

STANISLAUS COUNTY FOOD PROCESSING BY PRODUCTS  
RE USE COMMITTEE  
PO BOX 56  
WINTON CA 95388

Submitted by Email: [compost.transfer.regs@calrecycle.ca.gov](mailto:compost.transfer.regs@calrecycle.ca.gov)

December 4, 2014

Ken Decio  
Waste Permitting, Compliance and Mitigation Division  
California Department of Resources Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025

Dear Mr. Decio:

We are providing the following comments in response to the California Department of Resources Recycling and Recovery (Department) proposal to amend California Code of Regulations, Title 14, Division 7, Chapters 1, 3, 3.1 and 5 and create Chapter 3.2; and, to amend Title 27, Appendix 1. We are submitting the comments as the Stanislaus County Food Processing By-Products Re-Use Committee who's membership represents Food Processors, By-Products end user sites, Haulers and Stanislaus County Department of Environmental Resources.

**Background**

First I would like to provide pertinent background for review and to provide context regarding the historical and current level of regulation of the land application of food processing by-products in the Stanislaus County.

Beginning in 1978, Stanislaus County established the Food Processing By-Product Use Program. The county program managed a fee-for-permit program that provided oversight for the discharge of the by-product to: dehydrators, feedlots, composters and land application. During the first two decades of the voluntary program, the food processing industry in Stanislaus and surrounding counties diverted from disposal in landfills an estimated 6 million tons food processing by-products.

In 2006, Stanislaus County's Food Processing By-Product Use Program was officially approved and recognized by the California Central Valley Regional Water Quality Control Board (CVRWQCB) through "Resolution No. R5-2006-0052 Regarding the Reuse of Food Processing By-Products Within in Stanislaus County" (Attachment 1). Stanislaus County's requirements are

STANISLAUS COUNTY FOOD PROCESSING BY PRODUCTS  
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found in an attachment to the resolution and are entitled: "Stanislaus County Food Processing By-Products Use Program. Land Application, Direct Feed, Dehydration, Composting. Prepared by Department of Environmental Resources, May 2006." The approved program provides the following definitions of food processor and by-product:

Food processor: A processor of fruit, nut or vegetable raw products which may include but are not limited to tomato, peaches, almonds, walnuts, pears, grapes, raw olives, grain products or other raw plant material, i.e., canneries, nut processors, vegetable processors, frozen food processing, etc.

By-product: Food processing by-products are solid or semisolid substances derived from agricultural plant material delivered to a food processor for processing that are not utilized in the final product. Food processing by-products include but are not limited to culls, peelings, seeds, under or over ripe food, skins, cores, pomace, puree, hulls, shells, pits, stems, leaves and any substance including soil washed from plant produce.

The approved program regulates diversion to four types of sites: land application, direct animal feed operations, dehydration and composting. The permitted program participants are required to comply with general and specific criteria; provide a detailed plan of operation; by-product and soil monitoring; keep records; report; and, allow for inspections and enforcement actions if necessary. Permit holders are also required to post a performance bond to cover – if needed - clean-up and remediation of reuse sites. Specifically, the CVRWQCB directed that land application of food processing by-products be held to the following:

*For land application operations:* the land must be cropped; the by-products must be applied in a manner that precludes the potential for nuisance odors and vectors; the by-product must be applied at agronomic rates established by a Certified Professional Soil Scientist, a Certified Professional Agronomist, or a Certified Crop Advisor; the by-products must be analyzed for selected constituents; and the soil in the land application areas must be analyzed prior to discharge.

The resolution also stated that Regional Board Staff had reviewed the program in relation to the prevention of water quality impacts and nuisance conditions and in summary found:

*For land application operations,* the Program is adequate as currently implemented to prevent creation of nuisance conditions and to prevent impacts to surface water. In addition, nitrogen loading rates appear protective of water quality.

STANISLAUS COUNTY FOOD PROCESSING BY PRODUCTS  
RE USE COMMITTEE  
PO BOX 56  
WINTON CA 95388

Subsequently, Stanislaus County complied with several reporting/submittal requirements of Resolution No. R5-2006-0052 and in February 2008 the Stanislaus County Board of Supervisors adopted an ordinance into the Stanislaus County Code to regulate the reuse of food processing by-products (Attachment 2). As mentioned previously the Stanislaus County program is fee-for-permit that provides the resources to support the LEA's oversight; fee structure attached (Attachment 3).

On June 8, 2009 the CVRWQCB communicated to Stanislaus County that the CVRWQCB's General Waiver No. R5-2008-0182 (Attachment 4) allows land application of food processing by-products as a soil amendment - if the user is enrolled under an approved County program. In that same letter, the CVRWQCB conditionally approved the Stanislaus County's Food Processing By-Products Use Program "...for purposes of the General Waiver with respect to the use of the material as a soil amendment..."

## **DISCUSSION**

### Land Application

The proposed regulation provides for a new definition of "land application" at Section 17852 (a) (24.5).

The "Initial State of Reason" (ISR) for the proposed rule indicates that the new definition was necessary:

'...to specify that "Land Application" is the final deposition of compostable material and/or digestate spread on land as stipulated in Subdivisions (A) or (B) and to clarify the prior definition of "land application" that was in (a)(15)(C).'

### Currently Compliant

While some, but not all, food processing by-products could be defined as "compostable materials" we believe that all land applications authorized by Stanislaus County's Food Processing By-Product Use Program are compliant with the current Section 17852 (a)(15)(C). The applications are to agricultural land, at agronomic rates and are in compliance with California Department of Food and Agriculture (CDFA) fertilizing materials requirements.

### Stanislaus County's Program Overlooked?

While the proposed Subdivision (A) appears influenced by the work of Local Enforcement Agencies (LEA) in Ventura County and Kern County – it doesn't appear that the Department contemplated a local program: that has regulated land application of food processing by-

STANISLAUS COUNTY FOOD PROCESSING BY PRODUCTS  
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PO BOX 56  
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products since 1978; that is currently conditionally approved under a 2008 CVWQCB General Waiver; that is supervised by an LEA, the Stanislaus County Environmental Resources Department; and, that is backed by authority and standards found in county ordinance and regulation.

The Department's white paper "Agricultural Land Application of Compostable Material" dated February 2010 – which was relied upon to develop the proposed regulation, states that, "In a survey of eight California counties (see Table 1), only two counties, Kern and Ventura, have current land application of compostable material projects." Stanislaus County was a surveyed county listed in Table 1., as "No knowledge of any land application." It's a surprising response considering the county has managed land application of food processing by-products since the late 70's, has been awarded two "TRASH CUTTER AWARDS" from CIWMB, and hosted a site visit by Calrecycle staff in September 2013. Staff stated they were "very impressed" by the Stanislaus County Program. Perhaps the response was elicited by a question specific to land application of compost, green waste or mulch vs. other types of compostable materials like food processing by-products?

Two Tracks to Land Application of Compostable Materials

The proposed Section 17852(a)(24.5) provides for allowable land application on two tracks. The first track is the proposed Section 17852(a)(24.5)(A) which provides a prescriptive standard regarding contamination, pathogens, metals, and frequency and depth of the application. The second track is the proposed Section 17852(a)(24.5)(B) which provides a prescriptive standard in regards to contamination and requires a determination by CDFA that: 1. the application is compliant with their fertilizer law and regulation; 2. the application is agronomically beneficial; and, 3. that CDFA send a record of their determination to the LEA before the application can occur.

Applicability of Section 17852(a)(24.5)(A) & (B)

It appears that Subdivision (B) is more applicable to a Stanislaus County Food Processing By-Product Use Program land application vs. Subdivision (A) which appears targeted at finished compost, digestate, green material, wood waste, yard trimmings and mulch. We believe that the county program's standards for removal of foreign material at land application are more than sufficient to meet the proposed Section 17852(a)(24.5)(B)(1)'s physical contaminant limits.

While it may be appropriate and feasible for others to meet the requirements of the proposed Section 17852(a)(24.5)(B)(2)&(3), the users and participants of Stanislaus County's Food Processing By-Product Use Program are very concerned about our only compliant path to an allowed land application of food processing by-products running head-on into a more than

STANISLAUS COUNTY FOOD PROCESSING BY PRODUCTS  
RE USE COMMITTEE  
PO BOX 56  
WINTON CA 95388

likely bureaucratic, time draining and costly process to get redundant CDFA declarations of compliance and agronomic benefit.

Stanislaus County's Department of Environmental Resources supervises land applications of food processing by-product and requires operational plans; logs; soil testing; by-product nutrient and constituent analysis (e.g. heavy metals or pH), and professional certification of agronomic use. All of which provides a transparent record to ensure compliance with CDFA's fertilizing materials laws and regulations and a determination of agronomic application by a Certified Professional.

Again, the CVWQCB requires the following which drives the program's requirements:

*For land application operations:* the land must be cropped; the by-products must be applied in a manner that precludes the potential for nuisance odors and vectors; the by-product must be applied at agronomic rates established by a Certified Professional Soil Scientist, a Certified Professional Agronomist, or a Certified Crop Advisor; the by-products must be analyzed for selected constituents; and the soil in the land application areas must be analyzed prior to discharge

We are also concerned with the Department's wisdom in locking us into acquiring CDFA declarations of compliance and agronomic benefit as they seem to have clearly communicated they are only interested in enforcing fertilizer label standards. CDFA communicated their lack of interest in taking a real role in regulating land application of compostable materials in the Department's white paper "Agricultural Land Application of Compostable Material" where CDFA reportedly stated:

"CDFA does not have the authority to regulate land application of compostable materials. CDFA regulates fertilizing materials, as defined in the FAC Section 14533, including recycled material to be used in agriculture only if plant nutrient claims are made. CDFA is responsible for ensuring all fertilizers sold and distributed in the State of California are safe, effective, and meet the claims guaranteed on the product label."

and further states;

"CDFA believes that the CIWMB should look elsewhere to determine if there is either state or local authority to address the land application of compostable material."

**RECOMMENDATION**

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Based on information provided and the issues raised above, the Stanislaus County Food Processing By-Products Re-Use Committee recommends that the Department:

1. Recognize that Stanislaus County's Food Processing By-Product Use Program, a locally funded program, adequately protects public health, safety, and the environment through its regulation of the land application of food processing by-products;

2. Amend Section 17852 to provide a definition of a compostable material called "Food Processing By-Products" and define it as: solid or semisolid substances derived from agricultural plant material delivered to a food processor for processing that are not utilized in the final product. Food processing by-products include but are not limited to culls, peelings, seeds, under or over ripe food, skins, cores, pomace, puree, hulls, shells, pits, stems, and leaves;

3a. Preferably, amend Section 17855 Excluded Activities by adding a new Subdivision to exclude land application of food processing by-products as an activity considered as a compostable material handling operations or facilities, if the land application is made as the final disposition of Food Processing By-Products spread on any land, including land zone only for agricultural uses under the condition they are made under the oversight of a LEA as a participant in a local program approved by the appropriate California Regional Water Quality Control Board.

-OR-

3b. Amend the proposed Section 17852(a)(24.5) by adding a new Subdivision that provides a third meaning of "Land Application" as the final deposition of Food Processing By-Products spread on any land, including land zoned only for agricultural uses under the condition that they are made under the oversight of a LEA as a participant in a local program approved by the appropriate California Regional Water Quality Control Board.

As we have discussed, the Stanislaus County's Food Processing By-Product Use Program is a local fee-for-permit program under the oversight of Stanislaus County's Department of Environmental Resources and the approval of the Central Valley Water Quality Control Board. We would appreciate knowing the Department's intent for the newly defined allowable land applications and fees. Does the Department intend to develop a state fee structure for those activities?

STANISLAUS COUNTY FOOD PROCESSING BY PRODUCTS  
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PO BOX 56  
WINTON CA 95388

If the Department has any questions in regards to Stanislaus County's Food Processing By-Product Use Program we encourage contact with Ms. Jami Aggers, Director of the Department of Environmental Resources in Stanislaus County.

Sincerely,  
Martin X. Reyes  
Chairman  
m60xreyes@hotmail.com



# California Regional Water Quality Control Board Central Valley Region

Robert Schneider, Chair



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Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
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28 June 2006

CERTIFIED MAIL  
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Sonya Harrigfeld  
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3800 Cornucopia Way, Suite C  
Modesto, CA 95358-9492

## **NOTICE OF ADOPTION RESOLUTION REGARDING REUSE OF FOOD PROCESSING BYPRODUCTS**

Resolution No. R5-2006-0052 was adopted by the California Regional Water Quality Control Board, Central Valley Region at its 22 June 2006 meeting. Please note that the Resolution contains a timetable for submitting technical reports. The first due date is **1 August 2006**, when the County shall submit a workplan describing the literature review and any needed study.

Immediately prior to the Regional Board meeting, the County and Board staff came to an agreement on an enhanced monitoring program for the by-products and soils at the land application areas. A copy of the enhanced monitoring program is also enclosed.

In order to conserve paper and reduce mailing costs, a paper copy of the Resolution and monitoring program has been sent only to Stanislaus County. Interested parties are advised that the full text of this Resolution and monitoring program will be available on the Regional Board's web site at [http://www.swrcb.ca.gov/rwqcb5/adopted\\_orders](http://www.swrcb.ca.gov/rwqcb5/adopted_orders). Anyone without access to the Internet who needs a paper copy of the documents can obtain one by calling Regional Board staff.

If you have any questions regarding the Resolution or monitoring program, please contact me at (916) 464-48356 or by email at [wwyels@waterboards.ca.gov](mailto:wwyels@waterboards.ca.gov).

- Original Signed by Mark List for -

WENDY WYELS, Supervisor  
Title 27 and Waste Discharge to Land Section

Enclosures: Resolution No. R5-2006-0052, Monitoring Program

cc w/o enc: see second page

*California Environmental Protection Agency*

cc w/o enc: Gordon Innes, Division of Water Quality, State Water Board, Sacramento  
Daniel Merkley, Division of Water Quality, State Water Board, Sacramento  
Terry Brennan, Calif Integrated Waste Management Board, Sacramento  
Rob Neenan, California League of Food Processors, Sacramento  
Kerri O'Neal, DeltaKeeper, Stockton  
Bill Jennings, CSPA, Stockton  
Bill Lyons, Mape's Ranch and Lyons' Investments, Modesto  
Tim Ruby, Del Monte Foods, Modesto  
Martin Reyes, Food Processing By-Products Committee, Winton  
Jan Marie Ennenga, Manufacturers Council of the Central Valley, Modesto  
Rick Vargas, Stanislaus Foods, Modesto

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2006-0052

REGARDING THE REUSE OF FOOD PROCESSING BY-PRODUCTS  
WITHIN STANISLAUS COUNTY

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

1. In 1978, Stanislaus County established a voluntary Food Processing By-Products Use Program (hereafter "Program") to divert solid and semi-solid food processing by-products from county landfills. Under the Program, the County permits food processors (both within and outside the County) to transport food processing by-products for use in land application, direct animal feed, dehydration, and composting operations. Under current State landfill regulations, the majority of the diverted food processing by-products is too wet to be accepted at landfills.
2. The types of solid and semi-solid food processing by-products historically included in the Program include rejected fruit and vegetable products, solids screened from food processing wastewater, wastewater, and nutrient- and organic-rich sediment generated from the recycling of water in food processing flume conveyance systems.
3. Stanislaus County and its permit holders (i.e., the entities accepting the by-products) state that solid and semi-solid food processing by-product is a valuable commodity which improves soil and nourishes animals; the diversion of such by-products from landfills is of public benefit; and the regulated operations are environmentally sound.
4. Stanislaus County Department of Environmental Resources' program criteria is set forth in the "*Stanislaus County Food Processing By-Products Use Program, May 2006*," (found as Attachment A, which is attached hereto and made part of this Resolution by reference). Any entity wishing authorization to accept solid or semi-solid food processing by-products must submit a permit application containing a detailed plan of operation and allow the County to make inspections and to take any necessary enforcement actions.
5. The County requires that its permit holders submit a performance bond for clean-up and remediation at the permitted site and reimburse the County for all costs incurred for permit administration, including, but not limited to, processing the permit application, enforcing the permit terms, and some monitoring of the permitted activity at the permit location. Annual reports must be submitted at the end of each food processing season.
6. The Program allows food processing by-products to be discharged at four types of sites, and contains specific conditions for each of these re-use operations, as summarized below:
  - a. For *land application operations*: the land must be cropped; the by-products must be applied in a manner that precludes the potential for nuisance odors and vectors; the by-product must be applied at agronomic rates established by a Certified Professional Soil Scientist, a Certified Professional Agronomist, or a Certified Crop Advisor; the by-products must be analyzed for selected constituents; and the soil in the land application areas must be analyzed prior to discharge.

