

State of California
California Regional Water Quality Control Board
Santa Ana Region

March 22, 2013

ITEM: *10

SUBJECT: Renewal/Update of Waiver of Waste Discharge Requirements for Specific Types of Discharges, Resolution No. R8-2013-0015

DISCUSSION:

The Regional Board prescribes Waste Discharge Requirements for waste discharges in accordance with Section 13263 of the California Water Code. Many types of discharges, however, do not contain a significant amount of pollutants, and have no significant effect on the quality and beneficial uses of the waters of the State. It is in the best interest of the public and the Board not to expend the resources necessary to regulate discharges that have an insignificant potential to affect water quality standards.

Section 13269 of the California Water Code empowers the Regional Board to waive waste discharge requirements for specific types of discharges where such a waiver is in the public interest. Such waivers are conditional and may be terminated by the Board at any time.

It is important to emphasize also that each request for such a waiver would be considered on a case-specific basis by Regional Board staff. The Regional Board retains its authority to issue waste discharge requirements, or to take other requisite regulatory action, where site-specific conditions warrant. This is true even when the conditions specified in the waiver resolution are met. It is recognized that the waiver conditions may not anticipate all relevant factors (e.g., proximity to groundwater contamination plumes or to Clean Water Act Section 303(d) listed impaired waters) that may necessitate an independent regulatory response.

Water Code Section 13269 stipulates that all existing waivers must be reviewed at 5-year intervals and either renewed or terminated.

On September 7, 2007, the Regional Board adopted Resolution No. R8-2007-0036, which waived waste discharge requirements for specific types of discharges, provided that certain conditions stipulated in the resolution were met. Since Resolution No. R8-2007-0036 was adopted more than five years ago, the Regional Board must review the conditions specified in the resolution pursuant to Water Code Section 13269.

Accordingly, the 2007 list of specific types of discharges has been reviewed. The proposed Resolution No. R8-2013-0015 continues the criteria for waivers specified in Resolution R8-2007-0036 for the following types of discharges:

- a. Inert Waste Disposal Operations,
- b. Sand, Gravel, and Quarry Operations,
- c. Residential Onsite Wastewater Disposal Systems (septic tanks) Not Within Prohibition Areas,
- d. Industrial and Commercial Onsite Wastewater Disposal Systems (septic tanks) Not Within Prohibition Areas,
- e. Monitoring Well Purge water,
- f. Well Drill Cuttings,
- g. Incidental Discharge of Oily Wastewater During Oil Spill Response Activities, and
- h. Other Insignificant Discharges of Wastewater to Land (eg: potable water pipeline draining, groundwater dewatering, etc.).
- i. Groundwater Recharge Projects Using Imported Water

One additional type of discharge is being added to the list - Composting Research Projects.

Composting Research Projects are pilot projects that typically last one to three years, involve a small quantity of feedstock materials, and are conducted over a small area of land. These research projects are conducted strictly for information gathering, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded. As such, these projects are categorically exempted under Section 15306 (Information Collection) of the CEQA by the lead agencies conducting CEQA compliance. A waiver of WDRs is appropriate for this type of projects where insignificant threat to water quality is demonstrated through meeting the following conditions:

1. Active composting and curing materials, such as feedstocks, additives, and amendments, are stored and treated on working surface or composting pads(s) meeting a minimum hydraulic conductivity of 1×10^{-6} cm/s;
2. Compost leachate, wastewater, and stormwater runoff that comes into contact with raw, partial, and active composting materials are collected and stored in a wastewater containment system or basin having a liner meeting a minimum hydraulic conductivity of 1×10^{-6} cm/s;

3. The wastewater containment system shall be designed, constructed and maintained to contain runoff resulting from a 25-year, 24-hour storm event; and
4. No offsite discharge from the research project area is allowed unless the discharge is specifically permitted under an NPDES permit.

Board staff considered the merits of the development of general waste discharge requirements for one or more of the types of discharges identified in the proposed waiver resolution. The advantage of such an approach would be that general waste discharge requirements would not need to be revisited more than once every ten years, as opposed to the requirement to review the waiver resolution at least once every five years. However, considerable staff time would be required to develop general waste discharge requirements applicable to these discharges. Given that these discharges are not expected to have significant impacts on water quality standards, Board staff believes that it is a better use of the Board's resources to adopt and implement the proposed waiver resolution. Efficient use of the Board's resources is in the public interest.

