

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

**RESPONSE TO COMMENTS FOR
TENTATIVE ORDER NO. R9-2024-0001
CONDITIONAL WAIVERS OF WASTE DISCHARGE REQUIREMENTS FOR LOW THREAT DISCHARGES
IN THE SAN DIEGO REGION**

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) staff prepared responses to the comments received regarding Tentative Order No. R9-2024-0001, *Conditional Waivers of Waste Discharge Requirements for Low Threat Discharges in the San Diego Region (Tentative Order)*.

The San Diego Water Board provided the Tentative Order on December 4, 2023, and received one comment letter during the public comment period from the City of San Diego (City) on January 8, 2024. The comment period ended on January 8, 2024. Staff prepared the following responses to the City. This response copies City’s comments verbatim from the comment letter received. Each response indicates if Staff proposes revisions to the Tentative Order in response to the comment.

No.	City’s Comment	San Diego Water Board Response	Action Taken
1	<i>The City requests inclusion of Waiver No. 2 – Discharges to Land of Recycled Water, as it was included in Order No. R9-2019-0005. Exclusion of this waiver may serve as an impediment to recycled water projects, as there are times in which a permit to temporarily discharge recycled water to land is required. For example, between completion of a facility upgrade and issuance of a new permit, this may be necessary. Without the ability to discharge recycled water under the facility’s original WDR or a low threat discharge waiver, a facility may be forced to cease</i>	San Diego Water Board staff disagrees with this comment. In order to be eligible for the former Waiver No.2 – Discharges to Land of Recycled Water (Waiver No. 2), Discharger’s must comply with both the general and specific conditions of Waiver No. 2. Waiver No. 2, section A.2; specified that “short term recycled water projects eligible for enrollment in the Recycled Water Waiver, are those	Staff did not modify the Tentative Order.

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	<p><i>production of recycled water, provide potable water to recycled water customers, and/or discharge recycled water treated to Title 22 recycled water standards to surface waters. Eliminating this permitting option is inconsistent with the Regional Board's Practical Vision, the State Board's Recycled Water Quality Control Policy, and Governor Newsom's California's Water Supply Strategy.</i></p>	<p>without permanent recycled water delivery and/or distribution systems; and are not regulated or authorized under WDRs [waste discharge requirements], WRRs [water reclamation requirements], and/or MRPs [monitoring and reporting programs]." Based on this specific section, this Waiver would not apply to facilities that are in the process of upgrading and awaiting the issuance of a new amendment permit, since they should already be covered under the current WDR permit.</p>	
2	<p><i>The City is subject to stringent water quality based effluent limitations (WQBELs) and receiving water limitations (RWLs) established in Total Maximum Daily Loads (TMDLs) and included in the City's MS4 Permit (Order R9-2013-0001 as amended by Order Nos. R9-2015-0001 and R9-2015-0100). TMDLs have been established to address impairments for bacteria, metals, sediment, and pesticides in watersheds located within the City. Additionally, the City is addressing trash across its watersheds to comply with the statewide Trash Amendments issued in 2015. The City continually strives to ensure that sources within our control are not contributing to exceedances of water quality standards, and we are concerned that the Tentative Order may allow sources subject to waivers to discharge non-stormwater and</i></p>	<p>San Diego Water Board staff agrees with this comment.</p>	<p>Staff modified the Tentative Order, Waiver Nos. 1 and 2 to reflect the requested change. All other Waivers include explicit language prohibiting discharge to the MS4s and surface waters.</p>

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	<p><i>pollutants to the City's MS4. Where these sources are not regulated adequately, they have the potential to cause or contribute to receiving water limitations violations and WQBEL exceedances at MS4 outfalls. As such, with respect to discharges from sources with the potential to contribute pollutants, the City requests that each of the waivers contained in the Tentative Order make clear that discharges to MS4s are prohibited. Specific examples are described in subsequent comments.</i></p>		
3	<p><i>Many of the types of low-threat discharges covered under R9-2024-0001 (Tentative Order) are the subject of existing regional or statewide permits and policies [e.g., the MS4 Permit R9-2013-0001 (as amended by Order Nos. R9 2015-0001 and R9-2015-0100), the State Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems]. The City urges the San Diego Regional Water Quality Control Board (San Diego Water Board) to ensure consistency with the proposed WDR Conditional Waivers. Specifically, the City requests revisions to address inconsistencies related to the discharge prohibitions contained in the MS4 Permit which could hinder enforcement of local policies or place additional burden on the City to regulate entities subject to the waivers.</i></p>	<p>San Diego Water Board staff agrees with this comment. See response to comment No. 2.</p>	<p>Staff modified the Tentative Order, Waiver Nos. 1 and 2 to reflect the requested change. All other Waivers include explicit language prohibiting discharge to the MS4s and surface waters.</p>

