

**California Regional Water Quality Control Board
Santa Ana Region
ORDER NO. R8-2016-0003
CONDITIONAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
FOR DISCHARGES FROM AGRICULTURAL OPERATIONS
IN THE WATERSHEDS OF THE SAN JACINTO RIVER AND ITS TRIBUTARIES,
AND CANYON LAKE AND LAKE ELSINORE AND THEIR TRIBUTARIES, COLLECTIVELY,
“THE SAN JACINTO RIVER WATERSHED”
RIVERSIDE COUNTY**

DEFINITIONS

10. “Agricultural discharges” are aqueous releases of waste to waters of the state, as defined in the California Water Code, from agricultural operations. Agricultural discharges include irrigation return or tail water flows, runoff of irrigation water from the site of application resulting from over-application or malfunction, and wet weather and flood flow runoff. Agricultural discharges may include infiltration of excess irrigation water into underlying groundwater basins. Agricultural discharges may contain or transport waste materials such as earth (including humus, soil, sand, and rock, and suspensions of silt and clay), dissolved inorganic chemical materials (including “salts” and other compounds of metals, sulfur, boron, selenium, potassium, nitrogen, phosphorus, etc.), ~~and~~ organic chemicals and materials (including oxygen-demanding substances, organic chemicals such as pesticides, etc.), physical contaminants and trash (including plastics, glasses, and metals, etc.).

Note: “Physical Contaminants” and “Trash” should be added above

12. “Agricultural operations” include all of the following:

d. Stockpiling of manure, mulch or compost (see DEFINITIONS below) for use as a fertilizer or soil amendment;

e. Applying manure, mulch or compost to irrigated, dry-farmed, or fallow land whether or not the land is zoned for agriculture;

15. “Compost” means a fully decomposed, stabilized, organic product which has undergone the “Process to Further Reduce Pathogens (PFRP), as described in California Code of Regulations, Title 14 (14 CCR) section 17868.3, and that has reached a stage of reduced biological activity as indicated by reduced temperatures and rate of respiration below that of active compost. Compost shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters ; no more than 20% dry weight of this 0.5% shall be film plastic greater than 4 millimeters as described in California Code of Regulations, Title 14 (14 CCR) section 17868.3.1.

16. “Compostable materials” means any organic material that when accumulated is capable of rapid decomposition and generating temperatures of at least 122 degrees Fahrenheit as defined in 14 CCR section 17852.

18. “Discharger” means the owner, owner-operator, or operator of agricultural operations, as defined above. A “discharger” discharges, proposes to discharge, or has the potential to discharge wastes that could directly or indirectly affect the quality of the waters of the state. A “discharger” may be an individual, a trust, corporation, partnership, or other enterprise formed by a binding agreement. The term “agricultural operator” is synonymous with “discharger”.

26. "Mulch" means untreated or raw landscape waste and crop production byproducts consisting of leaves, grass clippings, weeds, yard trimmings, wood waste, branches and stumps, and whole plants/trees that have been chipped and ground to a reduced particle size. The final deposition of chipped and ground compostable material and/or digestate spread on any land, including land zoned only for agricultural uses must not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters (no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters, as specified in the California Code of Regulations, Title 14 (14 CCR) section 17852(a)(24.5)(A)(1). Any chipped and ground material that will be land applied must meet the maximum metal concentration and pathogen reduction requirements of section 17852(a)(24.5)(A)(2) and (3)

27. "Physical contaminants" means human-made material contained within compostable materials that include, but are not limited to plastics, glasses, and metals.

30. "Waste" is defined by Water Code section 13050(d) as including, "... sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal." This Conditional Waiver applies only to waste from agricultural operations, as defined above, and not to human sanitary waste, hazardous waste, or wastes from other producing, manufacturing or processing operations including Trash.

Trash means all improperly discarded solid material from any production, manufacturing, or processing operation including, but not limited to, products, product packaging, or containers constructed of plastic, steel, aluminum, glass, paper, or other synthetic or natural materials as defined in the California Ocean Plan.

REGULATORY CONSIDERATIONS

40. This Conditional Waiver does not preempt or supersede the authority of municipalities, flood control agencies, agricultural commissioners, special districts or other public agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.

41. Where other Federal, State, and local agencies have a regulatory role with respect to agricultural operations, the Regional Board will work cooperatively with these other Agencies in order to regulate agricultural discharges effectively and in a manner consistent with other applicable regulations.

