quality. Discharges that comply with both the general and specific waiver conditions must not be expected to pose a threat to water quality. In reviewing the effectiveness of a waiver and its conditions, the San Diego Water Board considered the volume, duration, frequency, and constituents in a type of discharge, as well as resources required and available for regulating the type of discharge. If waiver conditions are shown to be ineffective in minimizing or eliminating the discharge of pollutants for a type of discharge, the waiver conditions should be revised to improve effectiveness. If the waiver conditions cannot be revised to improve effectiveness, the waiver should be terminated and the San Diego Water Board should adopt and issue conditional waivers for specific discharges, or issue WDRs for specific individual discharges, or issue general WDRs for a type or category of discharge in the Region.

For each waiver that is to remain expired, the San Diego Water Board must determine whether the type of discharge should be subject to general or individual WDRs. In addition, new types of discharge may be identified and issued conditional waivers if the San Diego Water Board determines that waiving WDRs and/or the requirement to file ROWDs for the newly proposed types of discharge is consistent with the Basin Plan and in the public interest.

The following sections of this technical report review the effectiveness of the waivers and waiver conditions, and discuss how the types of discharges to be conditionally waived for the requirement to obtain WDRs and/or the requirement to file ROWDs can be grouped into discharge classifications.

Expired Waivers

Table 1 of this report lists the types of discharge that are eligible for a waiver. Since several of the waivers were adopted in 2007, additional types of discharges have been identified as potential sources of pollutants in the development of Total Maximum Daily Loads (TMDLs) for several water bodies on the Clean Water Act section 303(d) List of Water Quality Limited Segments (303(d) List) for the San Diego Region. However, no data have been collected to confirm that the sources of these pollutants originate from discharges covered under waivers.

The waivers for the discharge types of potential concern identified by the TMDL projects do not include conditions that provide the San Diego Water Board the information or data necessary to identify specific discharges occurring within the Region, the ability to verify compliance with waiver conditions, or the ability to assess the effectiveness of the waiver conditions. Pursuant to the Water Code, the waivers to be renewed need to be reviewed for effectiveness, and the conditions be revised, if necessary, to provide additional requirements to minimize or eliminate discharges of pollutants to better protect water quality in the Region, and collect monitoring data for discharges suspected to have an adverse impact on water quality.

Order No. R9-2014-0041 waives WDRs and/or the requirement to file ROWDs for the following 37 low threat discharges (i.e., specific types of discharges):

Discharges from on-site graywater disposal systems (Waiver No. 1)

1. Discharges from on-site graywater disposal systems;

Discharges of recycled water to land (Waiver No. 2)

2. Discharges of recycled water to land from short-term projects;
3. Discharges of recycle water to land from permanent projects;

Miscellaneous "low threat" discharges to land (Waiver No. 3)

4. Discharges from construction and test pumping of water wells to land;
5. Discharges of air conditioner condensate and non-contact cooling water to land;
6. Swimming pool discharges to land;
7. Discharges from short-term construction dewatering operations to land;
8. Discharges from utility vaults and underground structures to land;
9. Miscellaneous "Low threat" discharges to land and/or groundwater;

Discharges of winery process water to lined evaporation ponds at small wineries (Waiver No. 4)

10. Discharges of winery process water to lined evaporation ponds at small wineries;

Discharges of wastes to land at composting facilities (Waiver No. 5)

11. Discharges of plant crop residues to land;
12. Discharges of waste to land at composting facilities;

Discharges from silvicultural operations (Waiver No. 6)

13. Discharges of storm water runoff from silvicultural operations;
14. Discharges from timber harvesting projects;
15. Discharges from wildfire suppression and fuels management activities;

Discharges from animal operations (Waiver No. 7)

16. Discharges from small animal feeding operations;
17. Discharges from medium animal feeding operations;
18. Discharges of storm water runoff from animal operations;
19. Discharge/application of manure to soil as an amendment or mulch;
20. Discharges from grazing lands;

Discharges from aquatic animal production facilities (Waiver No. 8)

21. Discharges of wastewater from facilities producing less than 9,090 harvest weight kilograms per year of cold water aquatic animal species;
22. Discharges of wastewater from facilities which produce less than 45,454 harvest weight kilograms per year of warm water aquatic animal species;

Discharges of slurries to land (Waiver No. 9)

23. Discharges of drilling muds to land;
24. Discharges of concrete grinding residues to land;
25. Discharges of slurries from sand and gravel mining operations to land;

Discharges of solid wastes to land (Waiver No. 10)

26. Discharge/application of amendments and/or mulches to soil;
27. Discharges/disposal of inert waste to solid waste disposal facilities only accepting inert wastes;
28. Discharges of soils containing wastes to temporary waste piles;
29. Discharge/disposal/reuse of soils characterized as inert from contaminated sites to land;

Aerially discharged wastes overland (Waiver No. 11)

30. Discharges of waste related to fireworks displays over land;
31. Other periodic aerial discharges of wastes over land;

Discharges of emergency/disaster related wastes (Waiver No. 12)

32. Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters;
33. Discharges of disaster related wastes to temporary waste piles and surface impoundments;
34. Discharges of mass mortality wastes to temporary waste piles and emergency landfills;
35. Discharges of dredge or fill material into non-federal waters of the State;
36. Emergency repair and protection activities in non-federal waters of the State; and
37. Other discharges of emergency/disaster related wastes.