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	<p><i>Specific examples are described in subsequent comments</i></p>		
4	<p><i>The language in the waiver should explicitly authorize the San Diego Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance. The language in the general findings should explicitly authorize the San Diego Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance. Additionally, the City requests revisions to improve consistency in enforcement language in multiple waivers. Specific examples are described in subsequent comments.</i></p> <p><i>Recommendation: Add to Part 1.J:</i></p> <p><i>If owners/operators covered waivers in Part II are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and must correct deficiencies in order to be eligible for the waiver. However, if the owner/operator violates any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions.</i></p>	<p>San Diego Water Board staff partially agrees with this comment.</p> <p>The request for additional language regarding the issuance of a NOV is not necessary. General Finding I.J of the Tentative Order establishes that “any person in violation of any waiver condition, prohibition issued or reissued, or amended by the San Diego Water Board, may be subject to informal and formal enforcement actions.” NOVs are a type of informal enforcement actions under the State Water Resources Control Board’s <i>Water Quality Enforcement Policy</i>.</p> <p>Additional language regarding the termination of a Discharger’s enrollment in a waiver is added.</p>	<p>Staff modified the Tentative Order, General Finding I.J to read, “Any enrollee in violation of any waiver condition, prohibition issued or reissued, or amended by the San Diego Water Board, may be subject to informal and formal enforcement actions, including but not limited to, administrative civil liability under Water Code sections 13323 and 13350(d) and (e). Additionally, failure to comply with waiver conditions or prohibitions may</p>

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			result in termination from waiver enrollment and require submission of a ROWD for individual WDRs, in accordance with Water Code section 13260 et seq.”
5	<i>Add language excluding those covered under Statewide NPDES permit for Drinking Water System Discharges to Waters of the United States (Order WQ 2014-0194-DWQ) from requirement to seek coverage under this permit for discharge type no. 6 - Discharges from flushing water lines to land [Part 1 General Findings, E. Waste Discharges Subject to this Order].</i>	San Diego Water Board staff disagrees with this comment. The request for additional language is not necessary because the specific findings for Waiver No. 6 state that discharges not regulated under WDRs may be eligible for the Low Threat Discharge Waiver, which includes NPDES permits.	Staff did not modify the Tentative Order.
6	<i>The Tentative Order requires Dischargers to implement Minimum Measures (MMs) and Best Management Practices (BMPs) but does not specify what those MMs and BMPs are, nor does it provide Dischargers reference(s) for appropriate MMs and BMPs for a given discharge type.</i> <i>Recommendation: Provide reference(s) for MM and BMP implementation to support Dischargers</i>	San Diego Water Board staff disagrees with this comment. The San Diego Water Boards does not direct the Discharger's method and/or manner of compliance with the requirements of the Tentative Order, which includes providing references for MMs and BMPs implementation. Dischargers are responsible for	Staff did not modify the Tentative Order.

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	<p><i>in compliance with this Order [Part 1 General Findings, G. Antidegradation Policy].</i></p>	<p>identifying the MMs and BMPs in their notice of intent (NOI) to enroll in the waivers, and it is their responsibility to ensure the MMs and BMPs implemented are effective.</p>	
7	<p><i>Add language to ensure consistency with the MS4 Permit.</i></p> <p><i>Recommendation: Modify Section B.1.a to read:</i></p> <p><i>Not be directly or indirectly discharged to any Municipal Separate Storm Sewer Systems (MS4s) or surface waters of the state (including ephemeral streams and vernal pools) [Waiver No.1, Discharges from On-site Graywater Disposal Systems, B.1.a].</i></p>	<p>San Diego Water Board Staff agrees with this comment.</p>	<p>Staff modified the Tentative Order, Waiver No. 1, section B.1.a, to reflect the requested change.</p>
8	<p><i>Clarification of MS4s and surface waters.</i></p> <p><i>Recommendation: Amend general condition language in Section B.1 to read:</i></p> <p><i>Prevent the direct or indirect discharge of “low threat” discharges to any <u>MS4s</u> or surface waters of the state (including ephemeral streams <u>and</u> vernal pools <u>and</u> MS4s) [Waiver No.2, Miscellaneous “Low Threat” Discharges to Land, B.1].</i></p>	<p>San Diego Water Board Staff agrees with this comment.</p>	<p>Staff modified the Tentative Order, Waiver No. 2, section B.1, to reflect the requested change.</p>

