

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

STAFF REPORT FOR REGULAR MEETING OF MAY 9, 2008

Prepared on April 16, 2008

ITEM NUMBER: 12

SUBJECT: General Waiver For Specific Types Of Discharges, Resolution No. R3-2008-0010 (General Waiver)

SUMMARY

In general, persons who discharge waste that could affect the waters of the state must submit a report of waste discharge and obtain waste discharge requirements. Section 13269 of the California Water Code allows regional water boards to waive the requirement to submit a report of waste discharge and to obtain waste discharge requirements for specific discharges or specific types of discharges. Such waivers must be conditional, must be in the public interest, must be consistent with the water quality control plan (Basin Plan), may not exceed five years in duration, but may be renewed by a regional water board. Prior to renewing a waiver for specific type of discharge, also known as a general waiver, the regional water board must review the terms of the waiver at a public hearing. Staff is presenting this item to the Central Coast Water Board to renew the terms of Resolution No. R3-2002-0015, a general waiver of waste discharge requirements established by the Central Coast Water Board in 2002.

Proposed Resolution No. R3-2008-0010 will replace Resolution No. R3-2002-0115, *General Waiver for Specific Types of Discharges* (General Waiver). Staff proposes that the renewed General Waiver retain the existing discharge categories. These discharges pose no significant water quality impacts.

In addition to the discharges identified in the existing General Waiver, staff proposes to include discharges associated with the use of materials for in-situ bioremediation, chemical oxidation, chemical reduction, or tracer compounds. These materials are injected into the subsurface for the specific purpose of accelerating groundwater cleanup at cases under regulation by the Central Coast Water Board. The uses of these materials, for groundwater cleanup activities consistent with the conditions, are not expected to pose a significant threat to water quality.

BACKGROUND

California Water Code Section 13263 provides Regional Boards with authority to issue waste discharge requirements for any discharge, other than into a community sewer system, that could affect the quality of waters of the state. However, Section 13269 allows Regional Boards to waive the requirement to submit a report of waste discharge and the requirement to obtain waste discharge requirements for specific discharges or for specific types of discharges where such action is in the public interest.

In 2002, the Central Coast Water Board adopted Resolution No. R3-2002-0115, *General Waiver for Specific Types of Discharges*. In Resolution R3-2002-0115, the Water Board conditionally waived waste discharge requirements for the following specific types of discharges:

- Directional drilling muds
- Highway grinding slurry
- Highway grooving residues
- Sediment removal
- Treated groundwater
- Monitoring well development and aquifer pumping test water
- Fire sprinkler water
- Inert waste
- Residential swimming pool water
- Water supply discharges
- Water supply well drilling muds

PROPOSED GENERAL WAIVER

The continued regulation of these activities as proposed in Resolution No. R3-2008-0010 is in the public interest. Discharges meeting applicable conditions have no significant water quality impacts; therefore, those discharges are more appropriately and efficiently regulated through a general waiver than through individual or general waste discharge requirements.

General waivers allow flexibility to the Water Board to direct regulatory resources toward potential problems rather than regulating waste discharges that pose a very low threat to water quality. To use available resources effectively, staff proposes the following procedure in the General Waiver:

1. Waste discharge requirements [Water Code Section 13263(a)] are waived for discharges listed in Attachment A, Section B. Applicants seeking enrollment in this General Waiver are required to submit a report of waste discharge that provides sufficient information to demonstrate compliance with the appropriate waiver conditions. The report of waste discharge shall include a one-time fee equal to the minimum annual fee identified in the fee schedule (Title 23, Division 3, Chapter 9, Article 1, Section 2200.6 of the California Code of Regulations). Applicants are not authorized to discharge pursuant to this General Waiver until the Executive Officer issues a Notice of Applicability notifying the applicant that they have been enrolled.
2. Reports of waste discharge, waste discharge requirements, and enrollment notification [Water Code Section 13260(a) and (b), 13263(a), and 13264(a)] are waived for discharges listed in Attachment A, Section C. Provided all conditions are met, these dischargers need not apply to the Central Coast Water Board, pay fees, or receive a waiver enrollment notification.
3. Waste discharge requirements [Water Code Section 13263(a)] are waived for discharges listed in Attachment A, Section D. Applicants seeking enrollment in this General Waiver are required to submit a report of waste discharge, cleanup workplan or other documentation that provides sufficient information to demonstrate compliance with the appropriate waiver conditions. Enrollment under Section D does not require a fee payment. However, in most cases Water Board staff oversight costs will be reimbursed through the cleanup cost recovery program. Applicants are not authorized to discharge pursuant to this General Waiver until the Executive Officer issues a Notice of Applicability notifying the applicant that they have been enrolled.
4. The Executive Officer may tentatively enroll proposed discharges not listed in Attachment A, provided the discharges meet all general conditions listed in Attachment A, Section A, and any additional site-specific or discharge-specific conditions prescribed by the Executive Officer. These discharges require a report of waste discharge including a one-time fee equal to the minimum annual fee identified in the fee schedule (Title 23, Division 3, Chapter 9, Article 1,