Revisions to the waiver conditions for several types of discharge were made as described below to better protect water quality. Appendix A contains Order No. R9-2014-0041 with new conditional waivers and revisions to the renewed waivers for each type of discharge shown in underline/strikeout format.

Changes to Conditional Waivers

Proposed major revision to several of the renewed waivers are identified and briefly discussed below. The complete waivers for these categories of discharge are provided in Appendix A. If not listed below, no significant changes were made to the waivers.

- *Waiver No. 1 – Discharges from On-Site Graywater Disposal Systems (formerly Waiver No. 1 – Discharges from On-Site Disposal Systems)*

The State Water Board adopted the Water Quality Control Policy for Design, Siting, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy) on June 19, 2012. The OWTS Policy includes a conditional waiver of WDRs for OWTS that meet the requirements contained in the Policy. As required by the Policy, the San Diego Water Board intends to amend the Basin Plan and incorporate requirements of the OWTS Policy into the Basin Plan. The new requirements for waiving WDRs and filing ROWDs for OWTS make the following waivers redundant. As a result, the following waivers pertaining to the discharges covered by the OWTS Policy were not renewed:

- Conventional septic tank/subsurface disposal systems for residential units;

- Conventional septic tank/subsurface disposal systems for commercial/industrial establishments;
 - Alternative individual sewerage systems; and
 - Conventional septic tank/subsurface disposal systems for campgrounds.
- Waiver No. 3 – Miscellaneous “Low Threat” Discharges to Land (formerly Waiver No. 2 – “Low Threat” Discharges to Land)

The San Diego Water Board revised the waiver for Miscellaneous “Low Threat” Discharges to Land to incorporate discharges from utility vaults and underground structures to land.

- Former Waiver No. 4 – Discharges from Agricultural and Nursery Operations

The San Diego Water Board is developing General Waste Discharge Requirements for Discharges of Waste from Commercial Agricultural and Nursery Operations within the San Diego Region²⁷ (Ag Order). The Ag Order will include requirements for routine water quality monitoring to assess potential impacts to surface water bodies, and implements Total Maximum Daily Loads (TMDLs) adopted by the San Diego Water Board for nitrogen and phosphorus concentration in Rainbow Creek,²⁸ and indicator bacteria for twenty beaches and creeks in the San Diego Region.²⁹ The Ag Order will address those discharges previously regulated under Waiver No. 4, and the waivers for the following discharges will not be renewed:

- Discharge of plant crop residues to land;
 - Discharges of storm water runoff.
 - Discharge/application of amendments or mulches to soil.
 - Discharges of agricultural irrigation return water.
 - Discharges of nursery irrigation return water.
- Former Waiver No. 6 – Discharges of Dredged or Fill Materials Nearby or Within Surface Waters

The State Water Board adopted Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for Dredge and Fill

²⁷ The tentative *General Waste Discharge Requirements for Discharges of Waste from Commercial Agricultural and Nursery Operations within the San Diego Region* may be reviewed by visiting the San Diego Water Board website for the Regulation of Commercial Agriculture and Nurseries.

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

²⁸ http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/tmdl/rainbowcreek.shtml

²⁹ http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/tmdl/bacteria.shtml

Discharges that have Received State Water Quality Certification³⁰ (Order No. 2003-0017-DWQ) on November 19, 2003. For dredge and fill projects, Order No. 2003-0017-DWQ serves the same purpose as Waiver No. 6, and requires dischargers to implement the terms and conditions of the Clean Water Act Section 401 Water Quality Certification (401 Certification). In addition, the San Diego Water Board 401 Certifications and dredge and fill WDRs now include standard provisions requiring reasonable access to project sites, copies of all permits and licenses on the project site, and minimize or eliminate the discharge of pollutants to waters of the State.

Finally, all sand and gravel mining operation projects that impact waters of the State are regulated by the issuance of either a 401 Certification or Waste Discharge Requirements, or are enrolled in the Statewide Industrial Storm Water Permit.³¹

For these reasons, the following parts of former waiver No. 6 waivers were not renewed:

- Discharges from sand and gravel mining operations;
- Discharges from dredging projects;
- Discharges from stream channel operations; and
- Other projects proposing to discharge dredge or fill material nearby or within surface waters of the State.

The remaining part of former Waiver No. 6 pertaining to repair and protection activities in non-federal waters of the State, under emergency conditions, has been consolidated with other emergency/disaster related wastes under Waiver No. 12 – Discharge of Emergency/Disaster Related Wastes.