REGARDING THE FOR THE REUSE OF SOLID FOOD PROCESSING BY-PRODUCTS  
WITHIN STANISLAUS COUNTY

- b. For *direct (animal) feed operations*: the by-products must be delivered to a cement or asphalt pad; the by-products shall not be fed to animals on open ground; and the volume of by-products delivered shall not exceed that which will be fed or processed within 24 hours of delivery to the site.
  - c. For *dehydration and composting operations*: the by-product shall be delivered to a cement, asphalt, or compacted soil pad and shall be processed within 24 hours.
7. The activities described in this Resolution result in the discharge of waste, as defined in California Water Code (CWC) section 13050. Pursuant to the CWC and implementing regulations, (a) liquid, solid, and gaseous waste substances from a food producing or processing operation are “waste,” (b) an element or compound reasonably expected to be in or derived from such waste is a “waste constituent,” and (c) a waste transformed under natural conditions through biological and chemical processes into waste constituents that will not impair groundwaters is “decomposable waste.”
8. Pursuant to CWC Section 13050, substances from food producing or processing operations referred to in the Program as “food processing by-products” that are comprised of and yields decomposable waste and waste constituents are considered waste that is subject to regulation under the CWC. For purposes of this Resolution these wastes will be referred to as “food processing by-products”.
9. Regional Board staff has reviewed the Program in relation to prevention of water quality impacts and nuisance conditions. In summary:
  - a. For *land application operations*, the Program is adequate as currently implemented to prevent creation of nuisance conditions and to prevent impacts to surface water. In addition, nitrogen loading rates appear protective of water quality. However, a literature review (and possibly additional study) is needed to determine the appropriate regulatory approach, requirements, and best management practices necessary to ensure that the Program is adequate to control, protect and monitor the application of food processing by-products to land to ensure the protection of water quality and the environment. The following issues need to be reviewed, studied, and assessed:
    - (1) Determine an adequate monitoring program for the by-products, soil and groundwater, considering site and by-product characteristics and conditions.
    - (2) Evaluate and determine the actual or potential water quality impacts that (a) high strength and (b) low pH food processing by-products may have in land application practices. Develop proper controls, management measures and prohibitions (given site and waste characteristics and conditions) to address these types of food processing by-products applied to land.

- (3) Determine the percentage of total dissolved solids (TDS) in food processing by-products that is present as volatile dissolved solids (VDS), and how much of this VDS will degrade within the soil profile.
  - (4) Evaluate the actual or potential impacts to groundwater of food processing by-products with a high moisture content that is applied to land prior to the planting of crops.
  - (5) Evaluate the actual or potential impacts to groundwater caused by on-site storage of food processing by-products during rain events. Develop proper controls, management measures and prohibitions given site and waste characteristics to ensure storage of food processing by-products is done in a manner that is protective of groundwater quality.
  - (6) Identify site and waste characteristics and conditions that would prohibit the application of food processing by-products to land, and
  - (7) Establish requirements that prohibit the discharge of liquid wastes to land under the County's program.
- b. For *direct (animal) feed operations*, the Program is adequate as currently implemented to prevent nuisance conditions and adverse impacts to waters of the State.
  - c. For *dehydration and composting operations*, the Program is not adequate to prevent nuisance conditions and adverse impacts to waters of the State with respect to leachate and storm water impacts, and because such facilities have multiple water quality issues, they are more appropriately regulated under either individual or general WDRs. Stanislaus County has agreed that it is appropriate for the Regional Board to regulate these sites outside the scope of this resolution.
10. While the land application of food processing byproducts has great benefit in reducing the amount of material taken to landfills and in enhancing soil structure, there is a possibility that certain aspects may threaten groundwater quality. Stanislaus County has proposed that a literature review, and subsequent study if necessary, be completed to determine (a) the impacts to groundwater from the land application of solid and semi-solid food processing by-products and (b) safeguards to protect water quality from such a discharge. It is appropriate to allow Stanislaus County to continue its Program while additional data is collected, subject to the conditions listed in this Resolution. The literature review and any needed study will be designed to provide information with respect to the effects or threatened effects of food processing by-products on waters of the state and to help determine the appropriate regulatory mechanism for the discharge of food processing by-products on a County-wide or possibly Region-wide basis. This Resolution does not waive WDRs nor delegate responsibility to the County. Instead, it postpones Regional Board action pending outcome of the literature review and any necessary study.

11. Pursuant to CWC section 13225, the Regional Board may require any state or local agency to investigate and report on any technical factors involved in water quality control or to obtain and submit analyses of water. This Resolution requires Stanislaus County to undertake a literature review (and subsequent study if necessary) to determine any impacts of food processing by-products on groundwater quality, and best management practices to protect water quality. CWC section 13325 also authorizes the Regional Board to request enforcement by appropriate federal, state and local agencies of their respective water quality control laws. This Resolution requires Stanislaus County to adopt an Ordinance or other legal mechanism to fully implement and enforce the Program. This Resolution does not delegate the Regional Board's authority to Stanislaus County, as such delegation is not authorized by the Water Code. This Resolution sets forth tasks that should provide information to support adoption of a Regional Board regulatory program that could include waste discharge requirements (WDRs) or a waiver of WDRs.
12. This Resolution does not limit the authority of the Regional Board to enforce CWC Division 7 or other applicable laws. This Resolution does not constitute WDRs or a waiver of WDRs. This Resolution does not authorize or approve the Program. This Resolution requires the County to undertake a literature review, and a subsequent study if necessary, to address the issues described in Finding No. 9.a. The Regional Board retains its authority to issue WDRs, waive WDRs, and take enforcement action as appropriate. Pursuant to CWC Section 13263(g), discharge is a privilege, not a right, and adoption of this resolution does not create a vested right to continue any discharge that occurs under the Program.
13. Known operators and other interested parties and persons were notified of the intent to adopt a resolution regarding the Stanislaus County Program and were provided an opportunity to submit written comments and for a public meeting.
14. A public meeting was held on 22 June 2006 in Rancho Cordova, California to consider comments concerning this matter.

THEREFORE, BE IT RESOLVED that:

1. Stanislaus County shall continue to implement, inspect, monitor, and enforce its *Stanislaus County Food Processing By-Products Use Program, May 2006* or subsequent revisions thereto;
2. According to the following schedule, Stanislaus County shall oversee a literature review (and if necessary, a study) to determine the impacts of food processing by-products on groundwater quality, and to specifically address the issues listed in Finding No. 9.a. The study team and researchers shall regularly consult with staff of the Department of Food and Agriculture, California Integrated Waste Management Board, and Regional Board.
  - a. By **1 August 2006**, Stanislaus County shall submit a workplan to the Executive Officer describing in detail the work to be completed, any additional soil or by-product monitoring to be completed, the name of the principal investigators and researchers, and the funding

source(s). At a minimum, the workplan shall include:

- A literature review;
  - A technical review of the Stanislaus County Program and existing locally generated data;
  - An assessment of the current local legal authority of Stanislaus County to adequately implement and enforce its program; and
  - Development of a field-ready Manual of Best Practices that includes management methods, waste prevention, and waste minimization actions that will minimize potential water quality impacts at by-product land application sites, including but not limited to: (a) a reduction of the salinity and water content of the food processing by-products applied to land and (b) an increase in the pH of the food processing by-products applied to land.
- b. By **1 January 2007**, Stanislaus County shall submit the results of the literature review.
- c. By **1 April 2007**, Stanislaus County shall submit a review of existing data, including that data collected at County-permitted land application sites from the years 2000 through 2006.
- d. By **1 July 2007**, Stanislaus County shall submit a final report to the Executive Officer. The report shall include the results of all work described in No. 2.a (above), as well as any proposed changes to the Stanislaus County Program to fully protect surface and groundwater quality.
- e. By **1 January 2008**, Stanislaus County shall adopt an Ordinance or other legal mechanism that provides for implementation and enforcement of the Program
- f. Stanislaus County shall submit quarterly progress reports suitable for inclusion in the Executive Officer's report section of the Regional Board agenda (due by 30 September 2006, 30 December 2006, and 30 March 2007).
- g. Stanislaus County shall schedule meetings as necessary to apprise the Executive Officer and staff as to the progress of the work described in Section 2.a (above).

BE IT FURTHER RESOLVED that it is the intent of the Regional Board that the outcome of the study will support the adoption of an appropriate regulatory mechanism (i.e., a waiver of WDRs or similar instrument) for the land discharge of food processing by-products prior to the spring of 2008.

AND BE IT FURTHER RESOLVED that this Resolution does not create a vested right to discharge waste and the Regional Board may modify or terminate this Resolution at any time. Nothing in this Resolution limits the authority of the Regional Board to enforce CWC Division 7 or other applicable laws.

RESOLUTION NO. R5-2006-0052  
REGARDING THE FOR THE REUSE OF SOLID FOOD PROCESSING BY-PRODUCTS  
WITHIN STANISLAUS COUNTY

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I, PAMELA C. CREEDON, 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, Central Valley Region, on 22 June 2006.

Original Signed by  
PAMELA C. CREEDON, Executive Officer

Related Documents:

- Attachment A: Stanislaus County Food Processing By-Products Use Program, May 2006

WSW: 6 July 2006

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

AGREEMENT FOR MONITORING AND REPORTING OF  
SOLID AND SEMI-SOLID FOOD PROCESSING BY-PRODUCTS APPLIED  
UNDER THE STANISLAUS COUNTY PROGRAM

This Monitoring and Reporting Program (MRP) describes the agreement reached between Stanislaus County and Regional Board staff regarding monitoring and reporting for the solid and semi-solid food processing by-products discharged under the Stanislaus County "Food Processing By-products Use Program" (hereafter County Program) and the sites to which the by-products are applied.

Monitoring shall be conducted by either Stanislaus County or by the permittees in the County Program. If conducted by the permittees, then Stanislaus County shall oversee the monitoring and reporting requirements. Stanislaus County shall be responsible for submitting the annual report.

All laboratory results shall be reported to the method detection limit (MDL). Non-detected results shall be reported as less than the MDL (<MDL). Results above the MDL, but below the concentration of the lowest calibration standard for multipoint calibration methods or below the reporting limit for other methods, shall be flagged as estimated.

Analytical procedures shall comply with the methods and holding times specified (and all updated versions thereafter) in: *Methods for Chemical Analysis of Water and By-products* (EPA-600/4-79-020, 1983); *Methods for Determination of Inorganic Substance in Environmental Samples* (EPA/600/R-93/100, 1993); *Standard Methods for the Examination of Water and By-productwater, 20th Edition* (WEF, APHA, AWWA); *Soil, Plant and Water Reference Methods for the Western Region, 2003, 2<sup>nd</sup> Edition, 2003* (hereafter Western Region Methods) and *Test Methods for the Examination of Composting and Compost*.

#### **DIRECT ANIMAL FEED OPERATIONS**

Daily records shall be kept detailing the name of each facility permitted under the County Program, the type and amount of food processing by-product delivered, the hauler, the source of the by-product, and the type of receiving pad to which by-product is delivered.

#### **LAND APPLICATION OPERATIONS**

The remainder of this Monitoring and Reporting Program applies to sites at which solid and semi-solid food processing by-product is applied to cropland.

## A. BY-PRODUCT CONSTITUENT MONITORING

Samples shall be collected from the food processing by-products delivered to each site, and shall be monitored for the following parameters: moisture, total nitrogen, organic carbon, total dissolved solids, sodium, chloride, sulfate, potassium, calcium, magnesium, phosphorus, and metals (i.e., arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc). Results shall be reported on both a wet weight and dry weight basis. Each sample shall be a composite of a number of samples collected from the same load. Samples shall be collected from at least 2% of all loads taken to a site, and the sampling program shall ensure that each by-product source/type is represented. Results shall be reported for each site and for each source of food processing by-product.

Alternatively, Stanislaus County may submit a *Solid Food Processing By-Product Characterization Report* containing a compilation of analytical data collected during the previous 15 years for by-products applied to permitted land application sites. The data shall be sorted by type of food processing by-product (i.e., tomatoes, olives, peaches, etc.). If the data shows that certain constituent concentration are relatively constant for a particular by-product stream, then the County may request a reduced sampling program for that type of by-product and that constituent(s). Until this report is submitted and approved by the Executive Officer, the by-product constituent monitoring described in the first paragraph shall be implemented.

## B. LAND APPLICATION AREA MONITORING

Each entity permitted by Stanislaus County shall maintain a daily log and record in the log, at a minimum, the following information:

- (a) date and time of each delivery of the by-product,
- (b) name of the hauler,
- (c) amount (by weight) delivered,
- (d) source (generator) of the by-product,
- (e) type or category of by-product, and
- (f) whether the by-product came directly from the generator or was first taken to a transfer station.

For each field receiving by-product, the following information shall be monitored and recorded:

- (a) starting and ending dates of irrigation and hydraulic loading (in/month),
- (b) number of acres where the by-product was applied,
- (c) dry and wet tons of by-product applied,
- (d) nitrogen loading derived from byproduct applications (lbs/acre/month),
- (e) nitrogen loading derived from fertilizer (lbs/acre/month),
- (f) yearly cumulative nitrogen loading (lbs/acre/month) from by-products and commercial fertilizers (starting in January),
- (g) yearly cumulative TDS loading (lbs/acre/month),

- (h) type(s) of crops grown, dates of planting and harvest, tons of crop removed per acre, and
- (i) tons of nitrogen removed by crop in tons/acre/year (based on standard nitrogen uptake as provided in a recognized reference).

### **C. SOIL MONITORING**

Soil collection method and soil sampling depths shall be in accordance with the County's Program. Each permitted Land Application operation shall establish representative background soil sample locations to characterize the quality of soil that has not been, and will not be, utilized for land application of solid food processing by-product. In addition, the soil in each field receiving by-products shall be sampled pre- and post-application.

Background soil samples, pre-application soil samples, and post-application soil samples shall be analyzed annually for the following: cation exchange capacity, buffer pH, salinity, plant nutrients, and total organic carbon. Plant nutrients must include total nitrogen, nitrate-nitrogen, ammonium-nitrogen, available phosphorus (Olsen), potassium, magnesium, and calcium. Saturation paste samples shall be analyzed for pH, soluble salts (electrical conductivity), calcium, magnesium, chloride, sodium, and sodium adsorption ratio.

### **REPORTING**

The data shall be arranged in tabular form so that the date, sample type (e.g., soil), and reported analytical result for each sample are readily discernible. The data shall be summarized in such a manner to clearly illustrate spatial or temporal trends, as applicable.

#### **A. ANNUAL REPORT**

**By 1 April of each year**, the County shall submit a comprehensive annual report, which shall include:

1. A tabulation of the information listed in the "Direct Animal Feed Operations" section.
2. A tabulation and discussion of the results of the By-product Constituent Monitoring, Land Application Area Monitoring, and Soils Monitoring.
3. A list of sites, owner, and operator contact information for all animal feed and land application sites authorized to operate under the Program the previous calendar year, or a list of deletions and additions keyed to a previously submitted list. The County shall provide a brief explanation for each deletion.
4. A summary of the inspection and/or sampling activities conducted by the County to evaluate compliance of each permittee with the County Program. The summary shall identify enforcement actions (e.g., citation, warning letter, permit rescission, etc.) issued to each permittee as a result of noncompliance or threatened noncompliance and their effect.

5. A copy of each permittee's annual report submitted to the County for the previous calendar year.
6. A discussion of any data gaps or potential deficiencies/redundancies in the monitoring system or reporting program.
7. A description of any proposed significant changes in operating the County's Program. Significant changes include, but are not limited to, changes concerning: the Program's administrative structure, local discharge limitations or conditions, monitoring program or monitoring frequencies, legal authority or enforcement policy, funding mechanisms, resource requirements, or staffing levels.

A letter transmitting the self-monitoring reports shall accompany each report. The transmittal letter shall contain a statement by the Director of the Department of Environmental Resources, Stanislaus County, or the Director's authorized agent, under penalty of perjury, that to the best of the signer's knowledge the report is true, accurate and complete. The Director shall sign the annual report with the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Alternatively, Stanislaus County may require that each permitted entity submit their annual report with the above certification. In that case, the Director of the Department of Environmental Resources shall not be required to provide the certification.

The County shall implement this agreement as of **1 July 2006**.