Section 2200.6 of the CCR). Tentative enrollment will be brought before the Central Coast Water Board at a regularly scheduled meeting for formal approval.

5. Central Coast Water Board staff will continue to track waiver enrollees through the use of the California Integrated Water Quality System (CWIQS) database.
6. Issuance of a waiver will not override other more stringent local, state, or federal regulations prescribed by other agencies or departments.

Where waste discharge requirements have been issued by the Central Coast Water Board, the discharger may not obtain a waiver of those waste discharge requirements without approval by the Central Coast Water Board following a public hearing. Thus, the procedure described above cannot be used to modify any existing order of the Central Coast Water Board. Past self-monitoring reports and inspection reports will be used in evaluating whether a waiver or waste discharge requirements is appropriate for the discharge.

ENVIRONMENTAL SUMMARY

A Notice of Public Hearing, Notice of Filing, Environmental Checklist, Notice of Completion, and Draft Negative Declaration have been prepared and circulated to interested agencies and persons as described below ("Notification and Written Comments"). This satisfies the environmental documentation requirements of the California Environmental Quality Act (Public Resources Code Section 21080.5). The Central Coast Water Board will consider adopting a Negative Declaration with Resolution R3-2008-0010 at the May 9, 2008 Board Meeting.

NOTIFICATION AND WRITTEN COMMENTS

The Central Coast Water Board has notified the interested agencies and persons of its intent to waive waste discharge requirements for discharges identified in Attachment A and have provided an opportunity to submit written comments. The draft General Waiver was posted on the Central Coast Water Board website on February 13, 2008. Notification was provided through direct mailing to 65 interested agencies and persons, which included non-governmental organizations, municipalities, private companies, water supply agencies, wineries, and other existing waiver enrollees. Written comments were due no later than March 14, 2008. Written comments from three agencies are discussed below. The proposed General Waiver reflects staff's corrections of typographical errors and minor revisions; as these changes did not significantly alter the General Waiver, they are not discussed below.

Information in brackets preceding each comment refers to the section of the February 11, 2008 draft General Waiver to which the comment applies.

Santa Clara Valley Water District (District)

1. [Attachment A – Section B. Treated Groundwater] The District recommends inserting language addressing the re-injection of treated groundwater complying with any local or regional agency requirements.

Staff Response: Staff concurs and included, in Section A of Attachment A, a general condition that states, "This General Waiver does not supersede any local or regional requirements that are more stringent."

2. [Attachment A – Section B. Treated Groundwater] The District recommends requiring treated groundwater discharges be analyzed for all compounds listed in California Code of Regulations,

Title 22. The District believes this language should be consistent with language stated in the Attachment A Section B.6.a *Monitoring Well Development and Aquifer and Well Pumping Test Water*.

Staff Response: Section B.5 and B.6 both include requirements for the discharger to conduct sampling prior to discharge, completely characterizing the nature of the waste constituents that might be discharged. To clarify, the Central Coast Water Board requires the sampling in order to monitor for waste constituents of concern that are likely present at the site. The intent is not to require the discharger to sample for every compound with a public health goal, maximum contaminant level, etc. Therefore, staff has updated the General Waiver to include the following language: "For wells in areas of known or suspected pollution or wells associated with groundwater cleanup projects, prior to discharge, the applicant must submit data completely characterizing the nature of the waste constituents that might be discharged. Samples must be analyzed for waste constituents of concern known to be present at the site and other constituents as specified by the Executive Officer."

