

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

TIME SCHEDULE ORDER NO. R5-2011-0037

REQUIRING THE PACTIV CORPORATION
MOLDED PULP MILL
TEHAMA COUNTY
TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER NO. R5-2011-0036
(NPDES PERMIT NO. CA0004821)

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Central Valley Water Board) finds that:

1. On **10 June 2011** the Central Valley Water Board adopted Waste Discharge Requirements (WDR) Order No. R5-2011-0036, prescribing waste discharge requirements for the Pactiv Corporation (hereafter Discharger), Molded Pulp Mill (hereafter Facility), in Tehama County.
2. WDR Order No. R5-2011-0036 section IV.A.1.a contains Final Effluent Limitations for Discharge Point No. 001 which read, in part, as follows:

Table 6. Final Effluent Limitations

Parameter	Units	Effluent Limitations			
		Average Monthly	Maximum Daily	Instantaneous Minimum	Instantaneous Maximum
Priority Pollutants					
Copper, Total Recoverable	µg/L	3.1	6.1	--	--
Zinc, Total Recoverable	µg/L	10	17	--	--

3. The effluent limitations at Discharge Point No. 001 specified in Order No. R5-2011-0036 for copper and zinc are based on implementation of the site-specific water quality objectives for the Sacramento River and its tributaries above the State Highway 32 Bridge at Hamilton City in Table III-1 of the *Water Quality Control Plan, Fourth Edition (Revised September 2009)*, for the Sacramento and San Joaquin River Basins (hereinafter Basin Plan). The effluent limitations for copper and zinc are new limitations that were not prescribed in previous WDR Order No. R5-2004-0124, adopted by the Central Valley Water Board on 10 September 2004.
4. California Water Code (CWC) section 13300 states: *“Whenever a regional board finds that a discharge of waste is taking place or threatening to take place that violates or will violate requirements prescribed by the regional board, or the state board, or that the waste collection, treatment, or disposal facilities of a discharger are approaching capacity, the board may require the discharger to submit for approval of the board, with such modifications as it may deem necessary, a detailed time schedule of specific actions the discharger shall take in order to correct or prevent a violation of requirements.”*

5. Federal regulations, 40 CFR 122.44 (d)(1)(i), require that NPDES permit effluent limitations must control all pollutants which are or may be discharged at a level which will cause or have the reasonable potential to cause or contribute to an in-stream excursion above any State water quality standard, including any narrative criteria for water quality. Beneficial uses, together with their corresponding water quality objectives or promulgated water quality criteria, can be defined per federal regulations as water quality standards.
6. In accordance with CWC section 13385(j)(3), the Regional Water Board finds that, based upon results of effluent monitoring, the Discharger is not able to consistently comply with the new effluent limitations for copper and zinc at Discharge Point No. 001. These limitations are based on new requirements that become applicable to the Order after the effective date of the waste discharge requirements, and after 1 July 2000, for which new or modified control measures may be necessary in order to comply with the limitation, and any new or modified control measures cannot be designed, installed, and put into operation within 30 calendar days. In addition, the Discharger needs additional time to submit a revised mixing zone study for copper, zinc, and chronic toxicity to support their position for a higher final effluent limit.
7. Immediate compliance with the new effluent limitations for copper and zinc at Discharge Point No. 001 are not possible or practicable. The Clean Water Act and the California Water Code authorize time schedules for achieving compliance. The Discharger indicated that additional time is required to comply with the final effluent limitations for copper and zinc and requested a compliance schedule in their **31 March 2011** infeasibility report. The Regional Water Board is providing no later than **1 May 2016** for the Discharger to comply with the final effluent limitations for copper and zinc at Discharge Point No. 001.
8. This Order provides a time schedule for the Discharger to develop, submit, and implement methods of compliance, including developing and implementing pollution prevention activities or constructing necessary treatment facilities to meet these new effluent limitations.
9. CWC sections 13385(h) and (i) require the Regional Water Board to impose mandatory minimum penalties upon dischargers that violate certain effluent limitations. CWC section 13385(j)(3) exempts certain violations from the mandatory minimum penalties, *“where the waste discharge is in compliance with either a cease and desist order issued pursuant to Section 13301 or a time schedule order issued pursuant to Section 13300, if all the [specified] requirements are met.”*
10. Compliance with this Order exempts the Discharger from mandatory penalties for violations of effluent limitations at Discharge Point No. 001 for copper and zinc only, in accordance with CWC section 13385(j)(3). CWC section 13385(j)(3) requires the Discharger to prepare and implement a pollution prevention plan pursuant to section 13263.3 of the California Water Code. Therefore, a pollution prevention plan will be necessary for copper and zinc in order to effectively reduce the effluent concentrations by source control measures.

11. Since the time schedule for completion of action necessary to bring the waste discharge into compliance exceeds 1 year, this Order includes interim requirements and dates for their achievement. The time schedule does not exceed 5 years.