- *Waiver No. 9 – Discharges of Slurries to Land*

The San Diego Water Board revised the waiver for Discharges of Slurries to Land to incorporate a waiver for slurries from sand and gravel mining operations to land. The language in the revised waiver includes specific prohibitions for discharge into surface waters and requires compliance with the applicable requirements from the Statewide Industrial Storm Water General Permit Order No. 2014-0057-DWQ or any subsequently adopted Industrial Storm Water General Permit. The waiver also requires enrolled dischargers to comply with any applicable provisions of the NPDES Permit and Waste Discharge

³⁰ http://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders_wb.shtml

³¹ http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml

Requirements for Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region.³²

- Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land (formerly Waiver No. 8)

The San Diego Water Board revised the waiver for Discharges/Disposal/Reuse of Soils Characterized as Inert from Known Contaminated Sites to Land to allow the reuse of soils containing non-leachable concentrations of contaminants, provided the discharge complies with the general and specific conditions specified in the waiver for Discharges/Disposal of Solid Wastes to Land.

In addition, the waiver pertaining to the discharge of plant crop residues to land has been consolidated with similar discharge types under Waiver No. 5 – Discharges of Waste to Land at Composting Facilities.

- Waiver No. 12 – Discharges of Emergency/Disaster Related (formerly Waiver No. 10)

The San Diego Water Board has incorporated the parts of former Waiver No. 6 for discharges of dredge or fill material into non-federal waters of the State under emergency conditions into Waiver No. 12.

In addition, the Order will incorporate five new waivers for discharges that pose a low threat to the waters of the State and are not currently regulated by the San Diego Water Board;

- Waiver No. 4 – Discharges of Winery Process Water to Lined Evaporation Ponds at Small Wineries;

The San Diego Water Board has developed general and specific waiver conditions for discharges of Winery Process Water to Lined Evaporation Ponds (Winery Pond Waiver) for small wineries that utilize lined evaporation ponds for disposal of process waste water. For the purpose of enrollment in the Winery Pond Waiver, a “small winery” is defined based upon its potential to generate waste streams and includes a winery with a vineyard, wine production facilities, and wine tasting rooms. Wineries that have additional ancillary facilities such as restaurants, special occasion facilities, or commercial lodging facilities are not eligible for enrollment in this waiver. The definition used in the proposed waiver

³² National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements for Discharges from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds within the San Diego Region (Order No. R9-2013-0001, NPDES No. CAS0109266)

is consistent with the most recent County of San Diego Zoning Ordinance,³³ which defines a small winery operation as “crushing of grapes, berries and other fruits and fermentation, storage and bottling of less than or equal to 120,000 gallons of wine per year. A small winery may also include a tasting room and retail outlet as secondary uses.”

Using the ratio of 2 to 8 gallons of waste water per gallon of wine produced,³⁴ staff estimates the County of San Diego’s production limit could result in 240,000 to 960,000 gallons of waste water per year. Winery process waste water commonly contains variations in pH, elevated concentrations of BOD, sulfate, nitrate, total nitrogen (TKN), phosphorus, total suspended solids (TSS), and total dissolved solids but few, if any, volatile compounds.³⁵ This waste stream lends itself to treatment using properly designed evaporation ponds/surface impoundments, provided adequate best management practices (BMPs) are put in place for the operation of the surface impoundments.

The Winery Pond Waiver contains prohibitions, operational criteria, and restrictions that will provide protection of water quality from discharges of wastewater from winery operations, including:

- Winery process water must:
 - Not be discharged to surface waters;
 - Be captured, treated, and/or disposed of separately from domestic wastewater; and
 - Not contain wastes classified as "hazardous" as defined in Calif. Code Regs. title 22 section 66261.3 et seq., and Water Code section 13173.

These requirements include a prohibition against discharging winery process wastewater to surface waters and place limits on the nature of wastes allowed into the system and therefore the chemical composition of the wastewater. These restrictions ensure that that the resulting wastewater is treatable using an evaporation pond and eligible for coverage by the waiver. These requirements ensure that waste streams which are not amenable to treatment in evaporation ponds (surface impoundments) are not inadvertently included in the waste stream

- Implementation of Operational BMPs including:

³³ County of San Diego Zoning Ordinance section 6910, Wholesale Limited, Boutique and Small Wineries (dated January 2014).

³⁴ California Regional Water Quality Control Board, Central Valley Region - Technical Report for a Resolution Considering Approval of a Waiver of Waste Discharge Requirements for Small Food Processors, Including Wineries, Within the Central Valley Region (dated July 11, 2003).

³⁵ http://www.swrcb.ca.gov/rwqcb5/board_decisions/adopted_orders/san_joaquin/r5-2012-0103.pdf

- Water-conserving devices (e.g., pressure washers, trigger-handled spray nozzles, automatic barrel cleaners, stainless steel tanks, and smooth floors) should be used to minimize process water generation;
- The use of cleaning chemicals should be minimized. Low impact methods (e.g., ozonated process water) should be used where practicable for cleaning; and
- The use of water-softening devices, canister-type water softeners, or similar alternatives should be used to prevent the discharge of salt brine. The number of connections to the water softener should be minimized at facilities using self-regenerating water softeners. Large solids should be separated from winery process water through redundant screening and removal systems (such as screened floor drains, rotary drum screens, and/or settling basins) prior to further treatment and disposal. Lees, bentonite, and diatomaceous earth should be excluded from being discharged to onsite evaporation ponds to the extent practicable.

