

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

RESOLUTION NO. R9-2011-0020

AMENDMENT TO THE
WATER QUALITY CONTROL PLAN FOR THE
SAN DIEGO BASIN (9) TO INCLUDE A DEFINITION OF A COMMERCIAL GROWING
OPERATION IN CONDITIONAL WAIVER NO. 4 FOR AGRICULTURAL AND
NURSERY OPERATIONS

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

1. On October 10, 2007 the San Diego Water Board approved Resolution No. R9-2007-0104, an Amendment to the Water Quality Control Plan for the San Diego Basin to Incorporate the Revised Conditional Waivers of Waste Discharge Requirements for Specific Types of Discharge Within the San Diego Region.
2. On November 4, 2008, the State Water Board adopted Resolution No. 2008-0081 which slightly amended Resolution No. R9-2007-0104 by eliminating certain conditions that pertained to the storage of green waste compost.
3. Resolution No. 2008-0081 includes Conditional Waiver No. 4 for Discharges from Agricultural and Nursery Operations (the Ag Waiver).
4. Because the conditional waivers are part of the Basin Plan, amendment of any conditional waiver requires a Basin Plan amendment (the Amendment).
5. The term, "agricultural and nursery operations" is not defined within the language of the Ag Waiver. Lack of a clear definition of this term has created ambiguity with regard to who is subject to the Ag Waiver.
6. During the adoption of the waiver, public comment and comments in general, reflected a presumption that the waiver would pertain to commercial agricultural operations.
7. Non-commercial growers, including homeowners with fruit trees or vegetable gardens and "hobby farmers" who generate negligible income from the sale of produce, will not have a significant effect on the environment. Non-commercial growers are not required to comply with the requirements of the Ag Waiver unless directed by the Executive Officer or Central Valley Water Board
8. The US Department of Agriculture defines a "commercial agricultural operation" as an operation engaged in agricultural production which grosses at least \$1,000 per year.

9. Individuals engaged in non-commercial growing operations are likely to generate negligible amounts of waste discharge because of their relatively limited use of pesticides, fertilizers, water and land.
10. The amount of agricultural production acreage potentially eliminated from regulatory oversight if growing operations that gross under \$1,000 per year were exempted from Waiver requirements would be insignificant, compared to the total acreage in the San Diego Region.
11. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the California Regional Water Quality Control Boards' basin planning process as a "certified regulatory program" that adequately satisfies the CEQA (Public Resources Code, section 21000 et seq.) requirements for preparing environmental documents [California Code of Regulations Title 14 section 15251(g) and Title 23 section 3782]. When the San Diego Water Board approved the Ag Waiver in Resolution No. R9-2007-0104, the San Diego Water Board also approved the required substitute environmental documents, including an environmental checklist, a detailed Technical Report, the Resolution and the Basin Plan Amendment, and responses to comments submitted during the public participation phase in the development of the Resolution. This Amendment supplements the substitute environmental documents. The supplemental substitute environmental documents for this Amendment include the environmental checklist, the Technical Report, the Resolution and Basin Plan amendment and responses to comments submitted during the public participation phase in the development of this Amendment.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The San Diego Water Board hereby adopts the Amendment to the Water Quality Control Plan for the San Diego Basin (9) to Include a Definition of a Commercial Agricultural Operation in Conditional Waiver No. 4 for Discharges from Nursery and Agricultural Operations as set forth in Attachment A to this Resolution.
2. The San Diego Water Board hereby approves the Technical Report titled Basin Plan Amendment to Include a Definition of a Commercial Agricultural Operation in Conditional Waiver No. 4 for Discharges from Nursery and Agricultural Operations dated February 9, 2011.
3. The San Diego Water Board hereby approves the report titled, "Report and CEQA Environmental Checklist Pursuant to Title 23, Division 3, Chapter 27, Section 3777" which documents the basis for exempting this Basin Plan Amendment from requirements to prepare an environmental impact report under the California Environmental Quality Act.
4. The Executive Officer is directed to submit this Basin Plan amendment to the State Water Board for approval in accordance with Water Code section 13245.
5. If, during the approval process for this amendment, the San Diego Water Board, State Water Board, or Office of Administrative Law determines that minor, non-

substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the San Diego Water Board of any such changes.

I, David W. Gibson, 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, San Diego Region, on February 9, 2011.

Tentative

David W. Gibson
Executive Officer