Stanislaus County

# Food Processing By-Products Use Program

Land Application  
Direct Feed  
Dehydration  
Composting

*Prepared by*  
Department of  
Environmental Resources

May 2006

## Table of Contents

General Information	Page 3
Plan of Operation Information	Page 6
General Permit Terms and Conditions	Page 9
Land Application Additional Conditions	Page 11
Direct Feed Operations Additional Conditions	Page 13
Dehydration Operations Additional Conditions	Page 14
Composting Operations Additional Conditions	Page 15
Sample of Site Log and Tonnage Report	Page 16
Sample of Annual Use Survey Form	Page 17

Welcome to Stanislaus County, we appreciate your contacting the Department of Environmental

Resources (DER or Department) to explore your interest in the land application, direct feed, composting and/or dehydration of food processing by-products. The DER has prepared this comprehensive guide to our program so you will understand what is expected of our applicants. Should you have questions that are not answered here, please contact our office at 525-6700 and ask for the solid By-Product unit.

A permit from the DER is required for any operator wanting to apply food-processing by-products to land, direct feed, composting and/or drying. A Plan of Operation, a performance bond, proof of required insurance coverage, and annual regular inspections by DER staff are also required.

The planned use of the by-products may trigger the CEQA environmental review process. The DER, as lead agency, will prepare an initial study based on information provided by the Applicant. The DER will determine whether the project may cause significant environmental impacts, and adopt the appropriate level of mitigation, if any.

#### Definitions:

Food processor: A processor of fruit, nut or vegetable raw products which may include but are not limited to tomato, peaches, almonds, walnuts, pears, grapes, raw olives, grain products or other raw plant material, i.e., canneries, nut processors, vegetable processors, frozen food processing, etc.

By-product: Food processing by-products are solid or semisolid substances derived from agricultural plant material delivered to a food processor for processing that are not utilized in the final product. Food processing by-products include but are not limited to culls, peelings, seeds, under or over ripe food, skins, cores, pomace, puree, hulls, shells, pits, stems, leaves and any substance including soil washed from plant produce.

#### Permit:

The permit application is the first step in being authorized to apply food processing by-products to land, direct feed, composting or dehydration in Stanislaus County. You are required to identify the proposed site and all the persons involved in the operation. The initial application fee, annually thereafter, is based on a weighted labor rate for staff time associated with the processing of your application, administering the program and enforcing the program will be billed to you by the Accounting unit.

- Permit approval process: The Department may grant a permit for food processing by-products use, upon application therefore whenever in the opinion of the Department the granting of such permit is in the public interest and welfare and in compliance with all applicable local, State and Federal regulations including any CEQA or other environmental reviews required by law.

- Permit appeal process: Should DER deny the permit application, an Applicant may appeal to the Board of Supervisors. Such appeal must be in writing and must be received by the clerk of the Board not more than fifteen days after denial of the permit. Appeals filed shall be accompanied with a fee in an amount set by resolution of the Board. The hearing on such appeals shall be after notice of the time thereof has been mailed to appellant at least seven days before the hearing. Any appeal not accompanied by the required fee within the fifteen-day period described above shall be deemed untimely. (Stanislaus County Refuse Ordinance 9.12.080)
- Permit renewal process: Permits may be renewed upon expiration thereof provided the department finds that the permit holder is capable of continuing operation in conformity with the provisions of the Stanislaus County Refuse Ordinance and the rules and regulations of DER.

Fees:

The permit holder shall reimburse the Department for all costs incurred by it in administering this permit, including, but not limited to, processing the permit application, enforcing the permit terms, and monitoring permitted activity at the permit location. The Department shall issue an invoice itemizing all costs incurred by the Department and the permit holder shall remit payment as shown in invoice within 30 days of the invoice date. All costs will be based on the current weighted labor rates of the appropriate Department Staff member. A late payment charge equal to 1.5 percent of the unpaid invoice amount shall accrue and shall be added to the total amount each month that an invoice payment is past due.

Sampling/Testing:

The following references (and all updated versions thereafter) may be used for methods analyses made pursuant to this: Soil, Plant and Water Reference Methods for the Western Region, 2003, 2nd Edition, 2003 and Test Methods for the Examination of Composting and Compost. 2002.

The Laboratory performing the analysis shall be certified by the California Department of Health Services in its Environmental Laboratory Accreditation Program and participate in the North American Proficiency Testing Program.

Agronomic rates shall be established by a Certified Professional Soil Scientist certified by the SSSA Certification Board (formerly known as ARCPACS), a Certified Professional Agronomist (CPAg) certified by the American Society of Agronomy (ASA) Certification Board, (formerly known as ARCPACS) or a Certified Crop Advisor certified by the California Certified Crop Advisor Board.

Performance Bond:

To further ensure compliance with program requirements, the permit holder shall submit a cash bond, certificate of deposit, irrevocable letter of credit, or a faithful performance bond in favor of the DER, in an amount equal to 125 percent of the estimated cost (as determined by the DER) for clean-up and remediation at the permit location. This shall occur at or before the time the permit is issued. If submitting a faithful performance bond, the applicant will be required to complete a performance bond form. For more information regarding this requirement, please contact the DER.

Insurance:

Provide a certificate of current insurance on all hauling vehicles: \$1,000,000 GL, & \$100,000 PD, minimum coverage extending through the permit period. Vehicle license numbers shall be indicated on the forms.

Site Inspections:

The DER will inspect the site(s) prior to issuing a permit to assure that requirements listed below are met. During the period when applications occur and for 24 days following the end of a season or termination of the program the DER will inspect the site(s) to assure that the permittee is adhering to conditions of the permit and Plan of Operation. Inspections will occur weekly or at other frequencies determined by the DER.

Vehicle Inspections & Hauler Requirements:

The DER must perform an annual inspection of vehicles collecting and/or transporting food processing by-products, and an identification sticker will be issued and shall be displayed on each vehicle. Prior to the beginning of the season, please contact the DER for inspection appointments. The following are checked during each inspection: leakproof beds/bodies, load covering, current vehicle registration, broom and shovel, fire extinguisher, operable brake lights and turn signals. At the time of inspection applicant must provide proof of certification/documentation that the hauler complies with the California Department of Business, Transportation and Housing B.I.T. Program, and that all drivers have a Class A License with prior endorsements from the Department of Motor Vehicles and the California Department of Transportation.

**ALL APPLICANTS SHALL SUBMIT A “PLAN OF OPERATION”**

In order for your Application and Plan of Operation to be considered COMPLETE, please answer all applicable questions on the following pages and provide all applicable information.

It may be necessary for you to provide additional information and/or meet with DER staff to discuss the application. Pre-application meetings are not required, but are highly recommended. An incomplete application will be placed on hold until all necessary information is provided to the satisfaction of the DER. An application will not be accepted or approved without all of the information identified being provided.

1. List the owner of the site. If different from the permit applicant, list the property owner's name, mailing address and phone number. If the parcel is under a different ownership, the project applicant must provide a notarized letter from the owner that states that applicant has the owner's consent to conduct the proposed project on that parcel and that the owner has approved the proposed plan of operation.
2. List the address and the assessor's parcel number(s) of the site.
3. List the general plan and zoning designation of the site.
4. List the current use of the site.
5. List the soil types of the project site. List their approximate absorption/water holding capacities.
6. List the approximate depth to groundwater at the site. State how the depth was determined, and the month and year the depth was determined.
7. Provide a vicinity map showing the location of the site and all proposed delivery routes.
8. Provide a plot plan drawn to a legible scale which clearly shows the intended project. The map must contain the following physical data:
  - Sufficient description to define the location, date, north arrow, scale and boundaries; (full width of all public and private road ways bordering the property must be shown);
  - Name and address of recorded owner(s);
  - Name and address of person(s) preparing the map;
  - Acreage to the nearest acre;
  - Location and size of all waterways, drainage courses, pipelines, existing irrigation and drainage facilities, irrigation and drainage patterns, existing or proposed water wells, septic tanks and drainage (leach) fields, sewage lines and structures used in connecting therewith, slope of the land; and
  - Outline of existing buildings and other structures to remain in place within the project area, showing the distance to existing or proposed public and private road ways.

9. Provide an 8½" x 11" reproducible, to scale, legible area map showing specific land uses (crops, houses, buildings, parcel lines and parcel sizes, etc.) for the adjacent two parcels in each direction from the subject property.
10. Provide a list of names, addresses and assessment numbers of all properties located within ¼ mile (1320 feet) and/or two parcels in each direction of applicant's project. Said information must be taken from the latest assessment roll of the subject county. A written notice of the permit application to operate a Food Processing By-Product Use Site will be sent by the applicant to those property owners located within ¼ mile (1320 feet) and/or two parcels in each direction of the subject site. The notice will include a description of your project approved by DER staff. Documentation of the notice must then be submitted to DER staff.
11. Name the site manager, provide a mailing address and list a 24-hour contact phone number.
12. List the types of by-product you plan to accept at the site, and describe how by-product will be ultimately utilized.
13. List the names, addresses, phone numbers and contact persons for the food processing plant(s) that will provide the by-product.
14. List the names, addresses, phone numbers and contact persons of the hauler(s) who will haul the by-product to your site.
15. State how many tons per day of by-product will be delivered to your site. List the total tons for the season.
16. If more than one type of by-product will be delivered, estimate the tons per day of each type of by-product that will be delivered to the site.
17. State how many truckloads per day will be delivered to your site.
18. Give the date that by-product deliveries will start and the date they will stop each season or indicate if you will accept the by-product year-round. Estimate how many days per year the site will accept by-product.
19. List the days of the week, and the approximate times that by-product will be delivered to your site.
20. Explain in a detailed, step-by-step manner, how you will use or process the by-products.
21. Explain in detail, the methodology to be used for tracking, receiving, storing, and depositing by-products. This tracking procedure must include records of when by-

product is received, where it is received, and the location of the by-product when it is used at the site.

22. List the types of the equipment you will use to manage the by-products. Indicate if that equipment is under your ownership. List stand-by equipment available in case of equipment breakdown.
23. Explain in detail how you will prevent the following conditions from occurring, and provide contingency plans in the event these conditions occur:
  - Excessive liquid accumulation and excess moisture.
  - Excessive dust.
  - Excessive noise.
  - Excessive objectionable odors.
  - Excessive fly, mosquito and/or vector nuisance.
  - Inclement weather.
24. Describe how the by-products will be contained on the site and not allowed to flow or otherwise be deposited on other surrounding properties or waterways.
25. Applicant shall provide DER staff with written verification from the food processing by-product processor, that all by-products deposited on permitted sites in Stanislaus County will not pose a risk to land, air, water, to human and animal health or the environment and that utilization of the by-product as direct feed or as a soil amendment is an acceptable use of said by-product.
26. Where applicable, the site operator shall demonstrate compliance with the Central Valley Regional Water Quality Control Board's Irrigated Lands Conditional Waiver Program (Resolution No. R5-2003-0105)

### **GENERAL PERMIT TERMS AND CONDITIONS**

All operations (land application, direct feed, composting and/or dehydration) shall comply with the following terms and conditions:

1. Only the types and amounts of food processing by-product listed in the permit application and plan of operations may be received and used at the permit location.

2. The permit holder is prohibited from receiving milk, whey, cheese by-products, meat and animal by-products, including dead animals, as well as fruit and vegetable by products that, because of processing, contain high concentrations of agriculturally and environmentally deleterious salts or constituents that have no agronomic benefit.
3. The total amount of by-product delivered to the permit location shall not exceed the amounts stated in the approved plan of operation.
4. The permit holder shall maintain a daily log approved by the DER which shall contain the following information: (a) date and time of each delivery of material, (b) name of the hauler of the material, (c) amount (by weight) delivered, (d) source of material, and (e) type of material. All daily logs shall be submitted annually to the DER and shall be made available to the DER for review and inspection upon reasonable request of the DER.
5. Written procedures acceptable to DER shall be developed whereby food processing by-product trucks are directed to the correct discharge lanes/areas during all delivery times. These procedures shall be implemented whenever the site receives food processing by-products.
6. The site shall be operated and managed at all times so that no excessive objectionable food processing by-product odors migrate off-site, and no excessive insect, rodent or other nuisances or public health hazards are created.
7. Approved spray equipment, insecticides and pesticides shall be readily available for use at all times to control flies, mosquito's, gnats and other pests. All insecticides and pesticides used shall be stored and used according to the label directions and in compliance with applicable local, state and federal rules, regulations and laws.
8. Mechanical equipment shall be readily available and be adequate to perform the necessary by-product operations. Standby equipment must be readily available, in the event of mechanical failure. If no equipment is available or if equipment becomes inoperable, no by-product materials shall be accepted at the site until operable processing equipment is available and existing stockpile is processed.
9. To prevent surface water quality degradation, ensure that all site personnel are familiar with the proper use and function of any on-site water control structures, which allow discharge. Maintain all valves that allow runoff and repair immediately as needed.
10. The permit holder grants to the DER the right of access to the permit location for all reasons and purposes reasonably related to the administration of this permit by the DER, including, but not limited to the right to enter upon the permit location to remediate any problem related to the permitted activity.

11. The permit application and Plan of Operations and supplements or amendments thereto submitted by the permit holder to obtain this permit are incorporated herein by reference. The permitted activity shall be operated in conformance with the above documents, these permit conditions and all applicable state and local laws, ordinances, regulations and codes. In the event of any conflict between the permit application or the plan of operations and the permit conditions, the permit conditions shall take precedence. All supplements, amendments or changes to the Plan of Operation must be submitted in writing to the DER for review and approval prior to initiating said changes in the permitted activity. The issuance of this permit does not release the permit holder from responsibility to comply with the permitted activity.
12. The DER may modify the conditions of this permit for cause, after prior notification to the permit holder, to eliminate, reduce or ameliorate any condition or nuisance that adversely affects the public health, safety or welfare, or threatens to unreasonably degrade the quality of surface water or groundwater.
13. The provisions of this permit are intended to be severable and if any individual condition or provision hereof is held to be invalid by the order of the Board of Supervisors, by order of any court of competent jurisdiction or for any other reason, the remaining terms of this permit shall not be affected thereby; provided, however, the DER, in its sole discretion, may terminate this permit if it determines that the permit, as modified by the severance, no longer achieves the objectives of the DER or adequately protects the public health, safety and welfare.
14. This permit may be suspended or revoked by the DER for cause. This permit is granted on the condition that the person(s) named in the permit will comply strictly with the laws, ordinances, regulations, and any specific conditions that are now or may hereafter be in forced by the State of California, Stanislaus County and the DER in the incorporated or unincorporated areas of Stanislaus County pertaining to the above mentioned business.

Notice: Conditions may be added, deleted, or modified at the sole discretion the DER. The specific conditions of your permit are valid only for the permit period, and are subject to change.

**LAND APPLICATION OPERATIONS SHALL ALSO COMPLY WITH THE  
FOLLOWING TERMS AND CONDITIONS**

1. Prior to accepting food processing by-products at the site, the soil shall be prepared to receive by-products. Clods of soil shall be broken by a Schmeizer or equivalent. The soil surface shall be leveled to reduce pocket holes and furrows. Soil shall be sufficiently dry to retain moisture applied with food processing by-product in the surface 12 inches.

2. Food processing by-product shall be discharged from the trucks as thinly and evenly as practical. Overlapping onto previously spread food processing by-product shall be minimal. Check runs shall be no longer and slopes shall be no greater than that which permits uniform infiltration, evaporation and maximum practical efficiency. The frequency of by-products application to any given area within the permit location shall not exceed the agronomic rate, but may be done in two or three lifts to allow for even drying.
3. Within twenty-four hours of deposition at the site, the food processing by-product shall be spread and crushed with a tandem drag or equivalent. The by-product shall dry for a minimum of 48 hours after which it shall be disced or harrowed. The soil should be worked to an appropriate depth. Alternate discing or harrowing and drying until final drying and incorporation into the soil are complete. In the event of inclement weather, the site operator may invoke the contingency plan outlined in the plan of operation upon approval by the DER.