The compliance time schedule in this Order includes interim performance-based effluent limitations for copper and zinc at Discharge Point No. 001. The interim effluent limitations consist of a maximum daily effluent concentration derived using sample data provided by the Discharger. In developing the interim limitations, where there are 10 sampling data points or more, sampling and laboratory variability is accounted for by establishing interim limits that are based on normally distributed data where 99.9 percent of the data points will lie within 3.3 standard deviations of the mean (*Basic Statistical Methods for Engineers and Scientists, Kennedy and Neville, Harper and Row, 3rd Edition, January 1986*). Where actual sampling shows an exceedance of the proposed 3.3-standard deviation interim limit, the maximum detected concentration has been established as the interim limitation. In developing the interim limitations, when there are less than 10 sampling data points available, the USEPA *Technical Support Document for Water Quality-based Toxics Control* ((EPA/505/2-90-001), TSD) recommends a coefficient of variation of 0.6 be utilized as representative of wastewater effluent sampling. The TSD recognizes that a minimum of 10 data points is necessary to conduct a valid statistical analysis. The multipliers contained in Table 5-2 of the TSD are used to determine a maximum daily limitation based on a long-term average objective. In this case, the long-term average objective is to maintain, at a minimum, the current plant performance level. Therefore, when there are less than 10 sampling points for a constituent, an interim limitation is based on 3.11 times the maximum observed effluent concentration to obtain the daily maximum interim limitation (TSD, Table 5-2).

The following tables summarize the calculations of the interim performance-based effluent limitations at Discharge Point No. 001:

Interim Effluent Limitation Calculation Summary for Discharge Point No. 001

Parameter	Units	MEC	Mean	Std. Dev.	# of Samples	Interim Maximum Daily Effluent Limitation
Copper, Total Recoverable	µg/L	6.9	--	--	1	21
Zinc, Total Recoverable	µg/L	14	7.4	2.9	37	17

12. The Central Valley Water Board finds that the Discharger can, in addition to other treatment and control options, undertake source control to maintain compliance with the interim limitation included in this Order. Interim limitations are established when compliance with the final effluent limitations cannot be achieved by the existing discharge. Discharge of constituents in concentrations in excess of the final effluent limitations, but in compliance with the interim effluent limitations, can significantly degrade water quality and adversely affect the beneficial uses of the receiving stream on a long-term basis. The interim limitation, however, establishes an enforceable ceiling concentration until compliance with the effluent limitations can be achieved.
13. On **10 June 2011**, in Rancho Cordova, California, after due notice to the Discharger and all other affected persons, the Regional Water Board conducted a public hearing at which

evidence was received to consider a Time Schedule Order under CWC section 13300 to establish a time schedule to achieve compliance with waste discharge requirements.

14. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000, et seq.), in accordance with CWC section 15321 (a)(2), Title 14, California Code of Regulations.
15. Any person adversely affected by this action of the Central Valley Water Board may petition the State Water Resources Control Board to review this action. The petition must be received by the State Water Resources Control Board, Office of the Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100, within 30 days of the date on which this action was taken. Copies of the law and regulations applicable to filing petitions will be provided on request.

IT IS HEREBY ORDERED THAT:

1. The Discharger shall comply with the following time schedule to ensure compliance with copper and zinc effluent limitations at Discharge Point No. 001 at section IV.A.1.a, contained in WDR Order No. R5-2011-0036 as described in the above Findings.

Task	Date Due
Submit Method of Compliance Workplan/Schedule	Within 6 months after adoption of this Order
Submit and implement Pollution Prevention Plan (PPP) ¹ pursuant to CWC section 13263.3 for copper and zinc	Within 1 year after adoption of this Order
Design and approval	Within 12 months after adoption of this Order
Capital approval	Within 9 months after design and approval
Construction and installation	Within 1 ½ years after capital approval
Progress Reports ²	30 June, annually , after approval of work plan until final compliance
Full compliance with copper and zinc effluent limitations	01 May 2016

¹ The PPP shall be prepared and implemented for copper and zinc, as appropriate, and shall meet the requirements specified in CWC section 13263.3.

² The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

2. The following interim effluent limitations shall be effective immediately. The interim effluent limitations at Discharge Point No. 001 for copper and zinc shall be effective up through **01 May 2016**, or when the Discharger is able to come into compliance with final effluent limitations, whichever is sooner:

Parameter	Units	Maximum Daily Effluent Limitation
Copper, Total Recoverable	µg/L	21
Zinc, Total Recoverable	µg/L	17

3. For the compliance schedule required by this Order, the Discharger shall submit to the Central Valley Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, the reasons for such noncompliance shall be stated, and shall include an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Central Valley Water Board by letter when it returns to compliance with the time schedule.
4. If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may apply to the Attorney General for judicial enforcement. If compliance with these effluent limitations is not achieved by the full compliance date, the discharge would not be exempt from the mandatory minimum penalties for violation of certain effluent limitations, and would be subject to issuance of a Cease and Desist Order in accordance with CWC section 13301.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on **10 June 2011**.

Original signed by

PAMELA C. CREEDON, Executive Officer