APPLICABILITY OF THIS ORDER

45. The intent of this Conditional Waiver is to regulate discharges from agricultural operations within the San Jacinto River Watershed to ensure that such discharges are not causing or contributing to conditions of pollution or nuisance; exceedances of applicable water quality objectives for surface and ground waters; failure to achieve TMDLs; or, the impairment of beneficial uses of receiving waters, including surface and ground waters.

46. All owners, owner/operators and/or operators of irrigated agricultural operations that have 20 or more cumulative acres in area are considered dischargers for the purposes of this Order and must file a Notice of Intent (NOI) to comply with the conditions of this Waiver for enrollment of their agricultural operations in this Conditional Waiver. The 20 or more cumulative acres may include lands that are all irrigated or a portion of which is dry farmed and/or fallow, on a

permanent or periodic basis, and upon which pesticides, fertilizers and/or manure, mulch or compost is applied.

48. Owners and/or operators of agricultural operations, other than irrigated agriculture and livestock operations of 20 or more cumulative acres or livestock operations of less than 20 cumulative acres with an animal density of more than three (3) animal units per acre (see Attachment A) that Regional Board staff finds to be a high risk² for discharging animal wastes or other wastes that could affect water quality are considered to be dischargers for the purpose of this Order and are required to file an NOI to be enrolled in this Conditional Waiver, or to submit a Report of Waste Discharge (Water Code section 13260) when notified to do so by Regional Board staff.

49. This Conditional Waiver does not apply to discharges that are subject to the NPDES permit program under the federal Clean Water Act section 402.

50. This Conditional Waiver does not apply to discharges already regulated under another waiver or by individual or general WDRs previously adopted by the Regional Board or SWRCB.

51. This Conditional Waiver does not apply to parks, golf-courses, cemeteries, play grounds, recreational fields and similar facilities as such operations are subject to regulation pursuant to requirements in Regional Board Order No. R8-2010-0033 (NPDES No. CAS 618033), "Waste Discharge Requirements for the Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside County within the Santa Ana Region / Area-Wide Urban Runoff Management Program," (Urban MS4 Permit), and its subsequent iterations.

52. Only waste resulting from agricultural operations, i.e., agricultural discharges, as defined herein, may qualify for discharge under this Conditional Waiver. These discharges include irrigation tailwater and stormwater runoff that may be directed to surface waters or to land. This waiver does not apply to discharges of sanitary human waste or to hazardous waste as defined by California law.

SCOPE AND REQUIREMENTS OF THIS ORDER

53. This Order requires dischargers to:

- a. Implement applicable tasks identified in the Lake Elsinore and Canyon Lake Nutrient TMDLs, including the development and implementation of approved nutrient management plans, monitoring plans, and, as appropriate, Pollutant Trading Plans (may also be referred to herein as Water Quality Trading Plans)(WQTPs);
- b. Evaluate and implement management practices to reduce or eliminate adverse impacts to water quality objectives and beneficial uses that result from agricultural waste discharges;
- c. Employ adaptive management strategies as necessary to improve water quality management practices;
- d. Implement other steps as necessary to prevent pollution and nuisance.

54. This Conditional Waiver requires the enrolled dischargers to submit a proposed water quality monitoring program plan (WQMPP) and to implement that plan upon approval by the Executive Officer. The proposed monitoring programs must be designed to characterize waste discharges and their effects on the receiving waters and to determine the efficacy of

management practices. Agricultural operators who are enrolled in the Coalition Group may prepare a group WQMPP.

55. This Conditional Waiver prohibits the land application of compostable materials, other than mulch, compost, and manure, as these are defined above (see DEFINITIONS) at agricultural operations within the San Jacinto River Watershed. This Waiver also specifies conditions under which mulch, compost and manure may be stockpiled and applied at agricultural operations in the San Jacinto River Watershed.

IT IS HEREBY ORDERED THAT:

C. RESPONSIBILITIES OF ENROLLED DISCHARGERS

4. Each discharger, whether or not a member of a Coalition Group, shall implement reliable and effective Management Measures and Management Practices, collectively termed, "Best Management Practices," or BMPs⁷, to control, minimize or eliminate pollutant discharges from their agricultural operations to surface and ground waters of the State. The BMPs shall be designed, evaluated and modified as necessary over time to assure that waste discharges do not cause or contribute to violations of applicable water quality objectives, do not unreasonably affect beneficial uses, and do not cause or contribute to conditions of pollution or nuisance. BMP implementation, evaluation and modification shall address irrigation practices, if any, and their management. Evaluation of BMPs intended, in whole or in part, to minimize or eliminate nutrient discharges in agricultural discharges to receiving waters shall include collection and analysis of nutrient application and removal data or an equivalent demonstration of proper nutrient application rates and removal efficiencies.