4. The applicant shall maintain the following minimum setbacks for all by-product areas:

By-Product Application Setback Definition	Setback (feet)
Edge of by-product area to public property (e.g., street)	300'
Edge of by-product area to other non-owned agricultural property	100'
Edge of by-product area to occupied residences (on-site)	150'
Edge of by-product area to occupied residences (off-site)	300'

5. All cans, metal, wood, plastic, paper, cardboard, and other refuse in the food processing by-product at the site shall be removed and placed in approved containers and disposed of at an approved refuse disposal site. This refuse shall be removed and properly disposed of as needed.
6. Crops shall be grown on the land application areas. Crops shall be selected based on nutrient uptake capacity, tolerance of anticipated soil moisture and salinity conditions, water needs and evapotranspiration rates. All crops shall be grazed or they shall be harvested and removed from the by-product areas at least once per year.
7. By-product shall be tested for the following parameters and constituents: moisture, total nitrogen, organic carbon, sodium, potassium, calcium, magnesium, and phosphorus.
8. Application rates would be based on agronomic rates. An agronomic rate is that amount of by-products which meets a crop requirement without application of any by-product constituent in excess of crop requirements or as defined by the University of California Cooperative Extension. "Crop requirement," s used herein, refers to the amount of nutrients or constituents necessary for the selected crop and agronomic rate

must consider the amount already available in the soil profile from ground surface to rooting depth prior to by-product application. Mass loading rates for nutrients and degradable organic compounds shall be based on the character of the by-product, crop, soil, climate and other nutrient sources.

9. Soil samples from fields to which by-products are applied shall be analyzed for cation exchange capacity, plant nutrients, total organic carbon, salinity, and sodicity. Plant nutrients must include total nitrogen, nitrate and ammonium nitrogen, available phosphorous (Olsen), potassium, magnesium, calcium and sodium. Saturation paste samples shall be analyzed for soluble salts (electrical conductivity), pH, and buffer pH (lime requirement).

Samples shall be drawn from 1-foot intervals to the rooting depth. Alternative sampling intervals may be employed with technical justification. Each field scheduled to receive by-products in any given year should be sampled in late spring or early summer prior to the by-products application. Obtaining representative samples is critical to getting valid and interpretable analytical results. One method to ensure representative samples are collected is to conduct the soil sampling as follows. Collect soil samples from the depth intervals of 0-12", 12-24", and 24-36" at 10 to 20 sites per field based on geostatistical-based standards of practice. Mix samples taken from the same depth intervals to form a single composite sample for that depth interval. This composite sample should have a minimum weight of 1 lb. Submit each composite sample to a certified laboratory for analysis, for a total of three composite samples per field representing the three depths.

10. Land application of by-product to any sub-area or irrigation check not having a fully functional tail water/runoff control system is prohibited.
11. Applicant shall avoid excessive use of food processing by-product or practices which may create objectionable odors, soil conditions that are harmful to crops and degradation of underlying groundwater by overloading the shallow soil profile and causing by-product constituents (organic carbon, nitrate, other salts and metals) to percolate below the evaporative root zone.
12. Within sixty (60) days of the cessation of deliveries of food processing by-product to the site or at the end of the site season, the operator shall report to the DER the total amount of by-product delivered to the site (tons); the amount of by-product delivered daily (tons); a record of fields where by-products are applied, rate of application and total application/year/field; and by-product and soil sampling and testing data, and,

**DIRECT FEED OPERATIONS SHALL ALSO COMPLY WITH THE  
FOLLOWING TERMS AND CONDITIONS**

Direct Feed operations shall also contain the following information:

Indicate what type of livestock or poultry will be fed. List the percentage (by dry weight) of the feed ration at which this by-product will be used. List the number of lactating and non-lactating animals. List the number of livestock or poultry that will consume the by-product, or a list of purchasers and their intended use.

Direct Feed operations shall also comply with the following terms and conditions:

1. The by-product receiving pad shall be constructed of cement or asphalt; it must have adequate drainage facilities and prevent leaching. The pad shall be kept clean of accumulated by-product and maintained to prevent fly and mosquito production and objectionable odors.
2. By-product shall be fed on cement, asphalt or other approved manger and not applied to open ground.
3. Food processing by-product must be processed or fed within twenty-four (24) hours of delivery to the site. If the by-product is not processed or consumed within twenty-four (24) hours after delivery, no additional by-product shall be delivered to the site until such time as all by-products at the site has been consumed or properly processed per the procedures in the current site plan of operation.
4. No liquid or runoff from food processing by-product use areas shall be discharged from or allowed to drain off-site or onto adjacent property. The site shall be operated in conformance with the "Minimum Guidelines for Protection of Water from Animal Wastes," issued by the Regional Water Quality Control Board.
5. Food processing by-product used as an animal feed shall conform to the applicable sections of the "Commercial Feed Law and Regulations", as issued by the California Department of Food and Agriculture. The permit holder shall provide confirmation satisfactory to the Department that the feed meets the applicable requirements of the California Food & Agriculture Code, including but not limited to compliance with labeling, testing, and receiving sections of the Code.
6. By-product shall be tested for the following attributes: moisture, total nitrogen, organic carbon, sodium, potassium, calcium, magnesium, and phosphorus.
7. Within sixty (60) days of the cessation of deliveries of food processing by-product to the site or at the end of the site season, the operator shall report to the DER the amount of by-product delivered daily (tons); the total amount of by-product delivered to the site (tons); and by-product and soil sampling and testing data.

**DEHYDRATION OPERATIONS SHALL ALSO COMPLY WITH THE FOLLOWING  
TERMS AND CONDITIONS**

1. The by-product receiving pad shall be constructed of cement, asphalt or compacted surface area, it must have adequate drainage facilities, and prevents leaching. The pad shall be kept clean of accumulated by-products and maintained to prevent fly and mosquito production and objectionable odors.
2. By-product shall remain on the receiving pad no longer than 24 hours before processing commences.
3. By-product shall be tested for the following attributes: moisture, total nitrogen, organic carbon, sodium, potassium, calcium, magnesium and phosphorus.
4. Within sixty (60) days of the cessation of deliveries of food processing by-product to the site or at the end of the site season, the operator shall report to the DER the amount of by-product delivered daily (tons); the total amount of by-product delivered to the site (tons); and by-product and soil sampling and testing data.
5. Site shall comply with appropriate Regional Water Quality Control Board requirements which may include individual or general WDRs

**COMPOSTING OPERATIONS SHALL ALSO COMPLY WITH THE FOLLOWING  
TERMS AND CONDITIONS**

1. The by-product receiving pad shall be constructed of cement, asphalt or compacted surface area, it must have adequate drainage facilities, and prevent leaching. The pad shall be kept clean of accumulated by-products and maintained to prevent fly and mosquito production and objectionable odors.
2. By-product shall remain on the receiving pad no longer than 24 hours before processing commences.

3. By-product shall be tested for the following attributes: moisture, total nitrogen, density, organic carbon, sodium, potassium, calcium, magnesium. Where composting is over packed soil samples shall be taken from the surface three feet in one-foot increments. Analytes shall include at a minimum pH, nitrate nitrogen, Olsen phosphorus, ammonium acetate extractable potassium, electrical conductivity of the saturation extract and sodium absorption ratio. The top foot of access holes shall be backfilled with bentonite clay to minimize leaching and to prevent re-sampling back fill material.
4. Within sixty (60) days of the cessation of deliveries of food processing by-product to the site or at the end of the site season, the operator shall report to the DER the amount of by-product delivered daily (tons); the total amount of by-product delivered to the site (tons); and by-product and soil sampling and testing data.
5. Site shall comply with appropriate Regional Water Quality Control Board requirements which may include individual or general WDRs

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**SITE ACTIVITY LOG  
TONNAGE REPORT**

**Site Name:**

**Address:**

**Site Operator:**



City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 Person Completing Form : \_\_\_\_\_  
 Phone No. : \_\_\_\_\_

TYPE OF RESIDUE <sup>1</sup>	HAULER(S)	USE SITE & LOCATION	WEIGHT OF RESIDUE <sup>2</sup> (in tons)

---

<sup>1</sup>PLEASE itemize each type of residue.

<sup>2</sup>PLEASE express the weight of the residue in tons.

Return the completed survey form to:  
**DEPARTMENT OF ENVIRONMENTAL RESOURCES**  
**3800 Cornucopia Way, Suite C**  
**Modesto, California 95358-9494**

F:/Data/Swaste/FoodResiduePermits/FoodProcessingResidueUseSurveyForm

ORDINANCE NO. C.S. 1028

**AN ORDINANCE RELATING THE REGULATION OF  
FOOD PROCESSING BY-PRODUCTS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

**Section 1.** Chapter 9.88, attached hereto and incorporated herein by reference, is added to the Stanislaus County Code.

**Section 2.** Ordinance No. C.S. 964 (ORD-55-2) adopted August 22, 2006, is repealed.

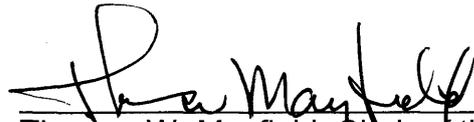
**Section 3.** This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor Monteith, seconded by Supervisor Grover, the foregoing resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the 26th day of February, 2008, by the following called vote:

AYES:Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

NOES: Supervisors: None

ABSENT: Supervisors: None

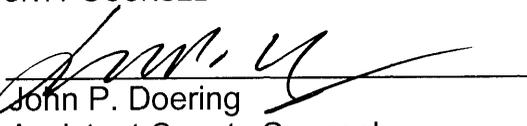
  
Thomas W. Mayfield, Chair of the Board  
of Supervisors of the County of  
Stanislaus, State of California

ATTEST:  
CHRISTINE FERRARO TALLMAN  
CLERK OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

By   
Deputy



APPROVED AS TO FORM:  
MICHAEL H. KRAUSNICK  
COUNTY COUNSEL

By   
John P. Doering  
Assistant County Counsel

**TITLE 9  
HEALTH AND SAFETY**

**CHAPTER 9.88  
FOOD PROCESSING BY-PRODUCTS**

**SECTIONS:**

- 9.88.010 Definitions**
- 9.88.020 General Prohibition, Permit Required**
- 9.88.030 Term of Permits and Renewals**
- 9.88.040 Application, Renewal and Revocation Procedures**
- 9.88.050 Fees, Financial Guarantee, Insurance**
- 9.88.060 Plan of Operation Information**
- 9.88.070 General Permit Terms and Conditions**
- 9.88.080 Administrative Appeal**
- 9.88.090 Appeal to Board of Supervisors**
- 9.88.100 Suspension and Revocation**
- 9.88.110 Transfer of the Permit**
- 9.86.120 Establishment of Regulations**
- 9.88.130 Misdemeanor Violation**
- 9.88.140 Civil Injunction**
- 9.88.150 Severability**
- 9.88.160 Judicial Review**

## **Section 9.88.010 Definitions**

The following words and phrases shall have the following meanings when used in this Chapter for the Stanislaus County Food Processing By-Product Program:

A. "Composting" means the process of the controlled biological decomposition of organic material into a humus-rich soil amendment. US Composting Council defines "Compost is the product resulting from the controlled biological decomposition of organic material that has been sanitized through the generation of heat and processed to further reduce pathogens (PFRP), as defined by the U.S. EPA (Code of Federal Regulations Title 40, Part 503, Appendix B, Section B), and stabilized to the point that it is beneficial to plant growth. Compost bears little physical resemblance to the raw material from which it originated. Compost is an organic matter source that has the unique ability to improve the chemical, physical, and biological characteristics of soils or growing media. It contains plant nutrients but is typically not characterized as a fertilizer."

B. "Department" means the Stanislaus County Department of Environmental Resources.

C. "Direct Feed" means receiving, processing and feeding food processing by-products to livestock.

D. "Dehydration" means receiving food processing by-products and drying the material so that it may be further processed into any beneficially used material.

E. "Food Processing By-Product" means the by-products of food processing that are solid or semisolid substances derived from agricultural plant material delivered to a food processor for processing that are not utilized in the final product. Food processing by-products includes culls, peelings, seeds, under or over ripe food, skins, cores, pomace, puree, hulls, shells, pits, stems, leaves and any substance including soil washed from plant produce.

F. "Food processor" means a processor of fruit, nut or vegetable raw products which may include but are not limited to tomato, peaches, almonds, walnuts, pears, grapes, grain products or other raw plant material, and that includes, i.e., canneries, nut processors, vegetable processors, frozen food processing, etc.

G. "Land Application" means the spreading, discing, and incorporating of food processing by-products onto agricultural fields for any beneficial use.

H. "Permit" means a permit for use of food processing by-products issued by the County to a person under this Chapter.

I. "Permit holder" means a person or legally recognized entity that holds an effective and current permit under this Chapter.

J. "Person" means any human being or an incorporated or unincorporated business entity or association established under the laws of the State.

#### **Section 9.88.020 General Prohibition; Permit Required**

A. It shall be unlawful for any person to conduct, engage in or allow to be conducted or engaged in the land application, direct feed, composting and/or dehydration of food processing by-products in the unincorporated area of Stanislaus County except if authorized by permit issued pursuant to this Chapter, and conducted in accordance with specific permit terms and conditions, the provisions of this Chapter, and all applicable federal, State and local laws, regulations and ordinances.

B. The owner, managing partner, officer of a corporation or such other person who shall be primarily responsible for activities involving use of food processing by-products shall apply to the Department of Environmental Resources for a permit under this Chapter and, if granted, shall maintain operations authorized by the permit in conformity with the terms of this Chapter and of the permit.

C. The fact that an applicant for permit possesses other types of federal, State or county permits or licenses shall not exempt the applicant from obtaining a permit under this Chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a permit granted under this Chapter.

D. This program prohibits the land application of food processing rinse water, saline waste streams such as boiler blow-down, and ion exchange reject.

#### **Section 9.88.030 Term of Permits and Renewals**

A. Each permit shall expire one year after the date of its issuance. Any permit may be renewed by the Department for successive one-year periods upon the submission of an application by the permit holder. At the time of consideration of a renewal application, the Department shall consider the applicant's compliance with permit conditions during the prior term.

B. Notwithstanding subsection A of this Section, all permits issued pursuant to this Chapter shall expire upon the effective date of an ordinance to repeal the provisions of this Chapter.

C. Any application for renewal shall be filed at least fifteen (15) calendar days before expiration of the permit.

D. Any application for renewal may be rejected if:

1. The application is filed less than fifteen (15) calendar days before its expiration.

2. The permit is suspended or revoked at the time of the application; provided, however, that an application for renewal may be filed within ten days after the granting of a permit holders appeal of the suspension or revocation of a permit.

E. Wherever this Chapter requires the County to give notice to an applicant, appellant or permit holder, such notice shall be given by the Department, in writing, and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested.

#### **Section 9.88.040 Application for Permit**

A. The Department may grant a permit for food processing by-products use, upon application therefore whenever in the opinion of the Department the granting of such permit is in the public interest and welfare and complies with all applicable federal, State and local laws, regulations and ordinances, including the California Environmental Quality Act or other environmental reviews required by law. The Department will inspect the site(s) prior to issuing a permit to assure that permit requirements can be met. During the period when by-products are received and for 60 days following the end of a season or termination of the program the Department may inspect the site(s) to assure that the permit holder is adhering to conditions of the permit and Plan of Operation. Inspections will occur weekly or at other frequencies as determined by the Department.

B. Each application shall be submitted on a standard form adopted by the Department, which sets forth or incorporates by reference the information as set forth in the Regulations for the Use of Food Processing By-Products in Stanislaus County by Permitted Use Sites.

C. The filing of an application shall be deemed complete upon the submission of an application and Plan of Operation in conformance with this Chapter and payment of any application fees required by this Chapter.

D. The Department shall provide written notice of the application for permit to operate a Food Processing By-Product Use Site to members of the Food Processing By-Product Committee, Central Valley Regional Water Quality Control Board, the California Department of Food and Agriculture and property owners, as shown on the latest Assessor's Roll, located within one-quarter mile (1320 feet) and/or two parcels in each direction of the subject site.

E. An application may be reviewed and copied by any member of the public in accordance with the California Public Records Act; provided, however, the Department shall keep confidential, to the extent reasonable and authorized by law, any information revealed during the application process that is protected under privacy laws of the State, or when requested by the applicant, any proprietary project and program information.

### **Section 9.88.050 Fees, Financial Guarantee, Insurance**

A. Permit Administration. The permit holder shall reimburse the Department for all costs incurred by it in administering the permit, including, but not limited to, processing the permit application, enforcing the permit terms, and monitoring permitted activity at the permit location. All costs will be based on the current weighted labor rates of the appropriate Department staff member. The Department shall issue an invoice itemizing all costs incurred by the Department and the permit holder shall remit payment as shown in the invoice within 30-days of the invoice date. Fees under this paragraph are due and payable on or before the thirtieth day after the date an invoice is issued and, thereafter, are deemed to be delinquent until paid.