3. [Attachment A – Section D. Addition of Materials for In-Situ Remediation] The District requests that it receive notification from Central Coast Water Board staff of any in-situ bioremediation projects within the Llagas Subbasin as there is a potential that injected material may escape the treatment zone.

Staff Response: The General Waiver includes the condition that Central Coast Water Board staff will notify any potentially affected water management agency prior to enrolling the discharge. The discharger must provide local water management agency contact information to Central Coast Water Board staff.

4. [Attachment A – Section D. Addition of Materials for In-Situ Remediation] The District recommends removing the nitrate remediation compound from the approved compounds list (Section D.1.c. of Attachment A). The District opposes the intentional addition of nitrate materials for remediation activities in certain areas, specifically, the Llagas Subbasin. The addition of nitrate materials may elevate nitrate concentrations potentially degrading existing conditions.

Staff Response: Staff concurs and removed the constituent, as nitrate is a common contaminant of concern in the Central Coast Region.

TN and Associates, Inc.

1. [Attachment A – Section D. Addition of Materials for In-Situ Remediation] TN and Associates, Inc. recommended adding in-situ thermal remediation (electrical heating projects) activities to the General Waiver. Electrical heating increases the temperature of the soil and groundwater by conducting current.

Staff Response: At this time, staff recommends not including these types of technologies in the General Waiver. On March 21, 2008, staff discussed our reasons for not including thermal heating with TN and Associates, Inc. There are no sites within our Region which have used this technology at a cleanup site. The monitoring and technology is significantly different from the chemical oxidation and biological processes described in the General Order. Staff supports the technology; however, it is more appropriate for staff to review electrical heating on a case-by-case basis.

Vandenberg Air Force Base (Base), Environmental Compliance

1. [Attachment A – Section D. Addition of Materials for In-Situ Remediation] Base cleanup staff provided comments via email on March 17, 2007. The Base recommended including bacteria as a material used for in-situ remediation.

Staff Response: Central Coast Water Board staff modified the proposed General Waiver to include bacteria as a material that can be added to the subsurface for the purpose of enhancing cleanup. Bacteria have been amended to groundwater at cleanup sites in the Central Coast Region; the addition is known as bioaugmentation, which has been shown to work at cleanup sites at the Base.

2. [Attachment A – Section D. Addition of Materials for In-Situ Remediation] The General Waiver includes a statement that enrollment will subject the discharger to a public comment period and notification at Central Coast Water Board meetings. The Base commented that pilot test and treatability studies generally do not go through the public review process, and that the requirement for public notification may impact the timeframe for treatability studies.

Staff Response. Similar to other cleanup cases, staff will notify the Central Coast Water Board of the proposed cleanup plan in a written summary included in the "Cleanup Cases, Closures and Corrective Action Plan Approvals" section of the Central Coast Water Board agenda. Notification to the Central Coast Water Board in the agenda will constitute public notification and opportunity to comment consistent with the process outlines on page 12, No. 12, Attachment A.

3. The Base noted that the language in Attachment A, Section D.3.d., "the discharge of any material other than the material identified and concurred with in the cleanup workplan is prohibitive," may be too restrictive. The Base asked if it was sufficient, if there were minor changes to the material injected, to notify the Central Coast Water Board in a field modification report.

Staff Response: Central Coast Water Board staff included a condition in Attachment A, Section D.3. that the discharger must submit a written request (i.e., workplan addendum or field modification report) to the Executive Officer if changes to the workplan are proposed. The discharger must receive approval from the Central Coast Water Board Executive Officer prior to implementing the requested change. Also, Attachment A, Section A. General Wavier Conditions No. 13 includes a requirement to notify the Executive Officer whenever there is a substantial change in the volume or character of the enrolled discharge.

RECOMMENDATION

Adopt Resolution No. R3-2008-0010.

ATTACHMENTS

Attachment 1: Resolution No. R3-2008-0010

Attachment 2: Attachment A – Discharge Conditions

Attachment 3: Attachment B – Enrollment Requirements

Attachment 4: Environmental Documents (Negative Declaration)