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9	<p><i>Section C.1.a states "Discharges of air conditioner condensate and non-contact cooling water to land must not exceed an average of 1,200 gallons per day (GPD) for any continuous 365-day period, unless the discharger has filed a complete NOI, containing information about the operator, location, and planned period of and average daily volume of discharge. An NOI template is included in Attachment A of the Order. Discharges of air conditioner condensate and non-contact cooling water to land, which do not exceed the threshold specified in section C.1.a of the Low Threat Discharge Waiver, do not require the filing of an NOI prior to discharge."</i></p> <p><i>Recommendation: To reduce the potential for discharges to reach the MS4, consider establishing a lower threshold based on the maximum volume of condensate produced by an air conditioner and non-contact cooling water systems in a day [Waiver No.2, Miscellaneous "Low Threat" Discharges to Land, C.1].</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>Reducing the discharge volume is not necessary because General Waiver Condition B.1 of Waiver No. 2 prohibits both direct and indirect discharges to the MS4. This prohibition effectively sets the allowable discharge amount to the MS4 at zero.</p> <p>Additionally, the threshold amount of 1,200 gallons per day (GPD) serves as a threshold for Dischargers to submit a NOI.</p>	<p>Staff did not modify the Tentative Order.</p>
10	<p><i>Section C.2.a states "Discharges of water from each swimming pool to land must not exceed 50,000 gallons during any continuous 365-day period, unless the discharger has filed a complete NOI, containing information about the swimming pool location and volume, planned period and</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>Similar to the response to comment No.9, reducing the discharge volume is not necessary because General Waiver Condition B.1 of Waiver No. 2 prohibits both direct and indirect discharges to</p>	<p>Staff did not modify the Tentative Order.</p>

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	<p><i>frequency of discharge. An NOI template is included in Attachment A of the Order.”</i></p> <p><i>Recommendation: To reduce the potential for discharges to reach the MS4, consider establishing a lower threshold that may be discharged without filing an NOI [Waiver No.2, Miscellaneous “Low Threat” Discharges to Land, new C.2.c].</i></p>	<p>the MS4. This prohibition effectively sets the allowable discharge amount to the MS4 at zero.</p> <p>Additionally, the threshold amount of 50,000 GPD serves as a threshold for Dischargers to submit a NOI.</p>	
11	<p><i>Section C.5.a.i states “Discharges from flushing water lines having the potential to discharge to the MS4, or to affect surface water quality are not eligible for enrollment in this waiver. These discharges must be enrolled in Order No. R9-2014-0194-DWQ20 (or subsequent Orders).” We believe the permit that this section intends to reference is the Statewide NPDES permit for Drinking Water System Discharges to Waters of the United States which is Order WQ 2014-0194-DWQ.</i></p> <p><i>Recommendations:</i></p> <p><i>Update permit to read: “Order WQ 2014-0194-DWQ”.</i></p> <p><i>Update Footnote 20 to read: “Statewide National Pollutant Discharge Elimination System (NPDES) Permit for Drinking Water System Discharges to Waters of the United States.” [Waiver No.2,</i></p>	<p>San Diego Water Board Staff agrees with this comment.</p>	<p>Staff modified the Tentative Order to reflect the changes that requested.</p>

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	<i>Miscellaneous "Low Threat" Discharges to Land, C.5.a.i]</i>		
12	<p><i>The language in the waiver should explicitly authorize the San Diego Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</i></p> <p><i>Recommendation: Add new Section A.9 to read:</i></p> <p><i>If owners/operators of an Animal Operation are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and must correct deficiencies in order to be eligible for the Conditional Waiver. If the owner/operator violates any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions [Waiver No.5, Discharges from Animal Operations, new A.9].</i></p>	<p>San Diego Water Board staff partially agrees with this comment.</p> <p>Please see response to comment No.4.</p>	<p>Staff modified the Tentative Order.</p>
13	<p><i>Section B. 3. b. ii. Indicates that animal wastes can be stored onsite for longer than two weeks if those wastes are composted on site. Section B. 3. b. is generally missing guidance on how animal waste composted on site should be stored and managed to prevent pollution. We recommend including waste storage requirements for wastes that are composted onsite to prevent nutrient</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>The request for additional language is not necessary for the following reasons. The San Diego Water Boards does not direct the Discharger's manner and/or method of compliance with the requirements of the Tentative</p>	<p>Staff did not modify the Tentative Order.</p>