B. Research Project Surcharge. Each permit holder shall also pay a surcharge fee equal to \$0.10 per ton of by-products received at each of the permitted reuse sites to be used for research required by the Regional Water Quality Control Board, and assessed for the period or periods when such research is required to maintain State approval of the Food Processing By-Product Program. Each permit holder shall report to the Department within 10-days after the end of each month the amount of by-products received by the permit holder during the reporting period. The Department shall issue an invoice based upon the reported amount of by-products received, and the permit holder shall remit payment as shown in invoice within 30-days of the invoice date. The surcharge fee shall be delinquent if unpaid within thirty days after the due date.

C. Fee Delinquency. All fees referred to in this ordinance shall be promptly paid in lawful money of the United States on or before the date such fees are due and payable. A late payment charge equal to 1.5 percent of the unpaid invoice amount shall accrue and shall be added to the total amount each month that an invoice is past due. In addition to late payment charges, persons that have not promptly paid fees when due and payable shall be subject to any or all of the following actions as imposed at the discretion of the Department: (1) the temporary suspension or permanent revocation of a permit to receive and use food by-products, or (2) the posting of security in an amount determined by the Department to be necessary and reasonable to offset additional delinquencies plus estimated collection costs, including reasonable attorney fees.

D. Performance Bond. Before or at the time a permit is issued under this Chapter, the permit holder shall submit a cash bond, certificate of deposit, irrevocable

letter of credit, or a faithful performance bond in favor of the County of Stanislaus, in an amount reasonably determined by the Department to be sufficient for clean-up and remediation at the permit location.

E. Insurance. No permit shall be issued under the provisions of this chapter, nor shall any such permit be valid after issuance, unless there is at all times in force and effect a policy or policies of insurance for comprehensive general liability and automobile liability with limits in an amount approved by the Department, and issued by a company approved by the Department. Insurance policies shall waive any exclusion for pollution coverage, and shall provide a specific endorsement, except Worker's Compensation insurance, if any, naming the County and its officers, officials and employees as additional named insureds. The Department may require additional types or increased amounts of insurance coverage and may adopt such other requirements as may be necessary to protect the County. Satisfactory evidence in the form of a certificate of liability insurance as required by this section shall be furnished to the Department by each permit holder.

#### **Section 9.88.060 Plan of Operation**

An application will not be accepted or approved unless the applicant submits a Plan of Operation that provides the information set forth in the Regulations for the Use of Food Processing By-Products in Stanislaus County by Permitted Use Sites, and additional information deemed necessary by the Department to determine the potential effect of the proposed operations on the health, safety and welfare of the public.

#### **Section 9.88.070 General Permit Terms and Conditions**

Throughout the term of the permit, each holder of a permit issued under this Chapter shall not violate any provision of this Chapter and shall comply with the standard terms and conditions set forth in the Regulations for the Use of Food Processing By-Products in Stanislaus County by Permitted Use Sites. Permit holders shall also comply with the following additional terms and conditions:

A. The permit holder grants to the Department the right of access, during normal business hours, to the permit location for all reasons and purposes reasonably related to the administration of this permit by the Department, including, but not limited to the right to enter upon the permit location to remediate any problem related to the permitted activity.

B. The permit application and Plan of Operation and supplements or amendments thereto submitted by the permit holder to obtain a permit are incorporated herein by reference. The permitted activity shall be operated in conformance with the above documents, these permit conditions and all applicable state and local laws, ordinances, regulations and codes. In the event of any conflict between the permit

application or the Plan of Operation and the permit conditions, the permit conditions shall take precedence. All supplements, amendments or changes to the Plan of Operation must be submitted in writing to the Department for review and approval prior to initiating said changes in the permitted activity. The issuance of this permit does not release the permit holder from responsibility to comply with any other requirements regulating activities on the site.

C. The Department will modify the conditions of a permit for cause, after prior notification to the permit holder, to eliminate, reduce or ameliorate any condition or nuisance that adversely affects the public health, safety or welfare, or does not fully protect surface and groundwater quality. The Department will notify the Central Valley Regional Water Quality Control Board of changes in permit conditions.

D. The provisions of a permit are intended to be severable, and if any individual condition or provision hereof is held to be invalid by the order of the Board of Supervisors, by order of any court of competent jurisdiction or for any other reason, the remaining terms of this permit shall not be affected thereby; provided, however, the Department, in its sole discretion, may terminate this permit if it determines that the permit, as modified by the severance, no longer achieves the objectives of the Department or adequately protects the public health, safety and welfare.

E. A permit may be suspended or revoked by the Department for cause. Permitted operations shall comply with all applicable federal, State and local laws, ordinances and regulations, including without limitation, County building, zoning and health codes, and shall allow inspections to ensure conformance with such regulations.

F. The permit holder shall not be delinquent in the payment of fees required by this Chapter.

G. The Department may, in its discretion, add, delete, or modify general permit conditions as necessary to protect the health, safety and welfare of the public.

H. Where applicable, the site operator shall demonstrate compliance with the Central Valley Regional Water Quality Control Board's Irrigated Lands Regulatory Program (Resolution No. R5-2003-0105).

### **Section 9.88.080 Administrative Appeal**

A. Any applicant, permit holder, or other interested person or entity that is dissatisfied with a decision resulting from the application, interpretation or enforcement of the provisions of this Chapter by the Department may appeal any administrative determination related to any of the following actions:

1. Finding that an application is complete or incomplete.

2. Determination that an application is not in the interest of the public health and welfare.
3. Establishment or modification of operating conditions.
4. Grant or denial of permit.
5. Suspension or revocation of a permit.

B. Administrative appeals under this Section must be made in writing, must clearly set forth the reasons why the appeal ought to be granted, and must be received by the Director of the Department within fifteen (15) days of the postmark date on the envelope that transmits the administrative determination. When the last day of the appeal period would fall upon a non-workday or a holiday, the appeal period shall be extended to include the next subsequent regular working day.

C. Within thirty (30) days after the filing of an appeal of an administrative determination, the Department shall set the matter for hearing before a hearing officer or panel, at which time the appeal shall be heard in public session. The Department shall provide written notice of the appeal hearing to the appellant and all interested parties as provided in Section 9.88.040 D. The appellant and any interested parties will be allowed to address the panel regarding the appeal.

D. Within thirty (30) days after conclusion of the administrative hearing on the appeal, the hearing officer or panel shall issue a decision on the appeal, and the Department shall mail a copy of the decision on appeal to all interested parties that participated in the hearing. The decision on appeal shall be final and binding upon all parties to the appeal unless that decision is appealed to the Board of Supervisors as provided in Section 9.88.090.

### **Section 9.88.090 Appeal to Board of Supervisors**

A. Any applicant, permit holder, or other interested person or entity that is dissatisfied with a decision after administrative appeal may appeal to the Board of Supervisors. The appeal must be made in writing and must be received by the Clerk of the Board of Supervisors within fifteen (15) days of the postmark date on the envelope within which the notice of the decision of appeal was sent. When the last day of the appeal period would fall upon a non-workday or a holiday, the appeal period shall be extended to include the next subsequent regular working day. Appeals filed shall be accompanied with a fee in an amount set by resolution of the Board.

B. Decisions appealed to the Board of Supervisors shall be set for specific time and place of public hearing at the next regular meeting and considered not later than forty-five days from the date on which the appeal is filed. The hearing date may be extended beyond forty-five days upon request or consent of the appellant.

C. Written notice of the appeal hearing shall be mailed to the appellant and all interested parties as provided in Section 9.88.040 D., and shall set forth the grounds for the appeal, the method of submitting comments to the County regarding the appeal, and the date and location of the hearing of the appeal.

D. Any appeal that is not timely filed, or that is not accompanied by the required fee, will be deemed ineffective and the administrative determination that is being appealed will become final.

E. The Board of Supervisors may take any appropriate action upon the original administrative action that was appealed pursuant to Section 9.88.080, including granting or denying the appeal or imposing, deleting or modifying operating conditions of the permit. The decision of the Board of Supervisors shall be final.

### **Section 9.88.100 Suspension and Revocation**

A. The Department may initiate the revocation or suspension of a permit when it shall appear that the permit holder violates the terms and conditions of the permit or the requirements of federal, State or local laws, ordinances or regulations.

B. No permit shall be revoked or suspended by virtue of this Section until a hearing has been held in the same manner as described in Sections 9.88.130 and 9.86.140. Notice of the hearing shall contain a brief statement of the grounds for revoking or suspending the permit and the time and date for the hearing.

C. The decision of the administrative panel may include suspension, revocation or the modification of the permit by adding conditions that are designed to reduce or remove the problems that caused the proposed revocation or suspension of the permit.

D. Within ten days after conclusion of the hearing of the appeal by the administrative panel, the Department shall give notice of the decision of the panel.

E. Any interested party may appeal the determination of the administrative panel to the Board of Supervisors within ten days after the date of the notice of the decision of the administrative panel. The Board of Supervisors shall act upon the appeal in accordance with Section 9.88.140.

F. Notwithstanding any other provision of this Chapter, the Department may suspend, or temporarily amend a permit without notice or a hearing whenever an emergency exists that threatens the public health, safety or welfare. In such cases, the Department shall notify the permit holder prior to the action. The Board of Supervisors shall review the emergency action at its next regularly scheduled meeting and at every regularly scheduled meeting thereafter until the emergency condition or situation

ceases to exist, or shall set the matter for hearing to revoke the permit in accordance with the provisions of this Chapter.

#### **Section 9.88.110 Transfer of the Permit**

A. A permit issued under this Chapter does not grant any interest in real property or create any interest of value. A permit is not transferable, and automatically terminates upon transfer of ownership of the property.

B. A transferee of an existing permit may apply for a new permit by submitting an application, Plan of Operation and fees that comply with this Chapter. The Department shall verify information in the application and Plan of Operation and shall approve the new permit unless it fails to comply with the standards set forth in this Chapter. The new permit holder must qualify and agree to comply with and be bound by the terms and conditions of the authorization, and the new authorization shall contain any new conditions or stipulations, which circumstances may warrant. A new permit issued pursuant to this Chapter shall be effective on either the date of transfer of ownership of the property or facilities subject to the permit, or the date of approval and issuance of a permit by the Department, whichever occurs last.

#### **Section 9.88.120 Establishment of Regulations**

The Board of Supervisors may establish, by resolution, regulations for the administration and implementation of this Chapter. Such regulations, when adopted, shall become and thereafter be a part of Chapter 9.88. A copy of the regulations established by resolution of the Board shall be filed with the Clerk of the Board and with the Department.

#### **Section 9.88.130 Misdemeanor Violation**

Any person violating any of the provisions or failing to comply with this Chapter shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished as set forth in Section 1.36.010. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter or the permit is committed, continued or allowed in conjunction with the operations and shall be punishable accordingly.

### **Section 9.88.140 Civil Injunction**

In addition to the penalties provided in this Chapter, any condition caused or allowed to exist in violation of any of the provisions of this Chapter shall be deemed a public nuisance and shall, at the discretion of County, create a cause of action for injunctive relief, and which may be enforced pursuant to Chapter 2.92.

### **Section 9.88.150 Severability**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

### **Section 9.88.160 Judicial Review**

Judicial review of a final decision made under this Chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of Section 1094.5 of the California Code of Civil Procedure. Any such petition or any other action seeking judicial review shall be filed within ninety (90) days after the day the decision becomes final.

ORDINANCE C.S. 1028

Upon motion of Supervisor Monteith, seconded by Supervisor Grover, Ordinance C.S. 1028 was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 26th day of February 2008, by the following called vote:

AYES: SUPERVISORS:	O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield
NOES:	None
ABSENT:	None
ABSTAINING:	None

Ordinance C.S. 1028 is an ordinance adding Chapter 9.88 "Food Processing By-Products" to the Stanislaus County Code.

A full copy of the ordinance is available for review at the Clerk of the Board's Office, 1010 10th Street, Suite 6700, Modesto, California. For further information, call the Stanislaus County Counsel's Office at 525-6376, 1010 10<sup>th</sup> Street, Suite 6400, Modesto, California.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: February 26, 2008

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk  
of the Board of Supervisors  
of the County of Stanislaus,  
State of California

BY: Suzi Seibert, Deputy Clerk of the Board

**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**

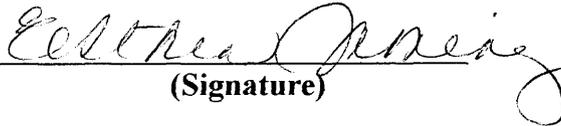
**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident  
Of the County aforesaid; I am over the age of  
Eighteen years, and not a party to or interested  
In the above entitle matter. I am a printer and  
Principal clerk of the publisher  
of **THE MODESTO BEE**, printed in the City  
of **MODESTO**, County of **STANISLAUS**,  
State of California, daily, for which said  
newspaper has been adjudged a newspaper of  
general circulation by the Superior Court of the  
County of **STANISLAUS**, State of California,  
Under the date of **February 25, 1951, Action  
No. 46453**; that the notice of which the annexed is  
a printed copy, has been published in each issue  
there of on the following dates, to wit:

**MARCH 2, 2008**

I certify (or declare) under penalty of perjury  
That the foregoing is true and correct and that  
This declaration was executed at  
**MODESTO, California** on

**MARCH 2, 2008**

  
(Signature)

ORDINANCE C.S. 1028  
Upon motion of Supervisor Monteith, seconded by  
Supervisor Grover, Ordinance C.S. 1028 was passed  
and adopted at a regular meeting of the Board of  
Supervisors of the County of Stanislaus, State of  
California, this 26th day of February 2008, by the  
following called vote:  
AYES: SUPERVISORS: O'Brien, Grover,  
Monteith, DeMartini, and Chairman Mayfield  
NOES: None  
ABSENT: None  
ABSTAINING: None  
Ordinance C.S. 1028 is an ordinance adding Chapter  
9.88 "Food Processing By-Products" to the Stanis-  
laus County Code.  
A full copy of the ordinance is available for review  
at the Clerk of the Board's Office, 1010 10th Street,  
Suite 6700, Modesto, California. For further infor-  
mation, call the Stanislaus County Counsel's Office  
at 525-6376, 1010 10th Street, Suite 6400, Modesto,  
California.  
BY ORDER OF THE BOARD OF SUPERVISORS  
DATED: February 26, 2008  
ATTEST: CHRISTINE FERRARO TALLMAN,  
Clerk of the Board of Supervisors of  
the County of Stanislaus, State of California  
BY: Suzi Seibert, Deputy Clerk of the Board  
MARCH 2, 2008

<sup>7</sup>California Regional Water Quality Control Board, Central Valley Region,  
Letter of Approval for the Food Processing By-product Use Program  
Pursuant to Resolution No. R5-2008-0182,  
County of Stanislaus Environmental Resources Department



Linda S. Adms  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board Central Valley Region

Karl E. Longley, ScD, P.E., Chair

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114  
Phone (916) 464-3291 • FAX (916) 464-4645  
<http://www.waterboards.ca.gov/centralvalley>



Arnold  
Schwarzenegger  
Governor

8 June 2009

Sonya K. Harrigfeld, Director  
County of Stanislaus  
Environmental Resources Department  
3800 Cornucopia Way, Suite C  
Modesto, CA 95358-9492

## **APPROVAL OF FOOD PROCESSING BY-PRODUCTS USE PROGRAM PURSUANT TO RESOLUTION NO. R5-2008-0182, COUNTY OF STANISLAUS ENVIRONMENTAL RESOURCES DEPARTMENT**

On 22 June 2006, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) adopted Resolution No. R5-2006-0052 (Resolution) allowing the County of Stanislaus to continue its Food Processing By-Products Use Program (Program) to divert solid and semi-solid food processing by-products from county landfills while completing technical studies to evaluate "...the effects or threatened effects of food processing by-products on waters of the state and to help determine the appropriate regulatory mechanism for the discharge of food processing by-products on a County-wide or possibly Region-wide basis."

The County's Program regulates the use of food processing by-products for use as a soil amendment, use as direct animal feed, dehydration, and composting operations. In the Resolution, the Central Valley Water Board found that the Program's requirements for direct animal feed were adequate to protect water quality, and dehydration and composting operations were more appropriately regulated outside the scope of the Resolution. Accordingly, the scope of the Resolution is specific to the use of food processing by-product waste as a soil amendment.

The County of Stanislaus submitted the following technical reports required by the Resolution:

- A literature review (Resolution 2a and 2b);
- A technical review of the Program and other data (Resolution 2a and 2c);
- An assessment of current legal authority (Resolution 2a); and
- A final report (Resolution 2d).