These requirements and operational BMPs help to control the water volume used in the process, limit the introduction of chemicals and reduce the salt content of the waste stream, and remove large solids from the waste stream being discharged into the evaporation pond treatment system. The restriction in chemical composition of the wastewater, removal of large solids, exclusion of bentonite and diatomaceous earth help to ensure proper operation of the conveyance system and the evaporation pond treatment system.

- Surface impoundment/evaporation pond design/operational criteria are:
 - All winery process water treatment and disposal systems (including onsite evaporation ponds) must be designed to retain the maximum daily flow of wastewater and organic loading generated (generally at the peak of crush season), including flows resulting from precipitation from a 25 year, 24-hour storm event;
 - At least two feet of freeboard must be maintained at all times in onsite evaporation ponds containing winery process water. Staff gauges must be installed to monitor water levels;
 - Collected screenings and other solids removed from liquid wastes that will not and/or cannot be used agronomically must be disposed of at a properly permitted point of disposal, and in accordance with Division 2 of Calif. Code Regs. title 27; and
 - Onsite evaporation ponds used for disposal of winery process water must be lined with either a relatively impermeable membrane, two feet of soil with a permeability of less than 10^{-6} centimeters per

second, or an engineered alternative approved in writing by the San Diego Water Board.

These requirements specify the minimum design and operational features of the evaporation pond (surface impoundment) treatment system to ensure continued protection of surface waters and the waste treatment system continue the long term operation of the system, and containment of the winery process wastewater. The construction of an impermeable barrier and maintenance of two feet of free-board are similar to requirements for surface impoundments found in Calif. Code Regs. title 27.³⁶ These requirements are included ensure the protection of groundwater resources and effective containment of the wastewater in the evaporation ponds.

A proposed discharge of winery process water into evaporation ponds that meets all of the conditions above is protective of water quality and classified as a low threat discharge. As a low threat discharge, a proposed discharge winery process water meeting the criteria above would be eligible for enrollment in the waiver.

- Waiver No. 5 – Discharges of Waste to Land at Composting Facilities

The San Diego Water Board has developed general and specific waiver conditions for discharges of waste to land at composting facilities. Discharges of the following wastes and compost feedstocks used to produce soil amendments or mulches, can be significant sources of pollutants that can affect the quality of waters of the State. These discharges contain pollutants that can potentially leach into groundwater or can be transported in surface and storm water runoff to surface waters. However, discharges of compost feedstocks to compost piles or as amendments or mulches to soil would not pose a threat to the quality of waters of the State if discharged in compliance with certain conditions.

- Agricultural wastes, consisting of pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, aquacultures, silvicultural, floricultural, vermicultural, or viticultural products, including orchard and vineyard prunings, and crop residues;
- Green waste, consisting of plant materials, including leaves, clippings, cuttings, trimmings of grass, weeds, shrubbery, bushes, or trees, residential or community garden waste, and untreated wood waste;
- Paper waste, consisting of nonhazardous paper and paper by-products;

³⁶ CCR title 27, section 20375 (freeboard) and 20330 (surface impoundment liner)

- Vegetative food wastes, consisting of food material resulting from the production or processing of food for animal or human consumption, but is no longer intended for such consumption, that is derived solely from plants and is separated from the municipal solid waste stream. Vegetative food material may be processed or cooked but must otherwise remain in its essentially natural state and no salts, preservatives, fats or oils, or other adulterants shall have been added;
- Manures derived from cattle, chickens, and pigs, which may include feces and urine, and any bedding materials, spilled feed, or soil that is mixed with the feces or urine;
- Anaerobic digestate waste, consisting of the solid materials remaining after the anaerobic digestion of any combination of agricultural wastes, green waste, manure, paper waste, or vegetative food wastes; and
- Additives/amendments, specified in the Dischargers application for enrollment in the Compost Facilities Waiver, approved by the San Diego Water Board.

Compost is the stable product resulting from the biological decomposition of organic matter under controlled conditions. Composting is differentiated from the natural decomposition of organic matter because it is a biological treatment process, including treatment by microorganisms, which occurs over a specific range of moisture contents and temperatures. Compost may be used as a soil amendment or mulch.

A soil amendment is a material, such as organic material or sand, mixed into soil to improve its physical properties. When compost is used as a soil amendment, it improves soil structure by lowering bulk densities, increasing permeability and porosity, and introducing microorganisms that produce "cementing agents" (such as gels, gums, slimes, and other polysaccharides) helpful in binding soil particles together into aggregates. When amended with compost, clayey soils are protected against compaction and sandy soils are more able to retain water and nutrients. A soil amendment must be thoroughly mixed into the soil. If it is merely buried, its effectiveness is reduced interfering with water and air movement, and root growth.

