

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING - DIVISION OF WATER QUALITY
JULY 21, 2005

ITEM 9

SUBJECT

CONSIDERATION OF A RESOLUTION AMENDING THE STATE WATER BOARD'S STATE POLICY FOR WATER QUALITY CONTROL FOR REGULATION OF MUNICIPAL SOLID WASTE

DISCUSSION

The proposed resolution is an amendment of a policy for water quality control that adds certain federal requirements to the State Water Resource Control Board's (State Water Board's) requirements for municipal solid waste (MSW) landfills. The federal Solid Waste Disposal Act (42 USC §6945) requires each state to adopt and implement a program to assure that each MSW landfill will comply with the federal MSW landfill regulations. Once a state adopts such a program, the U.S. EPA can grant the state "approval"; thereafter, dischargers meeting the state's MSW regulations can be assumed to have also met the federal MSW regulations. In addition, an approved state can issue permits based on alternatives that comply with performance standards in the federal MSW regulations. This flexibility is unavailable to states that lack an approved program. In 1991, U.S. EPA promulgated self-implementing federal MSW landfill regulations. These regulations apply, in California, to persons who own or operate Class II or Class III MSW landfills, regardless of whether a Regional Water Resources Control Board (Regional Water Board) has issued Waste Discharge Requirements (WDRs) for the discharge of waste. Most provisions of the federal MSW regulations became effective October 9, 1993.

Early in 1993, the California Integrated Waste Management Board (CIWMB) and the State Water Board submitted a joint application to U.S. EPA requesting approval of California's existing solid waste program. The U.S. EPA identified several areas of the State Water Board's and the CIWMB's regulations as not functionally equivalent to the federal MSW landfills regulations. This lack of equivalency precluded the U.S. EPA from approving California's program.

The State Water Board addressed the deficiencies in its Chapter 15 regulations by adopting Resolution 93-62 as State Policy for Water Quality Control, under Water Code §13140. Upon review of the CIWMB's and State Water Board's revised application, the U.S. EPA granted California "approved state" status in early October 1993, just days before the federal MSW landfill regulations began to take effect.

In 2004, the U.S. EPA promulgated a new section of the MSW regulations [40CFR§258.4] which allows an "approved state" to allow landfill owners and operators to experiment with certain advanced operational methods not otherwise allowed under federal regulations by adopting a "Research, Development, and Demonstration Permit."

The proposed revisions to Resolution No. 93-62:

- a) incorporate the new federal section into the list of federal sections (in the appendix to the resolution) that the Regional Water Boards are to implement. This incorporation will ensure that the State Water Board can obtain “approved state” status regarding the new federal section;
- b) make minor formatting changes; and
- c) revise its references to the State Water Board’s MSW landfill regulations to reflect their location in Title 27 rather than Title 23.

Under the new federal section, an MSW landfill owner or operator can petition a Regional Water Board to adopt revised waste discharge requirements (WDRs) that allow research, development, and demonstration (RD&D) of new technology/approaches dealing with stormwater run-on systems, final cover systems, or the acceptance of liquid waste (RD&D WDRs). The State Water Board’s existing U.S. EPA-approved program already allows alternative final cover systems and imposes run-on requirements that are more stringent than in the federal regulations. Therefore, variance from those federal requirements has no effect at a California landfill.

There could be a material change in waste discharge at a landfill that received a variance from the federal liquid restrictions. The State Water Board regulations from 1993 set a limit on liquids acceptance as the moisture-holding capacity of the waste in a landfill. In addition, a landfill was allowed to accept any nonhazardous liquid waste as long as the limit on liquids acceptance was not exceeded. The federal liquids restriction from 1993 banned all liquids in landfills, except water and recycled leachate from the landfill. The effect of adoption of the proposed amendment of Resolution 93-62 to include the federal RD&D variance for liquids restrictions again would allow acceptance of any liquid nonhazardous waste as long as the moisture-holding capacity of the waste in a landfill is not exceeded.

POLICY ISSUE

Should the State Water Board adopt the proposed Policy as amended?

FISCAL IMPACT

Adopting the proposed Policy as amended will not result in an additional fiscal burden upon the regulated community and may provide a cost savings for those landfill operators that operate under its new allowances. Any such cost savings will be site-specific.

REGIONAL WATER BOARD IMPACT

Yes. This activity is budgeted within existing resources for regular revisions of WDRs of existing MSW landfills. However, dischargers may propose to implement the newly allowed

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operational methods sooner than the regularly scheduled revision of WDRs. The workload within each Regional Water Board would be shifted to accommodate early WDR revisions.

STAFF RECOMMENDATION

That the State Water Board adopt the proposed Policy as amended.