The Resolution also requires a field-ready Manual of Best Practices (Resolution 2a). The County submitted a best practices manual, and is in the process of updating it. On 28 February 2008, as required by Resolution 2e, the County of Stanislaus adopted Ordinance No. C.S. 1028 (Chapter 9.88 of Title 9, Health and Safety) to regulate food processing by-products. The County also adopted associated regulations for the use of food processing by-products in Stanislaus County for its permitted use sites.

**California Environmental Protection Agency**

On 4 December 2008, the Central Valley Water Board adopted Resolution No. R5-2008-0182, which is a conditional waiver of Waste Discharge Requirements for specific types of discharge (the General Waiver). A copy of the General Waiver is enclosed. Under Category 10 (*Disposal of Residual Waste to Land as a Soil Amendment*), the General Waiver allows the discharge of food-processing by-products as a soil amendment without an individual waiver or permit issued by the Central Valley Water Board if the user is enrolled under an approved County program.

The County of Stanislaus' Food Processing By-Products Use Program is hereby conditionally approved for purposes of the General Waiver with respect to the use of the material as a soil amendment, and facility operators enrolled in the County's Program are eligible for coverage under Category 10. The General Waiver does not require Category 10 facilities to submit a report of waste discharge to the Central Valley Water Board in order to obtain waiver coverage or commence discharging, provided the enrolled facilities comply with all applicable conditions of the General Waiver.

The Program's continuing status as an approved County program under the General Waiver is contingent upon the County's implementation of the Program as described, including the following:

1. The County will continue to implement the *Agreement for Monitoring and Reporting of Solid and Semi-Solid Food Processing By-Products Applied under the Stanislaus County Program* (Agreement).
2. The County will submit written notice of any new land application sites that are regulated under the County's program.
3. The County will submit written notice of any proposed changes to Ordinance No. C.S. 1028 and/or the associated regulations as required by Section A.7 of the Agreement. The County may provide this written notice before the Annual Report is due, if necessary to avoid delays in implementing proposed changes to the Program.

If information regarding the Program or a particular facility indicates that additional or different requirements are appropriate or that more information is needed, the Central Valley Water Board may modify or revoke this approval or require individual facilities to submit technical or monitoring reports. (See General Waiver, Resolved 12 and Attachment A, section 3f.)

I appreciate the County's efforts to work cooperatively with Central Valley Water Board staff and to manage food processing by-products so that they can be beneficially used in an environmentally sound manner. If you have any questions regarding this Program Approval or the General Waiver, please contact Mary Serra at (916) 464-4732 or [mserra@waterboards.ca.gov](mailto:mserra@waterboards.ca.gov).



Pamela C. Creedon  
Executive Officer

Enclosure: Resolution No. R5-2008-0182

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2008-0182

APPROVING  
WAIVER OF REPORTS OF WASTE DISCHARGE AND  
WASTE DISCHARGE REQUIREMENTS  
FOR SPECIFIC TYPES OF DISCHARGE  
WITHIN THE  
CENTRAL VALLEY REGION

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

1. California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Water Board a Report of Waste Discharge containing such information and data as may be required.
2. The Regional Water Board has a statutory obligation, pursuant to CWC Section 13263, to prescribe waste discharge requirements (WDRs) except where the Regional Water Board finds that a waiver of WDRs for a specific type of discharge is not against the public interest pursuant to CWC Section 13269.
3. CWC Sections 13260(b) and 13269 authorize the Regional Water Board to waive WDRs and Reports of Waste Discharge (RWDs), respectively, for specific types of discharge where such a waiver is not against the public interest, is conditional, and may be terminated by the Regional Water Board at any time.
4. On 1 January 2003, the CWC was amended to require that all new waivers adopted after that date for a specific discharge or type of discharge must be renewed at a minimum of every five years, and that prior to renewing any waiver the Regional Water Board shall review the terms of the waiver at a public hearing and shall determine whether the discharge should instead be subject to general or individual WDRs.
5. In January 2003, the Regional Water Board adopted Resolution No. R5-2003-0008 *Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge Within the Central Valley Region*. Resolution No. R5-2003-0008 waived WDRs, and in some cases RWDs, for 12 specific types of discharge to land. These types of discharge were found to pose little threat to water quality and required little oversight as determined by past effectiveness.
6. The Regional Water Board, in compliance with the CWC, has reviewed the previously issued waivers set forth in Resolution No. R5-2003-0008 and determined that waivers for the following types of discharges to land that pose a low threat to the quality of waters of the State should be renewed:

- a. Conditional waiver of WDRs or Water Recycling Requirements (WRRs), but not the requirement to submit RWDs, for:
    - Disposal of dredge material to land, and
    - Water Reclamation for construction purposes and road dust control.
  - b. Conditional waiver of WDRs and in some instances the requirement to submit RWDs, for:
    - Air conditioner, cooling, and elevated temperature waters,
    - Drilling muds/Boring wastes,
    - Inert solid waste disposal,
    - Test pumping of fresh water wells,
    - Swimming pool discharges,
    - Construction dewatering discharges,
    - Hydrostatic testing,
    - Agricultural commodity wastes, and
    - Disposal of residual waste to land as a soil amendment.
7. In 2003, the State Water Resources Control Board (State Water Board) adopted Statewide General Order No. 2003-0003-DWQ for "low-threat" discharges to land. This Statewide General Order was adopted to handle those types of discharges that posed a low threat to water quality, but was not intended to supersede the authority of the Regional Water Boards to issue individual WDRs or conditional waivers.
  8. A review of the Statewide General Order shows that several categories covered by the Order are nearly identical to those covered by Resolution No. R5-2003-0008. For those categories that are also covered by the Statewide General Order, the waiver should only apply to discharges that represent the very lowest threat to water quality. As a result, categories for discharges of drilling muds/boring wastes, inert solid waste disposal, test pumping of fresh water wells, swimming pool discharges, construction dewatering discharges, and hydrostatic testing, are restricted to those instances which represent the lowest threat to water quality.
  9. Waiver of WDRs for discharges from projects requiring Water Quality Certification was dropped from the General Waiver since discharges from dredge and fill activities would be best regulated under Statewide General Order No. 2003-017-DWQ for "Jurisdictional" waters and Order No. 2004-0004-DWQ for "Non-jurisdictional" waters.
  10. The Regional Water Board also reviewed a previously issued waiver for discharges to land from small, short-term sand and gravel operations. This category was included in Resolution No. 82-036, which expired in 2003, but was not included in Resolution No. R5-2003-0008 since a general order for sand and gravel operations was being developed by State Water Board staff. However, that general order was never finalized or adopted. Therefore, conditional waiver of WDRs, but not the requirement to submit a RWD, should be reinstated for the small, short-term sand and gravel operations category.

11. Waiver of the requirement to file RWDs and waiver of WDRs for discharges that will cause no or insignificant impairment to water quality and that pose little risk of creating a nuisance condition are not against the public interest as they reduce the cost of activities that produce innocuous or small amounts of waste, are protective of the environment, and allow Regional Water Board staff to direct resources to address waste discharges that have significant potential to degrade water quality or create nuisance.
12. Waiver of RWDs under a discharge category does not preclude the Executive Officer from requesting a RWD for a specific project as necessary to perform an evaluation of the discharge.
13. Waiver of WDRs and in some instances RWDs for discharge categories covered under the General Waiver for low threat discharges to land, were previously waived under Resolution No. 82-036. As lead agency under the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) (CEQA), the Regional Water Board determined that adoption of Resolution No. 82-036 waiving WDRs for 23 specific discharges to land would not cause a significant environmental impact and, on 23 December 1981, adopted a Negative Declaration. Pursuant to Section 15162 of the CEQA Guidelines, a subsequent environmental impact report or negative declaration is not required.
14. The conditional waiver is consistent with State Water Resources Control Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California) in that the waiver of WDRs imposes conditions to prevent impacts to water quality and authorizes no degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than that prescribed in plans and policies.
15. The Regional Water Board conducted a public hearing on 4 December 2008 in Rancho Cordova, California, and considered all testimony and evidence concerning this matter.

**THEREFORE BE IT RESOLVED**, that in accordance with CWC Section 13269, the Regional Water Board adopts the "*Waiver of Reports of Waste Discharge and Waste Discharge Requirements for Specific Types of Discharge*" as set forth in Attachment A, hereafter informally referred to as the "General Waiver," and that;

1. The Regional Water Board waives the requirement to obtain WDRs and/or WRRs, and for some instances the requirement to submit a RWD and filing fee, for discharge types that fulfill the conditions set forth in Attachment A of this Order.
2. Discharges that result from emergency work or emergency projects as described under CWC Section 13269(c) are not affected by this action.
3. Discharge of wastes to wetlands, surface waters, drainage courses, or biologically sensitive areas, is prohibited.

4. Based on the testimony received at the aforementioned hearing, and the above-noted findings, the General Waiver is not against the public interest provided dischargers subject to such waiver:
  - (a) comply with the conditions for waiver of waste discharge requirements as set forth in the General Waiver;
  - (b) file with the Regional Water Board a Report of Waste Discharge and filing fee when required as part of the General Waiver; and
  - (c) comply with applicable State and Regional Water Board plans and policies.
5. For those discharges requiring submittal of a RWD, the discharger must submit the fee specified in Title 23, California Code of Regulations, Section 2200, for a threat to water quality and complexity of "3C".
6. Based on the above-noted findings, it is not necessary at this time to adopt individual or general waste discharge requirements for the discharge of wastes related to the types of discharges identified in Attachment A and are conducted in accordance with the conditions specified in the General Waiver as these types of discharges are considered to be of low threat to water quality and Regional Water Board resources should focus on higher threat discharges.
7. For those categories that are also covered by Statewide General Order No. 2003-0003-DWQ for low threat discharges to land, this waiver shall only apply to those discharges that are of such good quality and of limited volume/duration that coverage under the General Order is not necessary. Specifically:
  - Non-contact cooling water discharges;
  - Drilling muds/Boring wastes;
  - Inert solid waste disposal;
  - Test pumping of fresh water wells;
  - Swimming pool discharges;
  - Construction dewatering discharges; and
  - Hydrostatic testing.
8. The discharge of any waste not specifically regulated by the General Waiver is prohibited unless the discharger complies with CWC Section 13260(a) and the Regional Water Board either issues waste discharge requirements pursuant to CWC Section 13263 or an individual waiver pursuant to CWC Section 13269, or the time frames specified in CWC Section 13264(a) have elapsed.
9. This General Waiver shall not create a vested right and all such discharges shall be considered a privilege, as provided for in CWC Section 13263.

10. Pursuant to CWC Section 13269, this action waiving the issuance of WDRs for certain specific types of discharges: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Water Board from administering enforcement remedies (including civil liability) pursuant to the CWC.
11. As provided by CWC Section 13350(a), any person may be civilly liable if that person is in violation of a waiver condition or WDRs, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State or creates a condition of pollution or nuisance.
12. The Executive Officer or Regional Water Board may terminate the applicability of the General Waiver described herein as to any type of discharge or individual discharger at any time when such termination is in the public interest or the activity could affect the quality or beneficial uses of the waters of the State
13. The Regional Water Board may review the General Waiver at any time and may modify or terminate the General Waiver in its entirety, as applicable for a specific type of discharge, or for individual dischargers, as is appropriate.
14. This General Waiver shall expire on 4 December 2013, unless terminated or renewed by the Regional Water Board.

I, PAMELA C. CREEDON, 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 4 December 2008.

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PAMELA C. CREEDON, Executive Officer

Order Attachments:

A. Specific Discharges Covered by the General Waiver

Staff Report

kc/DKP: 10/27/08

## STAFF REPORT

### RESOLUTION NO. R5-2008-0182 WAIVER OF REPORTS OF WASTE DISCHARGE AND WASTE DISCHARGE REQUIREMENTS FOR SPECIFIC TYPES OF DISCHARGE WITHIN THE CENTRAL VALLEY REGION

#### INTRODUCTION

Section 13263 of the California Water Code (CWC) requires that the Regional Water Board prescribe discharge requirements for discharges of waste that may affect waters of the State. The effect of some of these discharges, by virtue of waste constituent, constituent concentration, and constituent control, however, can be mitigated to have little or no effect on the quality and beneficial uses of waters of the State. Due to limited resources it is in the best interest of the public and the Regional Water Board not to expend inadequate and finite resources on regulating low-risk discharges that, when designed and operated to meet pre-set conditions, will have an insignificant potential to affect water quality or create nuisance. Section 13269 of the CWC authorizes the Regional Water Board to waive waste discharge requirements (WDRs), or to waive the requirement to submit a report of waste discharge (RWDs).

Previously, the Regional Water Board waived WDRs and RWDs for Emergency Use of Treated Wastewater as set forth in Regional Water Board Resolution No. 77-69 and for 23 types of discharges to land that posed a low-threat to water quality as set forth in Regional Water Board Resolution No. 82-036. California State Senate Bill 390 amended the CWC causing all existing waivers to expire as of 1 January 2003 and required review and renewal of any new waivers at least once every five years.

In January 2003, the Regional Water Board reviewed its waivers and adopted a Resolution for *Waiver of Waste Discharge Requirements and Reports of Waste Discharge for Specific Types of Discharge Within the Central Valley Region* (Resolution No. R5-2003-0008 or General Waiver) to replace the expired waivers (Resolution Nos. 77-69 and 82-036). Specifically, Resolution No. R5-2003-0008 waived Water Recycling Requirements (WRRs) for use of recycled water for construction and road dust control and WDRs and in some cases RWDs for 11 of the 23 discharge types covered under Resolution No. 82-036. The remaining discharge categories authorized under Resolution No. 82-036 were not renewed due to lack of demand, because they would be better handled under individual or general WDRs, or because they were covered under a separate program or general order.

Specific discharges covered under Resolution No. R5-2003-0008 were:

1. Air Conditioner, cooling and elevated temperature waters
2. Drilling Muds
3. Minor Dredging Operations
4. Inert Solid Waste Disposal
5. Test Pumping of Fresh Water Wells
6. Swimming Pool Discharges
7. Construction – Dewatering Operations
8. Construction – Hydrostatic Testing
9. Agricultural Commodity Wastes
10. Industrial Wastes Utilized for Soil Amendments
11. Water Reclamation for Construction Projects and Road Dust Control
12. Projects Requiring Water Quality Certification issued by the Regional Water Board

## STATEWIDE GENERAL ORDER

In 2003 the State Water Resources Control Board adopted Statewide General Order No. 2003-0003-DWQ for low-threat discharges to land. With the expiration of all waivers on 1 January 2003, many Regions did not have a mechanism in place to regulate low-threat discharges. General Order No. 2003-0003-DWQ was adopted to cover discharges that had been previously covered under such waivers. It was not intended to supersede individual WDRs, general orders, or conditional waivers issued by the Regional Water Boards. The State Water Board did not find that categories covered by the General Order were not still appropriate for waiver.

Several of the categories covered under the Statewide General Order for low threat discharges to land are nearly identical to those included in the Resolution No. R5-2003-0008. Specifically:

- Water Well Development Discharge (Waiver Category 5);
- Monitoring Well Purge Water Discharge (Waiver Category 5);
- Boring Waste Discharge (Waiver Category 2);
- Water Main, Storage Tank, and Hydrant Flushing Discharges (Waiver Category 8);
- Pipelines and Tank Hydrostatic Testing Discharges (Waiver Category 8);
- Swimming Pool and Landscape Drainage Discharges (Waiver Category 6);
- Small Temporary Dewatering Projects (Waiver Category 7);
- Small Inert Solid Waste Disposal Operations (Waiver Category 4); and
- Small Volume Evaporative Cooling Water Discharge (Waiver Category 1).

The Statewide General Order for low threat discharges to land prohibits discharge to surface waters, discharge of hazardous or designated waste, and discharges that cause pollution. The Order specifies that discharges shall not exceed applicable Basin Plan water quality objectives, freeboard in ponds shall be at least two feet, and facilities shall be protected from erosion/flooding and also contains individual provisions specific to some of the categories, which are discussed below.

