

Attachment F
Waste Discharge Requirements Deviation Procedures

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Waste Discharge Requirements Deviation Procedures

Introduction

These procedures are put into place to preclude the need for Waste Discharge Requirements (WDRs) amendments for minor changes in the Project routing or location or minor corrections or clarifications of the conditions and requirements in these WDRs. Minor changes or modifications in project activities are often required by the Permittee following start of construction. These deviations may potentially increase or decrease impacts to waters of the state. In such cases, a WDR Deviation, as defined in Section G of the WDRs, may be requested by the Permittee as set forth below:

Process Steps

Who may apply: The Permittee or the Permittee's designated representative or agent (hereinafter, "Permittee") for this Order.

How to apply: By letter or email to the 401 staff designated as the contact for this Order.

WDRs Deviation Request: The Permittee will request verification from the State Water Board staff that the project change qualifies as a WDRs Deviation, as opposed to requiring an amendment to the Order. The request should:

1. Describe the Project change or modification:
 - a. Proposed activity description and purpose;
 - b. Why the proposed activity is considered minor in terms of impacts to waters of the state and the environment;
 - c. How the Project activity is currently addressed in the Order; and,
 - d. Why a WDR Deviation is necessary for the Project.
2. Describe location (latitude/longitude coordinates), the date(s) it will occur, as well as associated impact information (i.e., temporary or permanent, federal or non-federal jurisdiction, water body name/type, estimated impact area, etc.) and minimization measures to be implemented.
3. Provide all updated environmental survey information for the new impact area.
4. Provide a map that includes the activity boundaries with photos of the site.
5. Provide verification of any mitigation needed according to the Order conditions.
6. Provide any other information required by State Water Board staff to determine whether the Project change or modification necessitates additional environmental review. (Cal. Code Regs., tit. 14, §§ 15061, 15162-15164.)

Action by State Water Board on Request: The State Water Board's Executive Officer will make a determination on the WDRs Deviation request within 10 working days from receipt of a complete request and notify the Permittee via email of the staff determination. Determination of whether or not a WDRs Deviation request is complete is at the discretion of the State Water Board Executive Officer.

Post-Discharge WDRs Deviation Reporting:

1. Within 30 calendar days of completing the approved WDRs Deviation activity, the Permittee will provide a post-discharge activity report that includes the following information:
 - a. Activity description and purpose;
 - b. Activity location, start date, and completion date;
 - c. Erosion control and pollution prevention measures applied;
 - d. Impacts to water body types if applicable;
 - e. Mitigation plan if applicable; and,
 - f. Map of activity location and boundaries; post-construction photos.

Action by Water Board on Post-Discharge Activity Report: State Water Board staff will review the post-discharge WDRs Deviation Report within 15 working days from receipt of a complete report. State Water Board staff will determine, in consultation with the Permittee and other regulatory agencies, if applicable, whether additional mitigation will be required. If additional mitigation is required, State Water Board staff will inform the Permittee within the 15-day review period. Determination of whether or not a post-discharge activity report is complete is at the discretion of State Water Board staff.

Annual Summary Deviation Report:

1. Until a Notice of Completion of Discharges Letter or Notice of Project Complete Letter is issued, include in the Annual Project Report (see Construction Notification and Reporting attachment) a compilation of all WDRs Deviation activities through the reporting period with the following information:
 - a. Site name(s).
 - b. Date(s) of WDRs Deviation approval.
 - c. Location(s) of authorized activities.
 - d. Impact area(s) by water body type prior to activity (for fill/discharge or excavation/dredge: acres, linear feet, and cubic yards) as originally authorized in the Order.
 - e. Actual impact area(s) by water body type (for fill/discharge or excavation/dredge: acres, linear feet, and cubic yards) due to WDR Deviation activity(ies).
 - f. The net change in impact area by water body type(s) (for fill/discharge or excavation/dredge: acres, linear feet, and cubic yards). An explanation will be required for any negative values.
 - g. Mitigation to be provided (approved mitigation ratio and amount).

Action by State Water Board on Annual WDR Deviation Report: Following issuance of a Notice of Completion of Discharges Letter or Notice of Project Complete Letter, the State Water Board's Executive Director may amend the Order to reflect all approved WDRs Deviations and the amended Order will serve as a record of actual Project activities.