Mulch, in contrast, is left on the soil surface. Mulch does not always consist of composted materials, but typically consists of organic materials (e.g., shredded or chipped bark or branches), which eventually decompose and add humic matter to the soil enhancing its fertility. The purpose of mulch is to reduce evaporation and runoff, inhibit weed growth, and/or create an attractive appearance. Mulches also moderate soil temperature, helping to warm soils in the spring and cool them in the summer. Mulches may be incorporated into the soil as amendments after they have decomposed to the point that they no longer serve their purpose.

The starting materials for the composting process are commonly referred to as “feedstocks.” Feedstocks such as yard trimmings, wood chips, vegetable scraps, paper products, animal carcasses, and manures have all been composted successfully. Mixtures of organic materials may be more or less heterogeneous, but are rendered more physically homogenous through the composting process. Particles are made smaller and the total volume of the original materials is reduced (usually by 30 to 50 percent). Volume reduction is one of the benefits of composting.

Composting activities and operations are subject to regulation by the Department of Resources Recycling and Recovery (CalRecycle).³⁷ There are CalRecycle regulations specific to agricultural material composting operations,³⁸ green material composting operations and facilities,³⁹ biosolid composting operations at publicly owned treatment works (POTWs),⁴⁰ research composting operations,⁴¹ and chipping and grinding operations and facilities.⁴²

According to the CalRecycle composting operating standards, composting operations must “*ensure that leachate is controlled to prevent contact with the public.*”⁴³ However, the CalRecycle requirements do not contain operating standards specific to the protection of water quality. Additionally, there are several composting activities that are excluded from CalRecycle composting requirements (including mushroom farming, vermicomposting, agricultural materials from farms, handling of green material, feedstocks, additives, amendments, and chip-ground material).⁴⁴ The discharge of wastes to a composting operation can potentially have a direct or indirect impact on the quality of waters of the State if not properly managed.

Many of the excluded activities listed above include agricultural and green materials, which include manure and green wastes. Manure and green wastes can be significant sources of pollutants (e.g., pathogens, nutrients, and sediment) that can adversely affect the quality of waters of the State if not properly managed. Areas where composting activities are performed must be properly protected from precipitation and runoff, which could transport pollutants to surface waters and/or groundwater.

³⁷ Calif. Code Regs title 14 sections 17850 through 17870

³⁸ Calif. Code Regs title 14 sections 17856

³⁹ Calif. Code Regs title 14 sections 17857.1

⁴⁰ Calif. Code Regs title 14 sections 17859.1

⁴¹ Calif. Code Regs title 14 sections 17862

⁴² Calif. Code Regs title 14 sections 17862.1

⁴³ Calif. Code Regs title 14 sections 17867(a)(12)

⁴⁴ Calif. Code Regs title 14 sections 17855(a)(1) through (9)

Compost and/or other soil amendments and mulches must be properly applied to soil in the proper amounts to prevent transporting the amendments or mulches to surface waters in surface runoff. An analysis of the nutrient and organic matter content of the soil will determine the amount of soil amendments or mulches that should be applied at agronomic rates. Properly applied soil amendments or mulches will help to reduce wind and water erosion of the soil, to retain moisture in the soil, and to decrease the impact of precipitation by slowing the runoff of water.

The number of land parcels that could be discharging compost feedstocks to land and/or applying amendments and/or mulches to soil is not known. There are many small animal feeding operations (AFOs) (e.g., residential land owners or ranches with one or more horses) or grazing facilities that may be composting manure at their facilities, or disposing of fresh manure directly on land as a fertilizer, amendment, and/or mulch. Some confined animal feeding operations (CAFOs), which are regulated by WDRs, give away composted manure for free. Many agricultural land owners may compost manure and/or green wastes on site and use the compost as a soil amendment or mulch for their crops and/or pastures. Residential land owners may also use manure compost as a soil amendment or mulch for their landscaping and gardens.

So, the number of land parcels that could be composting manure, green wastes, or other compost feedstocks, and/or applying amendments and/or mulch to soil is could be in the hundreds to thousands. Current San Diego Water Board resources would not be sufficient to issue WDRs to all these potential facilities in the Region. However, runoff and leachate from composting facilities, the direct land application of compost feedstocks as amendments, and/or mulches to soils from several parcels can collectively be a significant source of pollutants to groundwater and surface water in the Region.

When operations/facilities properly manage their composting activities and/or properly apply amendments and/or mulches to soil, the potential impacts on water quality can be significantly reduced. However, enrolled compost facilities that do not comply with waiver conditions by implementing MMs/BMPs and allow the degradation of water quality should be required to file a ROWD and be regulated with individual or general WDRs. Enforcement actions could also be taken against facilities that fail to comply with waiver conditions.

In addition to incorporating the waiver for discharges of wastes at composting facilities, the San Diego Water Board has also incorporated the waiver pertaining to the discharge of plant crop residues to land, previously located in Waiver No. 10 – Discharges of Solid Wastes to Land (formerly Waiver No. 8).

