

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

**EXECUTIVE OFFICER SUMMARY REPORT
December 8, 2021**

ITEM 15

SUBJECT

NPDES Permit Amendment: Amendment of Order No. R9-2019-0168 as amended by Order No. R9-2020-0192, NPDES No. CA0109193, *Waste Discharge Requirements for Genentech, Inc. Discharge to the Pacific Ocean through the Oceanside Ocean Outfall* (Tentative Order No. R9-2021-0206). (*Joann Lim*)

STAFF RECOMMENDATION

Adoption of Tentative Order No. R9-2021-0206 (Tentative Order, **Supporting Document No. 1**) amending Order No. R9-2019-0168 is recommended.

KEY ISSUES

1. The Tentative Order proposes to modify Order No. R9-2019-0168 as directed by the California State Water Resources Control Board (State Water Board) on remand pursuant to Order WQ 2021-0005, *In the Matter of the Petitions of the City of Oceanside, Fallbrook Public Utilities District and the Southern California Alliance of Publicly Owned Treatment Works for Review of Waste Discharge Requirements Order Nos. R9-2019-0166 [NPDES No. CA0107433] and R9-2019-0169 [NPDES No. CA0108031] Issued by the California Regional Water Quality Control Board, San Diego Region (Supporting Document No. 2)*..
2. The Tentative Order also proposes to modify Order No. R9-2019-0168 to:
 - a. more accurately describe the Genentech, Inc. connection to the City of Oceanside's outfall structures;
 - b. add requirements to ensure performance goal exceedances are not ongoing and affecting water quality; and
 - c. correct non-substantive typographical errors.
3. Some similar modifications to the NPDES permits for other facilities discharging to the Oceanside Ocean Outfall are also being considered by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) at today's meeting under Agenda Item Nos. 12, 13, and 14.

PRACTICAL VISION

Adoption of the Tentative Order is consistent with the values of transparency and communication outlined in the *Provide Effective Community Engagement and Communication* chapter of the Practical Vision¹ as it proposes changes to an existing permit through a transparent public meeting process.

DISCUSSION

The Genentech, Inc. (Genentech or Discharger) is the owner and operator of the Genentech, Inc. Oceanside Facility (Facility). Order No. R9-2019-0168 regulates

¹ The San Diego Water Board's Practical Vision is available at this website:
https://www.waterboards.ca.gov/sandiego/water_issues/programs/practical_vision/

Genentech's discharge of brine through the Oceanside Ocean Outfall to the Pacific Ocean. The Facility is described in Order No. R9-2019-0168, Attachment F, Section II. In addition to Genentech, the City of Oceanside,² Fallbrook Public Utility District (FPUD),³ and Marine Corps Base Camp Pendleton⁴ also discharge wastewater to the Oceanside Ocean Outfall. A map showing the location of the facilities that discharge to the Oceanside Ocean Outfall is included as **Supporting Document No.3**.

On February 16, 2021, the State Water Board adopted Order WQ 2021-0005 to remand Order Nos. R9-2019-0166 (City of Oceanside) and R9-2019-0169 (FPUD) to the San Diego Water Board for reconsideration and revisions, consistent with Order WQ 2021-0005. Due to the similarity of issues and joint obligations shared by the four permittees discharging to the Oceanside Ocean Outfall, the State Water Board Order also directed that San Diego Water Board make appropriate conforming changes to the NPDES permits issued to the Marine Corps Base Camp Pendleton (Order No. R9-2019-0167) and Genentech, Inc. (Order No. Order No. R9-2019-0168) consistent with the remand order. The Tentative Order includes proposed conforming modifications to Order No. R9-2019-0168 in response to State Water Board Order WQ 2021-0005. The modifications include changing the statistical approach for analyzing chronic toxicity from the Test of Significant Toxicity (TST) statistical approach to the no-observed-effect-level (NOEL) statistical approach set forth in the Ocean Plan,⁵ and providing more information in the Fact Sheet (Attachment F) of Order No. R9-2019-0168 on the rationale for certain requirements.