## DISCUSSION

The Regional Water Board, in compliance with CWC Section 13269, reviewed the previously issued waivers set forth in Resolution No. R5-2003-0008 (which expired on 31 January 2008) to determine if the waiver for specific types of discharges that pose a low threat to the quality of waters of the State should be renewed. Based on that review, waiver of WDRs and in some cases RWDs for the following specific discharge types are proposed:

Discharge Categories:

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No.	Category	Renewed
1.	Air Conditioner, cooling, and elevated temperature waters *	Yes
2.	Drilling Muds / Boring Wastes *	Yes
3.	Disposal of Dredge Material to Land	Yes
4.	Inert Solid Waste Disposal *	Yes
5.	Test Pumping of Fresh Water Wells *	Yes
6.	Swimming Pool Discharges *	Yes
7.	Construction—Dewatering Discharges	Yes
8.	Hydrostatic Testing *	Yes
9.	Agricultural Commodity Wastes	Yes
10.	Disposal of Residual Wastes to Land as a Soil Amendment (previously "Industrial" Wastes)	Yes
11.	Water Reclamation for Construction Projects and Road Dust Control	Yes
12.	Projects Requiring Water Quality Certification issued by the Regional Water Board	No
13.	Small, Short-Term Sand and Gravel Operations	Recommended to return category to the waiver.

\* Categories also covered by Statewide General Order No. 2003-0003-DWQ, but for which the waiver category was retained for those discharges that represent the lowest threat to water quality.

## WAIVER CATEGORIES

The following describes each type of discharge. Under the proposed conditions, none of the discharge types represent a source of significant degradation of groundwater or nuisance potential.

For those categories that are also covered by Statewide General Order No. 2003-0003-DWQ for low threat discharges to land, the waiver should only apply to those discharges that represent the very lowest threat to water quality, and in those cases, the waiver should be for both WDRs and RWDs.

- 1. Air Conditioner, Cooling, And Elevated Temperature Waters:** Wastewater generated from air conditioning, cooling, ice making, or refrigeration systems are collectively referred to as cooling water, which includes contact and non-contact cooling waters. Non-contact cooling water refers to cooling water which does not come in contact with any raw material,

intermediate product, waste product, or finished product. Additives, such as metal-containing algacides, are often used in both contact and non-contact cooling water to control algae growth.

For contact cooling water discharges, the waiver of WDRs (but not RWDs) should be continued, provided that:

- Waste constituent concentrations must be comparable to uppermost underlying groundwater (e.g., EC less than or equal to 500 umhos/cm over source water);
- BOD must be consistently less than 30 mg/L without treatment and, if impounded, less than 10 lb/acre/day; and
- If additives are used, provide Material Safety Data Sheets (MSDS) and include an analysis for metals in the RWD, especially if metal-containing algacides are used.

Non-contact cooling water discharges are covered under Statewide General Order 2003-0003-DWQ for low threat discharges to land, but it does not contain any specific requirements for this category. The waiver of WDRs for non-contact cooling water should be renewed for discharges provided that:

- Waste constituent concentrations must be comparable to uppermost underlying groundwater (e.g., EC less than or equal to 500 umhos/cm over source water); and
- If additives are used, provide MSDS and include an analysis for metals in the RWD, especially if metal-containing algacides are used.

The need for a RWD should be waived for non-cooling water discharges that are of such good quality (e.g., no additives including metal-containing algacides) and of limited volume/duration (e.g., one time or limited seasonal discharges).

- 2. Drilling Muds/Boring Wastes:** Drilling muds and boring wastes are generated during drilling as part of a subsurface investigation or well drilling operation and consist of formation sediment, water, and drilling muds. Drilling muds typically consist of bentonite clay or formation fines mixed with water or a non-toxic mineral oil. A variety of additives may be added to the drill mud to handle specific situations encountered during the drilling process. The liquefied soil and rock cuttings from the borings, along with any bentonite, are commonly contained in a portable tank or excavated sump during drilling.

Drilling activities are generally regulated by local agencies such as cities or counties and do not require oversight by the Regional Water Board. Borings associated with oil and gas wells typically pose the highest potential threat to water quality. However, the Department of Oil, Gas, and Geothermal Resources conducts routine inspections of all oil and gas fields as part of its duties and is in regular contact with Regional Water Board staff regarding observed violations or illegal dumping. The Regional Water Board may need to monitor how local agencies oversee drilling activities.

The disposal of drilling muds/boring waste to land is covered under Statewide General Order No. 2003-0003-DWQ for low threat discharges to land.

Due to oversight of drilling operations by local agencies, the waiver of WDRs and RWDs for disposal of drilling muds/boring wastes should be renewed, except in those instances where it is determined that the local oversight will be insufficient to protect water quality, provided that:

- The drilling operations are conducted in uncontaminated soils;
- The discharge is considered "non-hazardous" and does not contain halogenated solvents;
- Buried drilling muds must first be dried then the site restored to pre-sump conditions and covered with at least one foot of clean soil; and
- The bottom of the sump must be at least 5 feet above highest groundwater elevation and at least 100 feet from the nearest surface water.

Drilling operations that require greater oversight than that provided by local agencies should be regulated under the General Order or an individual waiver or WDRs.

3. **Disposal of Dredge Material to Land (formerly Minor Dredge Operations):** This category covers discharge of dredge material to land from small scale dredging projects such as bridge replacement and construction projects where pilings and abutments must be placed in a stream channel or to restore or increase storage capacity in water storage reservoirs. Minor dredging operations are generally of short duration and disposal of dredge material to land in a controlled manner poses little threat to groundwater quality if essentially free of contaminants that have a potential to cause groundwater degradation. As a condition of this waiver, the dredged material must be nontoxic and discharged to land where it will not erode or deposit sediment into any surface waters or storm drains.

This waiver category covers only the disposal of dredge material to land, and is not associated with the dredging operation itself. In-stream dredging operations are covered by federal regulations under a 404 permit for Waters of the U.S. or by Statewide General Order No. 2004-0004-DWQ for non-Jurisdictional Waters.

The previous waiver (R5-2003-0008) limited the waiver to small-scale (minor) dredging projects involving 1,000 cubic yards or less. However, the original waiver (82-036) did not specify a limit on what would constitute a minor dredging operation. Since this category is for the disposal of material and not the dredging operation, the term "minor" should be interpreted in the context of the disposal, not the dredging. Long-term or major dredging projects involving large volumes of dredge material need to be regulated under an individual waiver or WDRs. The disposal of dredge material under this waiver should be conditional upon the use of best management practices (BMPs) to prevent erosion or runoff conditions from the emplaced sediments, and prohibit the disposal of dredge material in wetland areas or surface water drainage courses. Larger projects or projects with contaminants that have

a greater potential to cause groundwater degradation or which might affect surface waters or wetland areas are best regulated under general or individual WDRs.

The waiver of WDRs (but not RWDs) for disposal of dredge material to land from minor dredging operations should be continued, provided that:

- If the dredged material may contain constituents that are potentially hazardous or at concentrations that could impair beneficial uses of receiving water, the discharger must provide a chemical analysis of the fine (silt and clay) portion of the substrate material and a written waste management plan (WMP) describing BMPs which will be employed to prevent excess erosion and prevent runoff from the emplaced sediments; and
- Excludes: disposal of dredge material from mining operations.

4. **Inert Solid Waste Disposal:** "Inert wastes" is defined in Title 27 Section 20230(a) as "that subset of solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives, and does not contain significant quantities of decomposable waste".

The disposal of "Inert Solid Wastes" is covered under Statewide General Order No. 2003-0003-DWQ for low threat discharges to land. Specific requirements include: (1) limited to operations covering two acres of land or less, (2) does not contain hazardous waste or soluble pollutants at concentrations in excess of water quality objectives or contain significant quantities of decomposable waste. The requirements include a list of acceptable inert wastes, other potential inert wastes not included on the list must be approved by the Regional Water Board prior to disposal.

With the existence of General Order No. 2003-0003-DWQ, the waiver of WDRs and RWDs for Inert Solid Waste disposal should be renewed only for a short-term one-time disposal. Inert Solid Waste disposal operations of more than a few month's duration should be regulated under the General Order or an individual waiver or WDRs.

5. **Test Pumping Of Fresh Water Wells:** Many public and private well owners need to periodically discharge potable or relatively contaminant-free water generated when a well is developed or maintained, or from the periodic discharge of purge water from monitoring wells in instances where there is no threat to water quality or nuisance. Water quality parameters of concern for this type of discharge are generally suspended material, turbidity, and chlorine, which are primarily a concern to surface water. High volume discharges have the potential to impact adjacent property owners or surface water and BMPs such as berms or setbacks should be employed to prevent excessive erosion or runoff conditions. Discharge of water to land from development and testing of fresh water wells, including monitoring wells, is covered under the Statewide General Order No. 2003-0003-DWQ for low threat discharges to land, which specifies that the discharge shall remain onsite and not be discharged in a manner such as to cause ponding or threaten discharge to surface waters.

The waiver of WDRs and RWDs for those discharges generated from a single one time discharge during testing or development of an individual domestic or irrigation supply well, or purge water from routine sampling of monitoring wells as part of a compliance monitoring program should continue, provided that:

- The discharge remains on the designated property, unless there is a signed use agreement; and
- The discharge shall not be conducted in a manner such as to cause nuisance conditions or threaten surface waters; and
- Excludes discharge from wells associated with a cleanup or remediation project unless conducted under an approved cleanup or remediation management plan.

6. **Swimming Pool Discharges:** Pool water discharges are infrequent, low to high volume discharges that are relatively free of waste constituents. In urban areas, disposal of pool water is regulated by municipalities, which typically have engineered stormwater systems that may require a pool drainage permit before discharge. Areas that do not have engineered stormwater systems depend on land discharge. Direct flow of pool water onto land provides some treatment before it enters into groundwater and is preferred over surface water discharges.

Swimming pool discharges are covered under Statewide General Order No. 2003-0003-DWQ for low threat discharges to land, but it does not contain any specific requirements for this category. The waiver of WDRs and RWDs for these discharges should be renewed for those discharges involving a single individual pool at infrequent intervals (e.g., once every three years).

7. **Construction - Dewatering Discharges:** This is a sub-type of an existing waiver for construction, which is conditional upon the use of BMPs. Dewatering discharges include extracted groundwater and water collected from cofferdams or diversions. Discharges to land, instead of to surface water, are typically one-time, non-stormwater discharges of short duration. Discharge may be to a terminal basin or used for irrigation or dust control. These discharges may be onsite or to land in the same proximity with appropriate agreement from the property owner.

Construction dewatering discharges are covered under Statewide General Order No. 2003-0003-DWQ for low threat discharges to land. This Order excludes dewatering operations in areas with unstable geologic units or expansive soils or in areas where it might conflict with existing agricultural use or Williamson Act contracts.

With the existence of General Order No. 2003-0003-DWQ, which includes low threat discharges to land from construction dewatering operations, the waiver of WDRs and RWDs for construction- dewatering discharges should be renewed only for those discharges of

limited duration of no more than a few weeks. Discharges of more than a few weeks, or requiring treatment, should be regulated under a General Order or an individual waiver or WDRs.

- 8. Hydrostatic Testing:** This category covers discharge to land of hydrostatic test water. Hydrostatic testing is generally a one-time activity used to demonstrate the integrity of pipelines and pressure vessels. Source waters for hydrostatic tests are local and, except for waste constituents picked up from the structure being tested, have like or better quality than underlying groundwater. The spent hydrostatic test waters may discharge to an impoundment for infiltration, or used for irrigation, or dust control.

Discharges of hydrostatic test water to land from new and potable water pipelines pose very little threat to groundwater quality from soluble constituents. Pipelines and tanks that have previously contained crude or refined oil and gas present a different situation. If hydrostatic testing waters are suspect, pre-discharge analytical testing must be performed.

Discharges to land from hydrostatic testing waters are covered under Statewide General Order No. 2003-0003-DWQ for low threat discharges to land. This Order does not contain any specific requirements for this category, except it excludes water used to test tanks or pipelines that have been used to store or convey any medium other than potable water unless the Discharger has demonstrated to the Regional Water Board that all residual pollutant concentrations have been reduced to levels below water quality objectives.

With the existence of General Order No. 2003-0003-DWQ, which includes low threat discharges to land from hydrostatic testing, the waiver of WDRs for discharges of hydrostatic testing waters should be renewed only for those discharges of limited duration of no more than a few weeks, provided the discharger has demonstrated to the Regional Water Board that all residual pollutants have been removed or are below water quality objectives. Discharges of more than a few weeks, or requiring treatment, should be regulated under a General Order or an individual waiver or WDRs.

The need to submit a RWD should be waived for those discharges from lines or tanks that are of such good quality (i.e., have contained potable water only) that they pose no threat to waters of the State.

- 9. Agricultural Commodity Wastes:** This category covers discharge to land of commodity wastes for agricultural use. This waiver allows for the expedient discharge of unsalvageable commodities to land under atypical situations. The primary threat occurs from possible nuisance conditions as a result of decomposition. The typical mitigation is to spread the waste over a reasonable area and plow it under as it begins to generate odors from decomposition. Sites may require berms, setbacks, and/or other measures to prevent discharge to surface water.

Because the Central Valley is one of the world's largest food producing regions, numerous scenarios can generate commodity waste. A typical commodity becomes a waste as a

result of culling, spoilage, or contamination. Processed food and processed food residuals are not included in this type of waste (e.g., whey). This waiver does not extend to dead animals or animal byproducts (i.e., flesh, organs, unprocessed hide, blood, bone, and marrow).

The California Code of Regulations (CCR), Title 3 (Food and Agriculture), Division 6 (Pesticide and Pest Control Program), section 6000 defines an "agricultural commodity" as an unprocessed product of farms, ranches, nurseries and forests (excepting livestock, poultry, and fish), that includes: fruits, vegetables, grains, legumes, animal feed and forage crops, wood, fiber, and oil crops (i.e., safflower, sunflower, corn, and cottonseed).

Generally, commodity wastes are produced as part of the seasonal wasting of culls or from a specific incident, such as the improper application of pesticide, making a field product no longer suitable for human consumption. Other instances associated with a commodity becoming a waste include transportation accidents, loss of refrigeration, or any of a variety of conditions resulting in spoilage. In most cases, when reasonably fresh and uncontaminated, the commodity waste may be used as cattle or swine feed.

Waiver of WDRs and RWDs for a limited (one-time) discharge, and WDRs (but not RWDs) for a continuous or recurring discharge, to land of agricultural commodity wastes should be continued, provided that:

- BMPs are employed to preclude the potential for nuisance conditions;
- Wastes must not be discharged in proximity to buildings occupied by people; and
- Excludes: discharge of processed food or processed food residuals (e.g., whey), dead animals, or animal byproducts.

**10. Disposal of Residual Waste to Land as a Soil Amendment:** This category covers discharge to land of residual wastes, previously referred to as "Industrial Wastes" for use as a soil amendment. A soil amendment is any material added to the soil to improve its physical properties, such as water retention, permeability, infiltration, pH, or to add nutrient or organic matter for plant growth. The benefit of a soil amendment is dependent on soil type, climate, and crop type. This category would not include the use of biosolids from municipal treatment plants as a soil amendment as this is generally covered under Statewide General Order No. 2004-0012-DWQ.

Residual wastes (i.e., manure, bone meal, used diatomaceous earth, dried stillage leathers from wineries, etc.) contain constituents, which when applied correctly will improve soil conditions and add needed nutrients and organic material. However, these materials can also contain additional waste constituents such as salts that can impact groundwater quality and affect beneficial uses.

Some counties (e.g., Stanislaus County) are in the process of developing their own programs, including establishment of a county ordinance to handle the discharge of solid or

semi-solid food processing residuals to land. At this time only Stanislaus County is working with the Regional Water Board to prepare and implement a countywide program for the disposal of food processing residuals to land as a soil amendment. The Regional Water Board encourages the regulation of these types of discharges by individual counties as this conserves staff resources and provides for better local oversight.

Waiver of WDRs and RWDs for the disposal of residual wastes to land as a soil amendment should be continued, provided that:

- The discharge is enrolled under an approved County Program.

Discharges in counties without an approved program or which do not qualify for coverage under a county program, should be regulated under an individual waiver or WDRs.

- 11. Water Recycling For Construction Projects And Road Dust Control:** During the late 1970s, necessity drove the increased use of reclaimed water. Unlike other types of reclamation (e.g., green belt water, power plant feed water, etc.), use of reclaimed water for construction activities and road dust suppression are typically of limited duration.

Title 22 contains criteria for a number of uses of reclaimed water, including construction and dust suppression (i.e., Section 60307(b) states that disinfected secondary-23 recycled water (as defined by section 60301.225) may be used for backfill consolidation around non-potable piping, soil compaction, concrete mixing, and dust control on roads and streets). In addition, the reclaimed water typically must be trucked to a construction site or stretch of unpaved road and the amounts used are restricted to that necessary to accomplish sound construction or minimize dust while maximizing coverage, so runoff and infiltration are unlikely. Waiver of water recycling requirements (WRRs) for construction projects and road dust suppression facilitates the reuse of reclaimed water by expediting the process. Restricting use to wastewater that has been treated to Title 22 standards and adherence to Title 22 use restrictions will protect public health.