H. LAND APPLICATION OF MULCH, COMPOST, AND MANURE

1. Land application of mulch and compost is allowable for soil amendment at agricultural operations enrolled in this Order, provided that the following minimum requirements are met:

a. Mulch and compost application rates shall be consistent with CalRecycle's regulation for land application of mulch and compost (14 CCR Division 7, Chapter 3.1)

b. Land application, of mulch and/or compost shall be limited to 12 inches total accumulated application depth in a 12-month period. This limit is subject to site-specific conditions. For example, a reduced application depth may be necessary to protect beneficial uses of a receiving water body, or a greater application depth may be allowed where justified by agronomic circumstances; and,

2. Any land application of manure at agricultural operations enrolled in this Order shall meet the following minimum requirements:

- a. The land application shall be conducted in accordance with a farm-specific nutrient management plan (NMP).
 - b. For dry-solid manure, application rate shall not exceed 12 dry tons/acre, or 17.5 tons/acre @ 33% moisture in a 12-month period; For any application of manure to these croplands in excess of 12 dry tons per acre per year (or 17.5 tons per acre per year @ 33% moisture), an explanation of the type of crop and the number of times it is harvested per year shall also be included in the Annual Report.”
 - c. The manure shall be incorporated into the soil after application. Incorporation is not required where it is inconsistent with a BMP that has been recommended or identified in an approved nutrient management plan.
 - d. At a minimum, one crops must be grown on the lands on which the manure is applied during the 12-month period following the land application of manure;
 - e. If and when an AgNMP or farm-specific NMP is approved by the Regional Board that specifies an alternative acceptable manure application rate and number of crops, the application rate and number of crops in the approved AgNMP shall apply;
 - f. Any manure application must comply with I. Discharge Prohibitions, #9.
3. Stockpiling of mulch, compost or manure shall not exceed 60 days prior to the land application of the stockpiled material;

I. DISCHARGE PROHIBITIONS

1. The discharge of wastes and/or Trash to land or to surface waters shall not cause a condition of contamination, pollution or nuisance, as defined in Water Code Section 13050.
2. The discharge of wastes from the agricultural operations addressed in this Order (see A. Eligible Dischargers) that are not enrolled in this Conditional Waiver or other Order or Waiver adopted by the Regional Board is prohibited. Only discharges of wastes from eligible agricultural operations are authorized by this Conditional Waiver.
4. The discharge of waste from agricultural operations onto lands which are not owned or controlled by the discharger, or onto lands for which the discharger has not obtained authorization to discharge, is prohibited. This prohibition does not apply to the discharge of stormwater runoff, provided that BMPs are implemented to reduce pollutants in the stormwater runoff to the maximum extent practicable.
5. The disposal of manure to land is prohibited. Disposal of manure is defined as final deposition of manure that does not comply with the minimum requirements specified in H. 2.
6. The discharge of visible oil and grease is prohibited.
8. Discharge of Trash and/or municipal solid waste, as defined in 14 CCR 18720 (a) (40)¹², onto land zoned for agricultural uses or onto land zoned for other uses that is being used for agricultural operations including dry-farming or land that is fallow, for any purpose, is prohibited.
9. The discharge of waste containing TDS and/or nitrate-nitrogen concentrations in excess of water quality objectives is prohibited, unless a plan, acceptable to the Executive Officer, is implemented to offset the excess TDS and nitrate-nitrogen discharges to these GMZs.

10. The application of manure to lands within the San Jacinto River Watershed that overlie GMZs without assimilative capacity for TDS and/or nitrate-nitrogen is prohibited, unless a plan, acceptable to the Executive Officer, is implemented that offsets the effects of that application on the underlying GMZ. These manure application requirements apply to the San Jacinto Upper Pressure GMZ, unless it is demonstrated that the agricultural operator is at least in part responsible for and contributing to the maximum benefit implementation plan for that GMZ and may therefore be entitled to some allocation of TDS/nitrate-nitrogen assimilative capacity by the Regional Board. Notwithstanding any such demonstration, the Regional Board retains discretion to determine whether any assimilative capacity will be allocated, and, if so, how much.