- Waiver No. 8 - Discharges from Aquatic Animal Production Facilities⁴⁵

The San Diego Water Board has developed general and specific waiver conditions for the following types of discharges to waters of the United States and /or State from aquatic animal production facilities which are at production levels less than the Confined Aquatic Animal Production (CAAP) facility production thresholds⁴⁶ identified as:

- Discharges of wastewater from facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) per year of cold water aquatic animal species, if the feed is less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding; and
- Discharges of wastewater from facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) per year of warm water aquatic animal species.

Wastewater discharges, primarily to waters of the State and/or United States, from concentrated aquatic animal production facilities contribute pollutants such as:

- Suspended solids, which at high concentrations, can degrade receiving water aquatic ecosystems by increasing turbidity and reducing the depth to which sunlight can penetrate, thus reducing photosynthetic activity. Suspended particles can damage fish gills, increasing the risk of infection and disease;
- Organic matter, primarily consisting of aquatic animal feces and uneaten feed, which can also adversely affect receiving water aquatic ecosystems. Bacteria in the receiving water will break down organic matter and in the process may consume the available dissolved oxygen causing anaerobic conditions in the receiving waters biochemical oxygen demand (BOD);
- Metals, originating from feed additives or from the deterioration of production equipment, may also be present in wastewater discharges. Examples of metals added as feed supplements include copper, zinc, manganese and iron. Aquatic animal production facility operators may also add copper sulfate to the circulating water flow to control algae or for parasite treatment; and

⁴⁵ For the purposes of the Aquatic Animal Facility Waiver, an aquatic animal production facility means a hatchery, fish farm, aquaculture or other facility that contains, grows, or holds aquatic animals in either of two categories: cold water species or warm water species.

⁴⁶ Title 40 Code of Federal Regulations (CFR) Part 122.24 and Appendix C to Part 122.

- Nutrients, which are discharged mainly in the form of nitrate, ammonia and organic nitrogen. Ammonia causes two main problems in water. First, it is toxic to aquatic life. Second, it is easily converted to nitrate which may increase plant and algae growth and contribute to oxygen depletion in receiving waters.

Aquatic Animal Production Facilities are conditionally exempt from the federal National Pollutant Discharge Elimination System (NPDES) permit program regulations if they do not meet the production threshold criteria in Appendix C of 40 CFR 122. Aquatic animal production facilities which meet the production threshold criteria in Appendix C are designated as Confined Aquatic Animal Production (CAAP) facilities and regulated as point source discharges subject to the NPDES permit program. On June 30, 2004, USEPA promulgated regulations under the Clean Water Act at 40 CFR 451 establishing Effluent Limitations Guidelines (ELGs) and New Source Performance Standards for the CAAP Point Source Category. The regulations contain requirements for wastewater discharges that new and existing CAAP facilities must meet for discharging above specified aquatic animal production and feeding thresholds and discharging directly to waters of the United States. The regulations provide that if an aquatic animal production facility does not meet (i.e. is less than) the production thresholds, the San Diego Water Board has the discretion to designate the facility as a CAAP and require the facility operator to apply for and obtain an NPDES permit.

Wastewater discharges from aquatic animal facilities that do not meet federal production threshold criteria in Appendix C of 40 CFR 122 may alternatively be regulated by WDRs issued under authority of Water Code sections 13263 and 13264 or a conditional waiver of WDRs under the authority of Water Code section 13269. Wastewater discharges from aquatic animal production facilities that are properly managed and maintained to control and reduce pollutant discharges are not expected to pose a threat to the quality of waters of the State and/or the United States. Therefore, effective aquatic animal facility waiver conditions must require implementation of proper management, maintenance and operation procedures, record keeping, and monitoring to control and reduce discharges of pollutants from aquatic animal production facilities to waters of the State and/or the United States. This waiver includes annual influent and effluent monitoring to track flow volumes and pollutant levels. The costs associated with providing the monitoring information required under this waiver are reasonable and necessary to verify the adequacy and effectiveness of the waiver conditions.

In addition, this waiver requires implementation of feed management practices to control suspended solids levels in the discharge which in turn will also control the levels of BOD, nutrients, and some metals (such as zinc) in the discharge. Uneaten feed is the major source of suspended solids, nitrogen, and phosphorus

in flow-through systems. For recirculating systems, feed management is one factor among others in the control of pollutants. Minimizing the waste feed will minimize the waste that must be treated in a recirculating system and ultimately the amount of waste released to the receiving water.

Discharges from aquatic animal production facilities that comply with the waiver conditions in Waiver No. 8 are not expected to pose a threat to the quality of waters of the State and/or the United States.

Classification of Waste Discharge Types of Proposed Conditional Waivers

Order No. R9-2014-0041 includes 37 (32 revised,⁴⁷ and 5 new) specific types of discharge eligible for a waiver. Several of the discharge types are similar and/or related in terms of discharge setting, discharge source, and/or proposed waiver conditions.