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	<p><i>transport to MS4, surface waters, and groundwater in alignment with the General Agricultural Orders (R9-2016-0004 and R9-2016-0005).</i></p> <p><i>Recommendation: Modify Section B.3.b.iii-vi to read:</i></p> <p><i>iii. Areas adjacent to temporary storage area for animal wastes and areas for on site animal waste composting must be graded to prevent storm water and surface runoff from reaching these areas;</i></p> <p><i>iv. Temporary storage areas and areas for on site animal waste composting must be on an impervious surface (e.g., concrete pad or plastic tarp) to prevent leaching of pollutants to MS4, surface waters, and groundwater;</i></p> <p><i>v. Temporary storage areas and areas for on site animal waste composting must be protected with a roof or cover...to prevent direct contact between precipitation and animal wastes and compost;</i></p> <p><i>vi. A buffer zone of at least 100 feet must be maintained between the temporary storage area for animal wastes and area for on site animal waste composting and any surface water body unless sufficient information is provided to demonstrate that a proposed alternative is</i></p>	<p>Order. Additionally, Waiver No. 5, General Condition B.2.c states 1) "animal operations must implement MMs/BMPs to prevent the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the state," and 2) "discharges to MS4s and surface waters are prohibited."</p>	

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	<i>protective of water quality [Waiver No.5, Discharges from Animal Operations, B.3.b].</i>		
14	<p><i>Specific provisions should be consistent with the discharge prohibitions in the MS4 permit.</i></p> <p><i>Recommendation: Modify Section C.3.c to read:</i></p> <p><i>Owners of pasture and range lands used for grazing, must implement MMs/BMPs to minimize or eliminate any discharge that could adversely affect the quality or beneficial uses of waters of the state. <u>Non-stormwater discharges to MS4s are prohibited</u> [Waiver No.5, Discharges from Animal Operations, C.3.c].</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>See response to Comment No. 13.</p>	<p>Staff did not modify the Tentative Order.</p>
15	<p><i>Because aquatic animal production facilities often operate directly in receiving waters, the Tentative Order should specifically prohibit issuing these waivers in circumstances where the receiving waters are impaired and subject to TMDLs. As discussed in A.1 "Discharges from aquatic animal production facilities may include elevated levels of suspended solids, biochemical oxygen demand, metals, and nutrients." Impairments in the San Diego Area include sediment, metals, and nutrients and several TMDLs have been or are in development. As such, new and existing sources of these constituents should be regulated under</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>The request for additional language is not necessary for the following reasons. The Specific Waiver Conditions for Aquatic Animal Production Facilities (Waiver No. 6), section C.3.c states that Dischargers must "ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills and discharge to waters of the United States and/or state, and be consistent with the requirements specified in the current MS4 Permit for the San Diego</p>	<p>Staff did not modify the Tentative Order.</p>

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	<p><i>appropriate NPDES and WDR programs and should not be the subject of conditional waivers.</i></p> <p><i>Recommendation: Remove Waiver No. 6 from the Tentative Order or include the following language as a new Section A.2: <u>Discharges from aquatic animal production facilities that discharge directly or indirectly to MS4s or receiving waters have the potential to affect surface water quality and are not eligible for enrollment in this waiver unless the facility can demonstrate through monitoring that the discharges are not causing or contributing to exceedances of water quality objectives in adjacent receiving waters</u> [Waiver No.6, Discharges from Aquatic Animal Production Facilities].</i></p>	<p>Region.” Waiver No. 6 also provides in footnote 30 that “non-storm water discharges to MS4s are prohibited.” Additionally, the Specific Waiver Conditions for Aquatic Animal Production Facilities, section C.9, specifies that “the San Diego Water Board may require a Discharger to apply for and obtain separate WDRs or NPDES permit if it determines the discharge is a significant source of pollutants to waters of the state and/or United States.”</p>	
16	<p><i>If the San Diego Water Board determines that the waiver is the appropriate means of regulation, operations within receiving waters subject to TMDLs should be required to implement additional MMs/BMPs and to monitor for the TMDL constituents in their influent and effluent to ensure that their discharges are not causing or contributing to exceedances of water quality standards within the receiving water.</i></p> <p><i>Recommendation: Add a new Section <u>A.5: Facility Design and Management</u></i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>General Finding G of the Tentative Order establishes that “Dischargers who enroll in these waivers are required to manage their wastes in a manner that protects beneficial uses and prevents nuisance by implementing management measures (MMs) and best management practices (BMPs).”</p> <p>Additionally, Specific Waiver Conditions for Aquatic Animal</p>	<p>Staff did not modify the Tentative Order.</p>

