

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2002-0147

RENEWING THE CONDITIONAL WAIVERS OF WASTE DISCHARGE  
REQUIREMENTS FOR PESTICIDE APPLICATOR FACILITIES AND RETAIL  
FERTILIZER FACILITIES

WHEREAS, Section 13269 of the California Water Code authorizes the Regional Water Quality Control Board, Central Valley Region (Regional Board) to waive Waste Discharge Requirements for a specific discharge or a specific type of discharge if the following conditions are met: 1) the waiver is not against the public interest, 2) the waiver is conditional and may be terminated at any time, 3) compliance with waiver conditions is required, and 4) a public hearing has been conducted; and

WHEREAS, California Water Code Section 13269(f) requires the Regional Board to review the terms of the waiver policy at a public hearing prior to renewing any waiver for a specific type of discharge and at the hearing the Board must also determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements; and

WHEREAS, retail fertilizer facilities and pesticide applicator facilities generate waste associated with equipment washing and the mixing, transport and application of materials; and

WHEREAS, the waste generated has the potential to adversely affect water quality if improperly managed; and

WHEREAS, management practices have been developed to control wastes produced by retail fertilizer facilities and pesticide applicator facilities and included as conditions in conditional waivers adopted by the Regional Board; and

WHEREAS, in 1989 the Board adopted Resolution No. 89-246 approving a Negative Declaration and Resolution No. 89-247 adopting a Conditional Waiver of Waste Discharge Requirements for Retail Fertilizer Facilities; and

WHEREAS, in 1990 the Board adopted Resolution No. 90-033 approving a Negative Declaration, and Resolution No. 90-034 adopting a Conditional Waiver of Waste Discharge Requirements for Pesticide Applicator Facilities; and

WHEREAS, those waivers included conditions intended to prevent pollution and avoid costly cleanups; and

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WHEREAS, the existing waivers will automatically sunset on 1 January 2003 unless the Regional Board chooses to renew them; and

WHEREAS, no information has been received indicating that existing waiver conditions fail to be protective of water quality; and

WHEREAS, implementation of waiver conditions is believed to be protective of water quality but this has not been verified; and

WHEREAS, no monitoring has been conducted to verify that management practices are protective of water quality but there is insufficient time to conduct monitoring prior to the sunset date of the existing waivers; and

WHEREAS, compliance with waiver conditions is believed to be widespread but compliance inspections have not been conducted at these sites for over five years; and

WHEREAS, resources are currently available to conduct monitoring and perform data analysis during the next two years; and

WHEREAS, the Regional Board intends to conduct a study using contract services to evaluate the effectiveness of the existing waiver conditions; and

WHEREAS, the Regional Board has considered whether individual Waste Discharge Requirements or general Waste Discharge Requirements should be developed for these categories of dischargers; and

WHEREAS, new information is being collected to evaluate the effectiveness of the existing waiver conditions and until collected there is no basis to revise the existing conditions and/or adopt general waste discharge requirements; and

WHEREAS, renewal of the existing conditional waivers will provide a basis for enforcement pending review of the effectiveness of the existing waiver conditions; and

WHEREAS, individual waste discharge requirements may be adopted at any time; and

WHEREAS, California Water Code Section 13269 allows waivers in effect 1 January 2000 to be renewed after review of the waiver policy; and

WHEREAS, neither a subsequent Negative Declaration or Environmental Impact Report is necessary to renew the existing conditional waivers because, at this time, (1) there are no substantial changes in the project or the circumstances of the project due to new significant environmental effects or substantial increase in the severity of previously identified environmental effects and (2) there is no new information of substantial importance not previously known that would require additional mitigation measures; and

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WHEREAS, renewal of the existing conditional waivers is subject to the categorical exemption for existing facilities in 14 California Code of Regulations section 15301 because the renewal involves negligible or no expansion of use beyond that existing at the time of the adoption of the existing waivers; and

WHEREAS, on 6 September 2002 the Regional Board held a public hearing to review the conditions of the waivers and to consider whether renewal of the conditional waivers is not against the public interest; and

WHEREAS, the California Plant Health Association (CPHA) and the California Agricultural Aircraft Association (CAAA) are the organizations representing the majority of Retail Fertilizer Facilities and Pesticide Applicator Facilities; and

WHEREAS, the CPHA and CAAA have a long-standing commitment to continuing education and sponsor many educational programs on an ongoing basis; and

WHEREAS, the CPHA and CAAA have offered to develop these programs into a comprehensive annual training package by 1 July 2003 to provide guidelines for compliance with waiver conditions; and

WHEREAS, this training package is expected to include an annual checklist self-certifying each of these facilities that is in compliance with waiver conditions, to be submitted to the Regional Board on an annual basis; Therefore, be it

RESOLVED, that the California Regional Water Quality Control Board, Central Valley Region, hereby renews the conditional waivers of waste discharge requirements for retail fertilizer facilities as described in Resolution No. 89-247 and pesticide applicator facilities as described in Resolution No. 90-034 for a period of 12 months, effective 1 January 2003 through 31 December 2003; and be it further

RESOLVED, that the requirements to file a Report of Waste Discharge is waived for retail fertilizer facilities and pesticide applicator facilities except when requested by the Board or its Executive Officer; and be it further

RESOLVED, such renewal of the existing conditional waivers is not against the public interest because the conditions are intended to prevent pollution and should be continued until new information indicates the need to revise the conditions or adopt general waste discharge requirements; and be it further

RESOLVED, these conditional waivers for retail fertilizer facilities and pesticide applicator facilities will be scheduled for reconsideration if a contract for evaluation of these facilities is not in place by 1 February 2003. This evaluation must include (1) inspections of at least 25 percent of the facilities in each of the two discharge categories, (2) assessment of compliance with waiver conditions at the inspected facilities, and (3) evaluation of water quality protection at facilities in compliance with the waiver conditions, including monitoring and analysis of wastes generated and the protection of

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surface and ground waters provided by existing containment facilities and management practices; and be it further

RESOLVED, that the Board requests CPHA and CAAA to develop an industry-based quality assurance program and submit it to the Executive Officer by 1 July 2003. If such a program is not developed or is not adequate, the Executive Officer shall issue technical requests pursuant to Water Code Section 13267 to require pesticide and fertilizer facilities operating under this waiver to report annually on their compliance with waiver conditions.

I, THOMAS R. PINKOS, Acting Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 6 September 2002.

Original signed by

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THOMAS R. PINKOS, Acting Executive Officer

AMENDED  
6 September 2002