

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF SEPTEMBER 9, 2005

Prepared on July 27, 2005

ITEM NUMBER: 25

SUBJECT: Resolution No. R3-2005-0013; Proposed Amendment to the Water Quality Control Plan, Central Coast Region (Basin Plan) – Repeal Basin Plan Resolution No. 73-05 and Section 5(f) of Basin Plan Resolution No. 89-04

KEY INFORMATION:

Location: Central Coast Region
Type of Waste: All Oil Field Wastes, including "Clean, Fresh-Water Drilling Mud" and "Clean Oil"

SUMMARY

Central Coast Water Board (Water Board) staff proposes amendment of its Water Quality Control Plan (Basin Plan) by adopting Resolution No. R3-2005-0013. Adoption of this resolution is a ministerial act for two reasons: a) no one can legally discharge or beneficially reuse oil field materials under the old program (pursuant to the Executive Officer's letter dated October 22, 2002) and b) all waivers of waste discharge requirements expired on January 1, 2003 (pursuant to California Water Code Section 13269). By adopting this resolution, outdated language in the Basin Plan will be eliminated.

Also on September 9, 2005, Water Board staff proposed a general waiver to regulate waste piles (Waste Pile Waiver), and a general waiver to regulate beneficial reuse of oily waste (Reuse Waiver). The general waivers will supercede the outdated Resolutions and the new program will protect water quality.

Background

On December 14, 1973, the Water Board adopted Resolution No. 73-05, a policy regarding beneficial use of oil field waste materials in the Santa Maria Valley.

Subsequently, on November 17, 1989, the Water Board adopted Resolution No. 89-04, which expanded that policy to apply throughout the region. Resolution Nos. 73-05 and 89-04 are included as Attachments 1 and 2 of the staff report.

Resolution No. 73-05 limits oil field waste material reuse to: (a) clean, fresh-water drilling mud removed from the drilling of an oil well prior to the time that the first production string of casing is installed, and (b) clean oil, not mixed with contaminants such as salt brines or toxic materials. Provisions in Resolution No. 73-05 include:

- (1) Approval of sites suitable for disposal of different kinds of liquid waste;
- (2) A mandate that all oil field waste be disposed of at Class I or Class II facilities; and
- (3) Identification of a specific procedure under which the Executive Officer may waive Waste Discharge Requirements (WDRs) for beneficial use of fresh-water drilling mud and clean oil.

The purpose of this Basin Plan amendment is to repeal text referring to the oil field

beneficial reuse policies, repeal Resolution No. 73-05 (Appendix A-16), and repeal section 5(f) of Resolution No. 89-04 (Appendix A-17) immediately. Water Board staff will regulate discharges of petroleum-impacted soils to waste piles, treatment and/or processing areas on oil-field properties via waivers of WDRs. At the September 9, 2005 meeting, the Water Board will consider issuance of WDR waivers pertaining to the regulation of oil field wastes. The Basin Plan amendment, Resolution No. R3-2005-0013, is included as Attachment 3. In compliance with the Basin Planning process, the Basin Plan Environmental Checklist is included as Attachment 4.

Adoption of this resolution is a ministerial act that is not subject to the California Environmental Quality Act (CEQA). Adoption of this resolution is also not a "project" that requires compliance with CEQA (California Public Resources Code §21000 et seq.). The Water Board is not directly undertaking an activity, funding an activity or issuing a permit or other entitlement for use (Public Resources Code section 21065; 14 California Code of Regulations [CCR] §15378).

Due to the Executive Officer's October 22, 2002 letter, no one can legally discharge pursuant to Resolution Nos. 73-05 and 89-04]. The Water Board is not approving any activity (14 CCR §15352). This is a clerical amendment to bring the Basin Plan into compliance with current law (see "Why Update the Basin Plan?" section below).

Water Board staff has also prepared a general waiver to regulate waste piles (Waste Pile Waiver), and a general waiver to regulate beneficial reuse of oily waste (Reuse Waiver). The Waste Pile and Reuse Waivers supercede the outdated Resolutions. Water Board staff has prepared documentation to comply with the CEQA for those two projects.

DISCUSSION

Why Update the Basin Plan?

The specific reasons that a repeal of Resolution No. 73-05 and section 5(f) of Resolution No. 89-04 is necessary are as follows:

1. An important part of the findings in Resolution No. 73-05 is based on repealed statutes, California Water Code (CWC) sections 14040 and 14041. These statutes mandate water boards to identify sites for disposal of hazardous waste. This requirement appears to be an important basis for the Water Board's determination that all oil field waste must go to Class I and Class II facilities. This regulatory mandate no longer exists. Extensive amendments to then-Sub-chapter 15 of Title 23 of the CCR provided a method for case-by-case determinations of which types of waste, including liquid wastes, had to be disposed at which class of facility. Additionally, the Toxic Pits Cleanup Act stringently regulates storage or disposal of liquid hazardous wastes in surface impoundments.
2. The requirement to dispose of all oilfield waste to Class I or Class II units is more stringent than necessary to reasonably protect water quality. Today, regulations regarding the disposal of waste to land are found in Title 23, CCR, Chapter 15 (hazardous waste) and CCR Title 27 (non-hazardous waste). These regulations provide for flexibility necessary for management, treatment and disposal of the wide range of wastes found at oil fields. For example, soils containing refined petroleum products may be treated in waste piles or land treatment units after which they may be clean enough for reuse or disposal in Class III waste management units.