The types of waste discharges listed in Attachment "A" to Resolution No. R8-2013-0015 were identified on the basis that they should not result in significant adverse environmental effects, provided that the criteria and conditions also listed in Attachment "A" are satisfied. Again, where site-specific conditions warrant, the Executive Officer may specify additional criteria and conditions.

The waiver of waste discharge requirements for the specific types of discharges identified in Attachment "A" will not affect the Regional Board's authority to regulate discharges where water quality or beneficial uses could be impacted. The Resolution explicitly grants the Executive Officer of the Regional Board the authority to deny waivers for specific projects and to recommend to the Regional Board issuance of individual waste discharge requirements, or coverage under applicable general waste discharge requirements, for projects determined to have the potential for significant impacts on the water quality standards of the State.

RECOMMENDATION:

Adopt Resolution No. R8-2013-0015 as presented.

Comments were solicited from the following agencies:

U.S. Army District, Los Angeles, Corps of Engineers, Regulatory Branch
U.S. Fish and Wildlife Service – Carlsbad
State Water Resources Control Board, Division of Water Quality – Vicky Whitney
State Water Resources Control Board, Office of the Chief Counsel – David Rice
California Department of Fish and Wildlife, Inland Desert Region – Kimberly Nicol
California Department of Fish and Wildlife, South Coast Region – Ed Pert
California Department of Public Health, San Bernardino – Sean McCarthy
California Department of Public Health, San Diego – Steven Williams
California Department of Public Health, Santa Ana – Anthony Nhan
State Department of Water Resources - Glendale
Orange County Health Care Agency – Oliver Pacifico
Orange County Public Works - Chris Crompton
Orange County Water District - Nira Yamachika/Greg Woodside/Marsha Westropp
Riverside County Environmental Health – John Watkins
Riverside County Flood Control and Water Conservation District – Jason Uhley
San Bernardino County Environmental Health Services – Josh Dugas
San Bernardino County Flood Control –Annesley Ignatius/Gia Kim
Santa Ana River Dischargers Association – Edward Filadelfia
Santa Ana Watershed Project Authority – Celeste Cantu
South Coast Air Quality Management District - Barry Wallerstein
Chino Basin Watermaster – Peter Kavounas
Inland Empire Waterkeeper – Megan Brousseau
Lawyers for Clean Water – Daniel Cooper
Orange County Coastkeeper – Garry Brown

State of California
California Regional Water Quality Control Board
Santa Ana Region

RESOLUTION NO. R8-2013-0015

Waiver of Waste Discharge Requirements
for Specific Types of Discharges

WHEREAS, the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. Section 13263(a) of the California Water Code requires Regional Boards to prescribe requirements for existing and proposed waste discharges in their respective areas of jurisdiction.
2. Section 13269 of the California Water Code authorizes Regional Boards to waive waste discharge requirements for a specific discharge or specific types of discharges where such a waiver is consistent with applicable water quality control plans and is in the public interest.
3. The waiver of waste discharge requirements for discharges that do not pose a significant threat to water quality would enable staff resources to be used effectively and avoid unnecessary expenditures of these limited resources and, thus, is in the public interest.
4. Section 13269 of the California Water Code requires Regional Boards to review and renew or terminate all waivers every five years and to conduct a public hearing prior to renewing any waiver for a specific type of discharge in order to determine whether the discharge should be subject to general or individual waste discharge requirements.
5. On September 7, 2007, the Regional Board adopted Resolution No. R8-2007-0036 for waiver of waste discharge requirements for specific types of discharges. Resolution No. R8-2007-0036 must be reviewed and updated to comply with Section 13269 of the California Water Code.
6. Attachment "A" to this Resolution lists specific types of discharges that are expected to continue to have an insignificant effect on the quality of waters of the State, provided the corresponding criteria and conditions are met. Each such discharge would be considered on a case-specific basis to determine whether and what additional conditions are required to protect the quality of waters of the State, or whether coverage under individual or general waste discharge requirements is necessary.