Instead of developing waivers for each individual type of discharge, an integrated approach can simplify the proposed waivers. Types of discharges that are similar in nature or originate from a common setting or operation could be grouped together into a “discharge classification.” Therefore, Order No. R9-2014-0041 groups the types of discharges eligible for waivers into discharge classifications. General Conditions were developed that are applicable to a discharger or discharge operation, or all discharge types within a discharge classification. Specific Conditions were developed for individual types of discharge, if additional or discharge-specific conditions are necessary.

For example, several types of discharge have been classified as discharges from animal operations. Discharges from small animal feeding operations (Discharge Type No. 16), Discharges from medium animal feeding operations (Discharge Type No. 17), Discharges of storm water runoff from animal operations (Discharge Type No. 18), Discharges/application of manure to soil as an amendment or mulch (Discharge Type No. 19), and Discharges from grazing lands (Discharge Type No. 20) can all occur on the same site. Many of the proposed waiver conditions are similar, and many, if not all, of these types of discharge are found associated with animal operations.

Another example is the several types of discharge that have been classified as discharges from silvicultural operations. Discharges of storm water runoff (Discharge Type No. 13), Discharges from timber harvesting projects (Discharge Type No. 14), and Discharges from wildfire suppression and fuels management activities (Discharge Type No. 15) can all occur on the same site. Many of the proposed waiver conditions are

⁴⁷ Previously adopted by the San Diego Water Board as an amendment to the Basin Plan in Resolution No. R9-2007-0104, and expired on February 3, 2014.

similar, and many, if not all, of these types of discharge are found on silvicultural operations.

The table below lists the proposed discharge classifications, and groups the types of discharge that were discussed in the previous sections according to those classifications.

Table 1. Proposed Conditional Waivers and Discharge Classifications

Proposed Waiver No.	Proposed Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification
1	Discharges from on-site graywater disposal systems	Discharges from on-site graywater disposal systems
2	Discharges of recycled water to land	Discharges to land from short-term recycled water projects (without permanent recycled water delivery and/or distribution systems, not to exceed 365 days); and Discharges to land from permanent recycled water projects (with permanent recycled water delivery and/or distribution systems, limited to the period prior to the discharge being authorized and regulated under WDRs, WRRs, and/or MRP, not to exceed 365 days)
3	Miscellaneous "low threat" discharges to land	Discharges from construction and test pumping of water wells to land; Discharges of air conditioner condensate and non-contact cooling water to land; Swimming pool discharges to land; Discharges from short-term construction dewatering operations to land; Discharges to land from utility vaults and underground structures; and "Low Threat" discharges to land and/or groundwater including the following: Groundwater pumped from drinking water wells; Groundwater from foundation drains, crawls space pumps, and footing drains; Discharges from flushing water lines; Discharges from washing vehicles, pavement, buildings, etc.; Infiltration from residential/commercial/industrial/recreational facility landscape and lawn irrigation using groundwater or municipal supply water; and Infiltration from structural infiltration based BMPs
4	Discharges of winery process water to lined evaporation ponds at small wineries	Discharges of winery process water to lined evaporation ponds at small wineries
5	Discharges of wastes to land at composting facilities	Discharges of plant crop residues to land; and Discharges of waste to land at composting facilities

Table 1. Proposed Conditional Waivers and Discharge Classifications

Proposed Waiver No.	Proposed Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification
6	Discharges from silvicultural operations	Discharges of storm water runoff; Discharges from timber harvesting projects; and Discharges from wildfire suppression and fuels management activities

Table 1 (continued). Proposed Conditional Waivers and Discharge Classifications

Proposed Waiver No.	Proposed Discharge Classification	Types of Discharge Included in Conditional Waiver Discharge Classification
7	Discharges from animal operations	Discharges from small animal feeding operations (less than 300 animal units); Discharges from medium animal feeding operations (300-999 animal units, where 1 animal unit is equivalent to 1 cow or 1,000 animal pounds); Discharges of storm water runoff; Discharge/application of manure to soil as an amendment or mulch; and Discharges from grazing lands
8	Discharges from aquatic animal production facilities	Discharges from aquatic animal production facilities
9	Discharges of slurries to land	Discharges of drilling muds to land; Discharges of concrete grinding residues to land; and Discharges of slurries from sand and gravel mining operations to land
10	Discharges of solid wastes to land	Discharge/application of amendments and/or mulches to soil; Discharges/disposal of inert wastes to solids waste disposal facilities only accepting inert wastes; Discharges of soils containing wastes to temporary waste pile; and Discharge/disposal/reuse of soils characterized as inert from contaminated sites to land
11	Aerially discharged wastes overland	Discharges of waste related to fireworks displays over land Other periodic aerial discharges of wastes over land
12	Discharges of emergency/disaster related wastes	Incidental discharges of oil and oily water within a response area during an oil spill response in marine waters; Discharges of disaster related wastes to temporary waste piles and surface impoundments; Discharges of mass mortality wastes temporary waste piles and emergency landfills; Discharges of dredge or fill material into non-federal waters of the State, under emergency conditions; Emergency repair and protection activities in non-federal waters of the State; and Other discharges of emergency/disaster related wastes

Based on these conditional waiver discharge classifications, General Conditions and Specific Conditions, if applicable, were developed. The proposed conditional waivers and waiver conditions are discussed in the following section.