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	<p><u><i>a. Aquatic animal production facilities must implement MMs /BMPs to prevent the discharge of pollutants that may adversely impact the quality or beneficial uses of waters of the state.</i></u></p> <p><u><i>b. Aquatic animal production facilities must submit technical and/or monitoring program reports when directed by the San Diego Water Board [Waiver No.6, Discharges from Aquatic Animal Production Facilities, new A.5].</i></u></p>	<p>Production Facilities, sections C.4 to C.8, includes requirements for submitting monitoring reports to the San Diego Water Board. Specific Waiver Conditions, section C.9 specifically states that “The San Diego Water Board may require a Discharger to apply for and obtain separate WDRs or NPDES permit if it determines the discharge is a significant source of pollutants to waters of the state and/or United States.”</p>	
17	<p><i>Many of the surface waters in the San Diego Region are subject to bacteria TMDLs. As such, these facilities should monitor bacteria constituents in their influent and effluent to ensure that they are not causing or contributing to exceedances of water quality standards in the receiving waters in which they operate.</i></p> <p><i>Recommendation: Add fecal coliform and enterococcus to the list of parameters for monitoring in C.4 Table No.1 and C.5 Table No. 2 [Waiver No.6, Discharges from Aquatic Animal Production Facilities, C.4-C.5, Table No. 1 and No. 2].</i></p>	<p>San Diego Water Board staff agrees with this comment.</p> <p>In the Specific Waiver Conditions for Aquatic Animal Production Facilities, section C.9, it is specifically states that “The San Diego Water Board may require a Discharger to apply for and obtain separate WDRs or NPDES permit if it determines the discharge is a significant source of pollutants to waters of the state and/or United States.” But monitoring the bacteria in the effluent of surface waters subject to bacteria TMDL would be a reasonable approach to control such constituents.</p> <p>As part of our long-term plan, discharges from aquatic animal production facilities will be incorporated</p>	<p>Staff modified the Tentative Order to reflect the requested change.</p>

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		into a future WDR order that will encompass all animal feeding operations.	
18	<p><i>The language in the waiver should explicitly authorize the San Diego Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</i></p> <p><i>Recommendation: Add new Section A.6 to read:</i></p> <p><u><i>If dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and must correct deficiencies in order to be eligible for the waiver. However, if the owner/operator of a facility discharging/disposing solids wastes to land violates any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions [Waiver No.8, Discharges/ Disposal to Land of Solid Wastes, new A.6].</i></u></p>	<p>San Diego Water Board staff partially agrees with this comment.</p> <p>Please see response to comment No.4.</p>	<p>Staff modified the Tentative Order.</p>
19	<p><i>Add language to ensure consistency with the MS4 Permit.</i></p> <p><i>Recommendation: Modify Section B.1.a to read:</i></p> <p><i>Not be allowed to directly or indirectly enter any MS4s or surface waters of the state, including</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>Waiver No. 8 is explicitly for the discharge of waste to land, and not to surface water or MS4, and thus, discharging waste to MS4 and surface</p>	<p>Staff did not modify the Tentative Order.</p>