The Tentative Order also proposes to correct the discharge points into the land outfall from the City of Oceanside's Mission Basin Groundwater Purification Facility and from the Genentech, Inc. Oceanside Facility.

The Tentative Order also proposes new requirements to investigate and provide a report on consecutive exceedances of performance goals. While exceedances of performance goals are not enforceable, consecutive exceedances of performance goals can be indicative of water quality concerns. The addition of the required investigation and submittal of the Performance Goal Exceedance Report are proactive measures to prevent/stop the Genentech's discharge from causing or contributing to exceedance of the receiving water limitations and water quality objectives contained in section V of Order No. R9-2019-0168.

² Wastewater and waste brine from the City is regulated by separate WDRs, Order No. R9-2019-0166 as amended by Order No. R9-2020-0190, NPDES No. CA0107433, *Waste Discharge Requirements for the City Of Oceanside, San Luis Rey Water Reclamation Facility, La Salina Wastewater Treatment Plant, and Mission Basin Groundwater Purification Facility Discharges to the Pacific Ocean via the Oceanside Ocean Outfall*.

³ FPUD is regulated by separate WDRs, Order No. R9-2019-0169 as amended by Order No. R9-2020-0193, NPDES No. CA0108031, *Waste Discharge Requirements for the Fallbrook Public Utility District Fallbrook Water Reclamation Plant and Santa Margarita Groundwater Treatment Plant Discharge to the Pacific Ocean via the Oceanside Ocean Outfall*

⁴ Marine Corps Base Camp Pendleton is regulated by separate WDRs, Order No. R9-2019-0167 as amended by Order No. R9-2020-0191, NPDES No. CA0109347, *Waste Discharge Requirements for the Marine Corps Base, Camp Pendleton, Southern Regional Tertiary Treatment Plant and Advanced Water Treatment Plant, Discharge to the Pacific Ocean via the Oceanside Ocean Outfall*)

⁵ Ocean Plan, Chapter II, Table 3 (formerly Table B); Appendix I, Definition of Terms: Chronic Toxicity

On September 22, 2021, the San Diego Water Board provided the Tentative Order and the public notice to Genentech and interested parties for a 30-day public review period. The San Diego Water Board did not receive any direct comments on the Tentative Order. The Tentative Order contains appropriate conforming and clarifying modifications made in response to the City of Oceanside's comment letter on Tentative Order No. R9-2021-0199 (see Agenda Item No. 12). Proposed amendments to Order No. R9-2019-0168 that were provided in the Tentative Order and released for the public comment period are shown in red-underline for added text and ~~red-strikeout~~ for deleted text. Proposed revisions to the Tentative Order made after the public comment period are in yellow highlight and red-underline for added text and ~~yellow highlight and red-strikeout~~ for deleted text, and were made to the following sections of Order No. R9-2019-0168:

<u>Pages No.</u>	<u>Section No.</u>
E-7 through E-8	Attachment 1 to Tentative Order No. R9-2021-0206, Attachment E, Section III.C, Monitoring Questions 1 through 3
E-9	Attachment 1 to Tentative Order No. R9-2021-0206, Attachment E, Section III.C.4

PUBLIC NOTICE

The Tentative Order was noticed and released for public review and comment on September 22, 2021, with comments due October 22, 2021. The Notice of Public Hearing and Opportunity to Comment (Notice) was posted on the San Diego Water Board website for the duration of the comment period and sent to all interested parties. The Notice announced a public hearing to be held on December 8, 2021, and availability of the Tentative Order for review and provided instructions for submittal of written comments. A copy of the Notice is provided in **Supporting Document No. 4**. Notice of public hearing on the Tentative Order was also provided in the Meeting Notice and Agenda for the December 8, 2021, San Diego Water Board meeting, which is posted on the Board website.

SUPPORTING DOCUMENTS

1. Revised Tentative Order
2. State Water Board Order WQ 2021-0005
3. Location Map
4. Notice of Public Hearing and Comment Period