Resolution No. R8-2013-0015
Waiver of Waste Discharge Requirements

7. Waiving waste discharge requirements for the specific types of discharges listed in Attachment "A" is in the public interest. These discharges will not have an adverse impact on water quality standards or the environment, provided that the discharger satisfies the criteria and conditions identified in Attachment "A" and any additional conditions specified by the Executive Officer as the result of case-specific consideration of the proposed discharge. Further, the Executive Officer has the authority to deny a request for a waiver where such a waiver would not be in the public interest.
8. On September 6, 2002, the Regional Board adopted an Initial Study and Negative Declaration regarding the waiver of waste discharge requirements for the majority of the specific types of discharges listed in Attachment "A" in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) and the State Guidelines. The types of activities identified in Attachment "A" will not have a significant effect on the environment provided that they are conducted in conformance with the criteria and conditions specified in Attachment "A" and any additional criteria/conditions specified by the Executive Officer in issuing a waiver of waste discharge requirements.
9. This resolution waives waste discharge requirements for one additional type of discharge listed in Attachment "A", Composting Research Projects, to the specific types of discharges for which waste discharge requirements were waived under Resolution R8-2007-0036. The Composting Research Projects are conducted strictly for information gathering, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded. These projects are categorically exempt under Section 15306, Title 14, California Code of Regulations. Therefore, the adoption of this resolution to waive waste discharge requirements complies with the California Environmental Quality Act.
10. On March 22, 2013, the Board held a public meeting and considered all the evidence concerning this matter. Notice of this hearing was given to all interested persons in accordance with the California Government Code Section 11125.

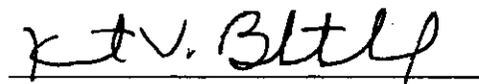
THEREFORE, BE IT RESOLVED that the California Regional Water Quality Control Board, Santa Ana Region:

1. Waives waste discharge requirements for the specific types of discharges listed in Attachment "A", except those for which individual waste discharge requirements or general waste discharge requirements have already been

Resolution No. R8-2013-0015
Waiver of Waste Discharge Requirements

- adopted. Waste discharge requirements are waived for each specific type of discharge listed provided that the corresponding criteria and conditions are met.
2. Waste discharge requirements for the specific types of discharges listed in Attachment "A" that were waived by previous resolutions adopted by the Regional Board continue, provided that the corresponding criteria and conditions continue to be met.
 3. For new discharges, waste discharge requirements for a specific discharge shall be considered waived only after a Report of Waste Discharge¹ is submitted and the Executive Officer determines that the conditions specified in Attachment "A" for the specific type of discharge will be met.
 4. Any action under this waiver is conditional and may be terminated for any type of discharge or any specific discharge at any time within the term of this waiver.
 5. Waste discharge requirements for a specific discharge shall be considered waived only after the Executive Officer determines that the conditions specified in Attachment "A" for the specific type of discharge will be met.
 6. The Executive Officer is authorized to deny a waiver of waste discharge requirements and to recommend the issuance of individual waste discharge requirements or coverage under general waste discharge requirements for projects that would result in the discharge of waste that may have a significant impact on the water quality standards of the State.

I, Kurt V. Berchtold, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Santa Ana Region, on March 22, 2013.



Kurt V. Berchtold
Executive Officer

¹ The need to file a formal Report of Waste Discharge, pursuant to CWC Section 13260, may be waived by the Executive Officer on a case-by-case basis.

Attachment "A" to Resolution No. R8-2013-0015

Specific Types of Discharges for Which Waste Discharge Requirements are Waived

TYPES OF DISCHARGE	CRITERIA AND CONDITIONS
<p style="text-align: center;">Inert Waste Disposal Operations</p>	<ol style="list-style-type: none"> 1. Only inert waste, as defined in Section 20230, Division 2, Title 27, of the California Code of Regulations, will be disposed of. No green waste, wood waste or gypsum board (or similar construction wastes) are allowed, 2. Controls sufficient to contain all surface runoff are installed, where necessary, and 3. The site will be adequately secured to prevent unauthorized disposal by the public.
<p style="text-align: center;">Sand, Gravel, and Quarry Operations</p>	<ol style="list-style-type: none"> 1. All operations and wash waters are contained within the facility, 2. No waste discharge (including storm water runoff from operations areas) to surface waters will occur, and 3. Stockpiles and settling basins will be protected from inundation from 100-year peak storm flows.
<p style="text-align: center;">Residential Onsite Wastewater Disposal Systems (septic tanks) Not Within Prohibition Areas</p>	<ol style="list-style-type: none"> 1. Developments comply with the Regional Board's "Guidelines for Sewage Disposal from Land Developments", and 2. Developments comply with the Regional Board's "Minimum Lot Size Requirements and Exemption Criteria for New Developments Using On-Site Septic Tank-Subsurface Leaching/Percolation Systems".
<p style="text-align: center;">Industrial and Commercial Onsite Wastewater Disposal Systems (septic tanks) Not Within Prohibition Areas</p>	<ol style="list-style-type: none"> 1. Only sanitary wastes to be discharged into the septic systems, 2. Developments comply with the Regional Board's "Guidelines for Sewage Disposal from Land Developments", and 3. Developments comply with the Regional Board's "Minimum Lot Size Requirements and Exemption Criteria for New Developments Using On-Site Septic Tank-Subsurface Leaching/Percolation Systems".