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	<p><i>ephemeral streams and vernal pools, <u>unless authorized by a separate permit or other WDRs</u> [Waiver No.8, Discharges/ Disposal to Land of Solid Wastes, B.1.a].</i></p>	<p>water is not allowed and is expressly prohibited. Discharges regulated by separate permits or other WDRs are not eligible for enrollment in the Solid Waste Waiver.</p>	
20	<p><i>The MS4 Permit does not differentiate between BMP requirements for storm events during the wet weather season versus storm events during the dry season. Requirements should be applied consistently regardless of seasonality.</i></p> <p><i>Recommendation: Remove references to “wet weather season”. Modify Section C.1.e to read:</i></p> <p><i>Soil amendments or mulch materials eligible to be applied to soil, the amount must be reasonable for the crop or plant, soil, climate, special local situations, management system, and type of soil amendment or mulch. Application rates must consider storm events. Application rates must not allow soil amendment or mulch materials to be transported off the property in storm water runoff during the wet weather season. Resources and assistance may be available from the Natural Resource Conservation Service (NRCS), University of California Cooperative Extension (UCCE), and other organizations. A copy of the calculations and/or estimate of the application rate</i></p>	<p>San Diego Water Board staff agrees with this comment.</p>	<p>Staff modified the Tentative Order to reflect the changes that requested.</p>

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	<p><i>must be available on site for inspection [Waiver No.8, Discharges/ Disposal to Land of Solid Wastes, C.1.e].</i></p>		
21	<p><i>Add language to ensure consistency with the MS4 Permit.</i></p> <p><i>Recommendation: Modify Section C.1.g to read:</i></p> <p><i>Soil amendments or mulch materials must implement MMs/BMPs to minimize or eliminate runoff and leachate to <u>MS4s</u>, surface waters and groundwater [Waiver No.8, Discharges/ Disposal to Land of Solid Wastes, C.1.g].</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>The General Waiver Conditions for Discharges/Disposal to Land of Solid Wastes, sections B.1.a and B.2.b, state, Discharger's must "prevent the discharge of any pollutants to Municipal Separate Storm Sewer Systems (MS4s) and surface waters that could adversely affect the quality or beneficial uses of waters of the state." Therefore, this requirement is already covered under the General Conditions.</p>	<p>Staff did not modify the Tentative Order.</p>
22	<p><i>Add language to ensure consistency with the MS4 permit.</i></p> <p><i>Recommendation: Amend the following sections to read:</i></p> <p><i>C.4.d.iv.e Description of BMPs implemented to prevent discharges of waste soil off the export site during excavation and transport <u>and BMPs implemented to prevent stormwater from coming into contact with waste soil.</u></i></p> <p><i>C.4.e.iv.d Description of BMPs implemented to prevent discharges of waste soil, off the export</i></p>	<p>San Diego Water Board staff agrees with this comment.</p>	<p>Staff modified the Tentative Order to reflect the requested change.</p>

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	<p><i>site, during excavation and transport <u>and BMPs implemented to prevent stormwater from coming into contact with waste soil</u> [Waiver No.8, Discharges/ Disposal to Land of Solid Wastes, C.4].</i></p>		
23	<p><i>The language in the waiver should explicitly authorize the San Diego Water Board to enforce waiver conditions and revoke waivers in cases of non-compliance, consistent with other waivers within the Tentative Order.</i></p> <p><i>Recommendation: Add new Section A.5 to read:</i></p> <p><i><u>If dischargers are not in compliance with waiver conditions, they can be issued a Notice of Violation (NOV) and must correct deficiencies in order to be eligible for the waiver. However, if the owner/operator of aerial discharged waste over land violates any waiver conditions, the San Diego Water Board has the option to terminate the waiver for the discharge and begin regulating with individual WDRs and/or take other enforcement actions</u> [Waiver No.9-Aerial Discharged Wastes Over Land, new A.5].</i></p>	<p>San Diego Water Board staff partially agrees with this comment.</p> <p>Please see response to comment No.4.</p>	<p>Staff modified the Tentative Order.</p>
24	<p><i>Add language to ensure consistency with the MS4 Permit.</i></p> <p><i>Recommendation: Modify Section B.1 to read:</i></p>	<p>San Diego Water Board staff disagrees with this comment.</p> <p>Waiver No. 9 is explicitly for the discharge of waste to land, and not to surface water or MS4, and thus,</p>	<p>Staff did not modify the Tentative Order.</p>

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	<p><i>Aerially discharged wastes cannot be discharged into any MS4s, or surface waters of the state (including ephemeral streams and vernal pools) unless an NOI has been filed with the San Diego Regional Board for coverage under Order No. R9-2022-0002 [Waiver No. 9, Aerially Discharged Wastes Over Land, B.1].</i></p>	<p>discharging waste to MS4 and surface water is not allowed and is expressly prohibited.</p> <p>As indicated in the comment, dischargers proposing to discharge waste to MS4 or surface water must seek enrollment in the Fireworks General NPDES Permit.</p>	