Enrollment Requirements for Conditional Waivers

The potential threat to water quality that a type of discharge may pose can be determined by whether or not there is an enrollment requirement included in the waiver conditions. For the types of discharges that are not expected to pose a threat to water quality, minimum requirements for enrollment were developed so a discharger can implement measures that will allow the discharge to be conditionally waived without filing a notice of intent to enroll. Waivers that may pose a potential threat to water quality, require a notice of intent (NOI) to be filed. In addition, those waivers specify minimum requirements that must be implemented to minimize or eliminate the discharge, or potential discharge of pollutants to waters of the State in the San Diego Region.

In accordance with Water Code section 13269(a)(4), Dischargers, as a condition of a waiver, may be required to pay an annual fee as determined by the San Diego Water Board. Pursuant to section 13260 et seq. of the Water Code, annual fee 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:

- 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
- Waiver No. 10 – Discharges/Disposal of Solid Wastes to Land (Waiver No. 10).

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 a threat to water quality and complexity rating of 3-C and will be assessed the corresponding fee for Discharges to Land or Surface Waters sites, plus any applicable surcharges. 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 onsite 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.

Environmental Review

An Initial Study/Checklist⁴⁸ and negative declaration have been prepared by the San Diego Water Board to assess potential environmental impacts associated with the waivers, and to evaluate the environmental impacts of the reasonably foreseeable methods of compliance with the waivers. The project as described in the negative declaration entails the adoption of Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region listed in Table 1 of this Technical Report.

Order No. R9-2014-0041 requires the implementation of effective management measures (MMs), and structural and non-structural best management practices (BMPs) to avoid potential impacts associated with storm water run on and runoff, wastes, and wastewaters discharged from facilities or operations located with the San Diego Region.

The San Diego Water Board is prohibited from specifying the manner of compliance with its orders, and accordingly the actual environmental impacts of the MMs and BMPs will necessarily depend upon the compliance strategy selected by the individual seeking enrollment in a waiver.

In preparing the environmental documents for this project, the San Diego Water Board has considered the pertinent requirements of State law. The San Diego Water Board is the lead agency for this project and has complied with the requirements specified in the California Environmental Quality Act (CEQA)⁴⁹ by adopting the negative declaration for this project prior to issuing Order No. R9-2014-0041.

Public Participation

Public participation is an important component of developing the waivers. The San Diego Water Board notified interested parties and persons of its intent to adopt the waivers and has provided them with an opportunity to submit their written comments and recommendations. Detailed responses to relevant comments will be incorporated by reference into a Response to Comments document in this Technical Report as Appendix C, prior to the adoption hearing. In addition, the following table identifies the stakeholder events associated with the adoption of the Order:

Table 2: Public Stakeholder Events

Date	Event
April 1, 2014	Notice of Availability of Tentative Order No. R9-2014-0041, and

⁴⁸ Tentative Resolution No. R9-2014-0042

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

⁴⁹ Public Resources Code (Pub. Resources Code) section 21000 et seq.

	Tentative Resolution No. R9-2014-0042
April 3, 2014	Notice of Completion and CEQA Initial Study
April 3, 2014	Notice of Availability of Tentative Order No. R9-2014-0041, and Tentative Resolution No. R9-2014-0042, published in the Press-Enterprise (Riverside County) Newspaper
April 4, 2014	Notice of Availability of Tentative Order No. R9-2014-0041, and Tentative Resolution No. R9-2014-0042 published in the Orange County Register Newspaper

Table 2: Public Stakeholder Events (continued)

Date	Event
April 5, 2014	Notice of Availability of Tentative Order No. R9-2014-0041, and Tentative Resolution No. R9-2014-0042 published in the San Diego Union-Tribune (San Diego County) Newspaper
April 15, 2014	Notice of Public Workshop
April 17, 2014	Notice of Public Stakeholder Meeting
April 22, 2014	Public Stakeholder Meeting
May 14, 2014	Public Workshop
May 19, 2014	Close of the Written Comment Period
June 26, 2014	Public Adoption Hearing

The San Diego Water Board will hold a public hearing on Order No. R9-2014-0041 during its regular Board meeting on the following date and time and at the following location:

June 26, 2014, 9:00 A.M. to Noon
San Diego Water Board, Board Meeting Room
2375 Northside Drive, Suite 100; San Diego, California 92108

Interested parties and persons are invited to attend. At the public hearing, the San Diego Water Board will hear testimony, if any, pertinent to the conditional waivers. Oral testimony will be heard; however, for accuracy of the record, important testimony should be in writing.

Please be aware that dates and venues may change. Our Web address is http://www.waterboards.ca.gov/sandiego/board_info/agendas/ where you can access the current agenda for changes in dates and locations.

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