3. The limited exemption only for fresh-water drilling mud and clean oil is too narrow. Other types of oil field waste may be reused without significant risk of harming water quality, such as sands containing crude oil. Repeal of this broad prohibition with such a narrow exception would allow the Water Board flexibility needed to regulate oil field waste reuse and disposal while protecting water quality.
 4. Amendments to CWC section 13269 mandated that all waivers of waste discharge requirements would expire on January 1, 2003. Thus the waiver provisions of Resolution No. 73-05 are no longer in effect. Thus, only the provision mandating disposal of all oil field waste to Class I and Class II facilities is still effective. The exception for certain drilling mud and clean oil still exists but Resolution 73-05 as a whole appears to condition reuse of those wastes on its detailed waiver procedure. That procedure is now void. In order to avoid confusion in the future, Resolution No. 73-05 should be repealed.
 5. If Resolution No. 73-05 is repealed, adequate water quality protection from discharges of oil field waste is provided under other provisions of the Basin Plan, laws and regulations. Basin Plan provisions must be implemented in WDRs or waivers of WDRs, and the Waste Pile and Reuse Waivers that Water Board staff are proposing. Some Basin Plan water quality objectives that protect ground water and fresh surface waters from oil field waste include prohibition of discharge of toxic chemicals in toxic amounts, discharge of hazardous wastes in excess of maximum contaminant levels and discharge of chemicals imparting undesirable tastes and odors. Ocean Water Quality is protected by water quality objectives in the State Water Board's Ocean Plan, which is incorporated into the Basin Plan. The Basin Plan contains other water quality protections, including a prohibition against the discharge of oil or any residual products of petroleum except in accordance with waste discharge requirements or other provisions of the Porter-Cologne Act. (Basin Plan, Chapter V., section IV.A.)
 6. As previously noted in Paragraph 1 above, the Toxic Pits Cleanup Act stringently regulates discharges of liquid hazardous wastes to surface impoundments. CCR Title 23, Chapter 15 and CCR Title 27 provide detailed regulation for storage and disposal of hazardous and non-hazardous wastes to land.
 7. In the case of reuse of oil field materials, the intent is that there not be a disposal or discharge to ground or surface waters. The Waste Pile and Reuse Waivers are drafted to ensure that reuse is carried out so that there will be no discharges in violations of water quality objectives and prohibitions.
- In conclusion, Resolution No. 73-05 should be repealed because its waiver portion has already been repealed by statute. The remaining requirement that all oil field waste be disposed at a Class I or Class II facility is too rigid and is not necessary to reasonably protect water quality. In addition, adequate protection is provided by other Basin Plan provisions as well as other laws and regulations.

Economic Effects of the Amendment

The effect of the amendment will be throughout the Central Coast Region. However, over 30 oil companies (ranging from large to small oil producers) currently operate oil production facilities in San Luis Obispo and Santa Barbara Counties. There are less significant oil field operations in southern Monterey County. These oil field operations will be most affected by repeal of Resolution

No. 73-05 and Section 5(f) of Resolution No. 89-04.

As part of its implementation of the Resolution Nos. 73-05 and 89-04, the Water Board entered into an interagency coordination agreement with the Santa Barbara County Fire Protection Division (FPD) regarding oil field decommissioning in December 1998.

For unknown reasons, a few oil field operators did not comply with the criteria used to determine if petroleum wastes were appropriate for reuse. The operators' noncompliance resulted in unauthorized discharges of petroleum wastes to land, groundwater, and surface water. In order to prevent recurrence of these incidents, the Executive Officer's letter dated October 22, 2002, withdrew any reuse approval granted in the past to oil field operations in Santa Barbara County. In addition, the Water Board's approval of Santa Barbara County FPD's oil field re-use program was postponed until further update and review of the re-use material acceptance criteria was performed and the program re-instated. Since October 2002, oil field operators have had to dispose of petroleum wastes at landfills and not beneficially reuse the petroleum materials (such as for road materials).

In September 2005, the Water Board will consider adopting general WDR waivers for soils containing crude oil at oil field properties. Dischargers will be required to submit a Report of Waste Discharge and appropriate filing fee, based on the level of complexity and threat to water quality.

In addition, in June and July 2005, Water Board staff met with Santa Barbara County FPD, Santa Barbara County Energy Division, and Division of Oil and Gas and Geothermal Resources staff. The agencies plan to develop an interagency coordination agreement for oil field waste pile and reuse program oversight management and coordination.

ENVIRONMENTAL SUMMARY

A Notice of Public Hearing has been circulated (Attachment 4). A Notice of Filing,

this staff report, and Environmental Checklist were prepared and circulated by Water Board staff to interested agencies and persons prior to consideration of the Basin Plan Amendment by the Central Coast Water Board. This will satisfy the environmental documentation requirements of the Basin Planning process and the Federal Clean Water Act.

COMMENTS

On June 3, June 22, and July 12, 2005, Water Board staff hosted three workshops to discuss the Basin Plan Amendment and Waste Pile and Reuse Waivers, all pertaining to oil field wastes.

Verbal comments during the workshops pertained solely to the Waste Pile and Reuse Waivers. Written public comments were due by July 27, 2005. No written comments were received pertaining to the Basin Plan Amendment.

On September 9, 2005, the Water Board will consider adoption of the Basin Plan Amendment, Waste Pile and Reuse Waivers, pertaining to oil field wastes.

RECOMMENDATIONS

Adopt Resolution No. R3-2005-0013, as proposed.

ATTACHMENTS

1. Resolution No. 73-05.
2. Resolution No. 89-04.
3. Draft Resolution No. R3-2005-0013, with attachments:
 - Attachment 1: Basin Plan Amendment, Section VI.C, page V-17
 - Attachment 2, Basin Plan Amendment, Resolution No. 73-05
 - Attachment 3, Basin Plan Amendment, Resolution No. 89-04
 - Attachment 4, Report for Basin Plan Amendment (including the Environmental Checklist)
4. Hearing Notice dated June 16, 2005