TYPES OF DISCHARGE	CRITERIA AND CONDITIONS
Monitoring Well Purge Water	<ol style="list-style-type: none"> 1. Purge water is discharged to the ground in a manner so that it will percolate back into the aquifer in the same general area from which it came, and 2. Adequate measures will be taken to prevent purge water from reaching surface waters.
Well Drill Cuttings	<ol style="list-style-type: none"> 1. Cuttings determined not to be considered as hazardous waste, and 2. Cuttings disposed of or used in a manner so as to not affect water quality or beneficial uses.
Incidental Discharge of Oily Wastewater During Oil Spill Response Activities	<ol style="list-style-type: none"> 1. Discharges occur during an oil spill response activity, and 2. Discharges are within or proximate to the oil spill response area.
Composting Research Projects	<ol style="list-style-type: none"> 1. Active composting and curing materials, such as feedstocks, additives, and amendments, are stored and treated on working surface or composting pads(s) meeting a minimum hydraulic conductivity of 1×10^{-6} cm/s; 2. Compost leachate, wastewater, and stormwater runoff that comes into contact with raw, partial, and active composting materials are collected and stored in a wastewater containment system or basin having a liner meeting a minimum hydraulic conductivity of 1×10^{-6} cm/s; 3. The wastewater containment system shall be designed, constructed and maintained to contain runoff resulting from a 25-year, 24-hour storm event; and 4. No offsite discharge from the research project area is allowed unless the discharge is specifically permitted under an NPDES permit.

TYPES OF DISCHARGE	CRITERIA AND CONDITIONS
<p>Groundwater Recharge Projects Using Imported Water</p>	<ol style="list-style-type: none"> 1. Any agency that intentionally recharges imported water within the Santa Ana Region will collect, compile, and analyze N/TDS and constituents of emerging concern (CECs) water quality data necessary to determine whether the intentional recharge of imported water in the Region may have a significant adverse impact on compliance with the N/TDS objectives within the Region, and 2. The recharge proponent must be a signatory to the Cooperative Agreement to Protect Water Quality and Encourage the Conjunctive Uses of Imported Water in the Santa Ana River Basin, or a similar agreement with the Regional Water Board.
<p>Other Insignificant Discharges of Wastewater to Land (eg: potable water pipeline draining, groundwater dewatering, etc.)</p>	<ol style="list-style-type: none"> 1. All wastewater discharged in a manner so that it will percolate into the ground before reaching surface waters, and 2. All wastewater disposed of or used in a manner so as to not affect water quality or beneficial uses.

The following conditions apply to all of the above types of discharges:

1. Implementation of the project shall not create a nuisance or pollution as defined in the California Water Code Section 13050.
2. The project shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Regional Board or the State Water Resources Control Board, as required by the Clean Water Act.
3. The discharge of any substance in concentrations toxic to animal or plant life is prohibited.
4. The waiver of waste discharge requirements may be terminated by the Executive Officer at any time.
5. Discharges subject to discretionary approval by other agencies will be eligible for a waiver only after the completion of any documentation required by the California Environmental Quality Act.
6. Compliance with the criteria and conditions identified for each type of discharge does not guarantee issuance of a waiver. Each waiver request will be considered on a case-specific basis. The Executive Officer, at his/her discretion, may deny the request for a waiver and recommend coverage of the discharge under an individual waiver, or coverage under individual or general waste discharge requirements as appropriate to protect water quality.