Waiver of WRRs (but not a Report of Water Recycling or Title 22 Engineering Report) for use of recycled water for construction projects and road dust control should be continued, provided that:

- Reclaimed water must be treated to Title 22 standards by permitted recycled water producer; and
- User must certify that the discharge will conform with Title 22 restrictions and Department of Public Health (DPH) Guidelines and that the use has been approved by local and State health departments.

- 12. Projects Requiring Water Quality Certification:** Water Quality Certification is intended to protect surface waters (e.g., rivers, streams, lakes, and wetlands, including vernal pools) by ensuring that dredge or fill activities will not cause these waters to exceed State water

quality standards. As a result, this category is not directly associated with a discharge of waste to land and does not fit with the other categories included in this waiver.

By federal law, any dredge and fill activity that results in a discharge to a water of the U.S. (jurisdictional waters) requires a federal permit under section 404 of the Clean Water Act (CWA). Pursuant to Section 401 of the CWA, the federal permit must include a certification by the Regional Water Board that the dredge or fill activity will comply with State water quality standards. In 2001, the U.S. Supreme Court issued a decision that certain waters are not subject to the CWA (isolated waters). Following this ruling, most projects involving isolated waters no longer require a 404 permit. However, those isolated waters are still considered waters of the State. In either case, the California Water Code requires that the activity be regulated by WDRs or a waiver.

The original waiver (82-036) was for "projects where application for Water Quality Certification is required." The limitation on the waiver was "where project (normally minor construction) is not expected to have a significant water quality effect and project complies with Fish and Game agreements." The previous waiver (R5-2003-0008) continued that category. Since then, the State Water Board adopted Statewide General Order No. 2003-0017-DWQ for dredge and fill activities associated with jurisdictional waters and Statewide General Order No. 2004-0004-DWQ for dredge and fill activities associated with isolated waters. The General Order for jurisdictional waters does not specify a limit on the size of the dredge or fill activity. The General Order for isolated waters is restricted to discharges of not more than two-tenths of an acre and 400 linear feet, or not more than 50 cubic yards. The procedure to process Water Quality Certifications for dredge and fill activities is essentially identical for both the General Orders and the waiver. In both cases the permit fee and application are submitted and processed as a Water Quality Certification, and the project enrolled under either the General Order or the waiver.

This category should not be renewed as dredge and fill activities are now covered under Statewide General Orders. Projects that exceed the restrictions in the General Order for isolated waters would not be consistent with the limitations in the original waiver. Those projects would need to have individual waste discharge requirements or an individual waiver adopted for the in-stream dredge and fill activity. Disposal of dredged material on land would continue to be waived under Category 3.

- 13. Small, Short-Term Sand and Gravel Operations:** Sand and gravel operations provide aggregates for construction projects. Water is used in the process to control dust, which can result in increases in silt and sediment that is eventually discharged to land or into a holding pond. This category was included in the original General Waiver (Resolution No. 82-036) but it was not included in Resolution No. R5-2003-0008 since a general order for sand and gravel operations was to be developed. However, that general order was never finalized or adopted.

Minor sand and gravel operations are generally of short duration (e.g., less than one year). Water quality parameters of concern for this type of discharge are generally suspended

material and turbidity, which are primarily a concern to surface waters. Such water, discharged to land poses almost no threat to groundwater because suspended material and turbidity are effectively filtered out as the water percolates through the vadose zone, and is normally of better quality than the shallow zone of underlying groundwater. The discharge should be conditional upon use of BMPs to prevent erosion or runoff conditions.

While this category was not included in Resolution R5-2003-0008, it was included in the Negative Declaration adopted for the original waiver (Resolution No. 82-036).

Waiver of WDRs (but not RWDs) for discharge to land from small, short-term, sand and gravel operations should be included in the General Waiver, provided that:

- BMPs are employed to prevent excessive erosion or runoff conditions;
- The impoundment or use area poses low risk of nuisance;
- All wash waters are confined to land; and
- Excludes sand and gravel operations in stream channels or drainage courses that have the potential to discharge to surface waters.

#### **NOT COVERED BY THE PROPOSED WAIVER**

There were several types of discharge included in the original General Waiver (Resolution No. 82-036) that were not included under Resolution No. R5-2003-0008 and were not considered for renewal due to lack of demand, because they would be better handled under individual or general WDRs, a separate waiver, or because they are covered under a separate program (i.e., NPDES program). These, include:

- Clean oil containing no toxic materials;
- Stormwater runoff;
- Erosion from development;
- Pesticide rinse waters from applicators;
- Confined animal waste facilities;
- Minor stream channel alterations and suction dredging;
- Small metal mining operations;
- Food processing wastes spread to land
- Timber harvesting
- Minor hydro projects
- Irrigation return water; and
- Septic tank/leachfield systems.

## **REPORTING REQUIREMENTS**

The waiver requires submittal of reports as directed by the Executive Officer. The reports would represent the minimum reporting threshold to monitor compliance with waiver conditions and provide data necessary for consideration of renewal of the General Waiver.

## **BEST MANAGEMENT PRACTICES**

A condition of waiver for several types of discharge is implementation of BMPs. The set of possible BMPs for each specific type of discharge is large. In addition, BMPs are typically site-specific and can change with time as new standards and information from industry-specific studies and practices become available. In the context of this waiver, BMPs refer to the set of methods, measures, and practices employed by a particular industry practicable at the site to limit potential impacts to water quality. Examples include schedules of activities, prohibited practices, maintenance procedures, and other management practices.

## **CEQA**

On 23 December 1981, the Regional Water Board adopted a Negative Declaration for the waiver of WDRs for 23 categories of discharges. The Negative Declaration determined that the waiver of WDRs for these discharges would not cause a significant environmental impact. There have been no significant changes in the discharges to be covered in the proposed renewal of the General Waiver, so the Negative Declaration will still apply.

## **ANTIDegradation / RESOLUTION NO. 68-16**

The discharges proposed for coverage under the General Waiver renewal are those that represent the "lowest threat" to water quality or nuisance. By virtue of waste constituent, constituent concentration, constituent control, and the conditions prescribed in the waiver the specific discharge types proposed for renewal under the General Waiver can be effectively mitigated to have little or no affect on the quality and beneficial uses of waters of the State and would, therefore, be consistent with the antidegradation policy.

kc/DKP: 10/27/08

## RESOLUTION NO. R5-2008-0182

### ATTACHMENT A CONDITIONS OF DISCHARGE FOR WAIVER OF REPORTS OF WASTE DISCHARGE AND WASTE DISCHARGE REQUIREMENTS FOR SPECIFIC TYPES OF DISCHARGE

Each person who discharges a waste type identified herein that is of very low complexity and very low threat to water quality and who meets the conditions specified herein for that type of discharge need not obtain waste discharge requirements and may commence discharge forthwith of that waste type, provided:

1. The Discharger first submits, if requested by the Executive Officer or if specified below for the discharge type or situation, a filing fee and Report of Waste Discharge (RWDs) that documents that the discharge will comply with the conditions of waiver, and obtains written approval of waiver from the Executive Officer.
2. For discharge types covered by Statewide General Order No. 2003-0003-DWQ for low threat discharges to land, the Discharger must provide information that demonstrates that the discharge is of such low-threat/duration that waiver of WDRs and RWDs is appropriate. Specifically: (a) evaporative cooling water discharges; (b) drilling muds/boring waste discharges; (c) inert solid waste disposal; (d) test pumping of fresh water wells; (e) swimming pool discharges; (f) construction dewatering discharges; and (g) hydrostatic testing.
3. The Discharger complies with the conditions in this document specific to the type of discharge and with the following general provisions:
  - a. The discharge shall neither create nor threaten to create a condition of nuisance, as defined by CWC Section 13050.
  - b. The discharge shall neither degrade the quality of waters of the State nor create or threaten to create a condition of pollution or contamination as defined by CWC Section 13050.
  - c. The discharge shall not contain waste constituents in hazardous concentrations, as defined by Title 22, California Code of Regulations (CCR), Division 4.5, Article 11.
  - d. The discharge of any waste not specifically regulated by this waiver is prohibited unless the discharger obtains waste discharge requirements or other permission from the Regional Water Board for that waste.
  - e. The discharger shall allow Regional Water Board staff reasonable access onto the affected property for the purpose of performing inspections to determine compliance with waiver conditions.
  - f. The discharger shall submit technical and monitoring reports as specified by the Executive Officer and consistent with CWC Section 13267.
  - g. Discharge of waste to wetlands, surface waters, drainage courses, or biologically sensitive areas is prohibited.
  - h. The discharger shall comply with all federal, state, county, and local laws and regulations pertaining to the discharge.
  - i. It shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce its activity in order to maintain compliance with conditions of waiver.

ATTACHMENT A

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE  
WITHIN THE CENTRAL VALLEY REGION

- j. This waiver expires on 4 December 2013. A discharger of waste subject to a RWD shall submit a new RWD and filing fee before then for consideration of renewal of the waiver, or cease discharge.

Type of Waste Discharge	RWD and Filing Fee Required <sup>1</sup>	Conditions
1. Air conditioner, cooling and elevated temperature waters discharged to land	<b>Contact Cooling Water-Yes</b>	<ul style="list-style-type: none"> <li>• Waste constituent concentrations comparable to underlying groundwater (e.g., EC less than 500 umhos/cm over source water).</li> <li>• Biochemical oxygen demand (BOD) must be consistently less than 30 mg/L without treatment and, if impounded, must be less than 10 lb/acre/day.</li> <li>• If additives are used, provide the appropriate MSDS and include an analysis for metals in the RWD, especially if metal-containing algacides are used.</li> </ul>
	<b>Non-Contact Cooling Water-Yes</b>	<ul style="list-style-type: none"> <li>• Waste constituent concentrations comparable to underlying groundwater (e.g., EC less than 500 umhos/cm over source water).</li> <li>• If additives are used, provide the appropriate MSDS and include an analysis for metals in the RWD, especially if metal-containing algacides are used.</li> </ul>
	<b>Non-Contact Cooling Water-No <sup>2</sup></b>	<ul style="list-style-type: none"> <li>• Waste constituent concentrations comparable to underlying groundwater (e.g., EC less than 500 umhos/cm over source water).</li> <li>• Discharge is of good quality (e.g., no additives, including metal-containing algacides).</li> <li>• One time or limited seasonal discharge.</li> </ul>

## ATTACHMENT A

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE  
WITHIN THE CENTRAL VALLEY REGION

Type of Waste Discharge	RWD and Filing Fee Required <sup>1</sup>	Conditions
2. Drilling muds/Boring wastes <sup>3</sup>	No <sup>2</sup>	<ul style="list-style-type: none"> <li>• Drilling operations in uncontaminated soils</li> <li>• Drilling mud must be considered non-hazardous and contain no halogenated solvents.</li> <li>• Buried drilling muds must first be dried and the site restored to pre-sump conditions and covered with at least one foot of clean soil.</li> <li>• Sump must be greater than 100 feet from nearest surface water and bottom of the sump must be at least 5 feet above highest groundwater.</li> </ul>
3. Disposal of dredge material to land	Yes	<ul style="list-style-type: none"> <li>• If the dredged material may contain constituents that are potentially hazardous or at concentrations that could impair beneficial uses of receiving water, the discharger must provide a chemical analysis of the fine (silt and clay) portion of the substrate material and a written waste management plan (WMP) describing BMPs which will be employed to prevent excess erosion and prevent runoff from the emplaced sediments.</li> <li>• Excludes disposal of dredge material from mining operations.</li> </ul>
4. Inert solid waste disposal <sup>3</sup>	No <sup>2</sup>	<ul style="list-style-type: none"> <li>• Short-term or one time disposal of no more than a few months.</li> <li>• Wastes must be insoluble, without decomposable solids, and contain no "free liquids".</li> <li>• The site must be well constructed, managed to restrict access, and outside of natural or man made drainage courses.</li> <li>• Excludes tires, semi-solid wastes, dewatered sludge, liquid wastes, ash, fresh concrete solids, and any waste deemed by the Executive Officer to have the potential to degrade groundwater, even if classified as inert by Title 27.</li> </ul>

## ATTACHMENT A

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE  
WITHIN THE CENTRAL VALLEY REGION

Type of Waste Discharge	RWD and Filing Fee Required <sup>1</sup>	Conditions
5. Test pumping of fresh water wells <sup>3</sup>	<b>No</b> <sup>2</sup>	<ul style="list-style-type: none"> <li>• One time discharge from testing or development of individual domestic or irrigation supply well or periodic discharge of purge water from a monitoring well as part of compliance monitoring program.</li> <li>• Discharge limited to on-site property, unless there is a signed use agreement.</li> <li>• Discharge shall not be conducted in a manner such as to cause nuisance conditions or threaten surface waters.</li> <li>• Excludes discharge from wells associated with a cleanup or remediation project unless conducted under an approved cleanup or remediation management plan.</li> </ul>
6. Swimming pool discharges <sup>3</sup>	<b>No</b> <sup>2</sup>	<ul style="list-style-type: none"> <li>• Infrequent (e.g., once every three years)</li> <li>• Single pool</li> </ul>
7. Construction – dewatering discharges <sup>3</sup>	<b>No</b> <sup>2</sup>	<ul style="list-style-type: none"> <li>• Limited volume and duration of no more than a few weeks.</li> <li>• The impoundment or use area must pose low risk of nuisance and the water must infiltrate/evaporate within 72 hours.</li> </ul>
8. Hydrostatic testing <sup>3</sup>	<b>Yes</b>	<ul style="list-style-type: none"> <li>• Limited volume and duration of no more than a few weeks.</li> <li>• Provide data to demonstrate that all residual pollutants have been removed or are below water quality objectives.</li> <li>• The impoundment or use area must pose low risk of nuisance and the water must infiltrate/evaporate within 72 hours.</li> </ul>
	<b>No</b> <sup>2</sup>	<ul style="list-style-type: none"> <li>• Testing on existing lines or tanks used for potable water only or new lines or tanks that have only ever contained potable water.</li> </ul>

## ATTACHMENT A

WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE  
WITHIN THE CENTRAL VALLEY REGION

Type of Waste Discharge	RWD and Filing Fee Required <sup>1</sup>	Conditions
9. Agricultural commodity wastes	<b>Recurring Discharge- Yes</b>  <b>One-time Discharge- No<sup>2</sup></b>	<ul style="list-style-type: none"> <li>• An "agricultural commodity waste" is an unprocessed product excepting livestock, poultry, and fish that becomes a waste as a result of culling, spoilage, or contamination.</li> <li>• BMPs are employed to preclude the potential for nuisance conditions.</li> <li>• Wastes must not be discharged in close proximity to buildings occupied by people.</li> <li>• Excludes discharge of processed food or processed food residuals (e.g., whey), dead animals, or animal byproducts.</li> </ul>
10. Disposal of residual waste to land as a soil amendment  (previously - Industrial wastes utilized for soil amendments)	<b>No<sup>2</sup></b>	<ul style="list-style-type: none"> <li>• The discharge is enrolled under an approved County Program.</li> </ul>
11. Water reclamation for construction projects and road dust control	<b>Yes</b>	<ul style="list-style-type: none"> <li>• Reclaimed water must be treated to CCR Title 22 standards by permitted recycled water producer.</li> <li>• User must certify that the discharge will conform with Title 22 restrictions and Department of Public Health Guidelines and that the use has been approved by local and State health departments.</li> </ul>
12. Projects Requiring Water Quality Certification issued by the Regional Water Board		<ul style="list-style-type: none"> <li>• Not renewed</li> </ul>

RESOLUTION ORDER NO. R5-2008-0182  
 ATTACHMENT A  
 WAIVER OF RWD AND WDRS FOR SPECIFIC TYPES OF DISCHARGE  
 WITHIN THE CENTRAL VALLEY REGION

Type of Waste Discharge	RWD and Filing Fee Required <sup>1</sup>	Conditions
13. Small, Short-Term Sand and Gravel Operations	Yes	<ul style="list-style-type: none"> <li>• BMPs are employed to prevent excessive erosion or runoff conditions.</li> <li>• Impoundment or use area must pose low risk of nuisance.</li> <li>• All wash waters are confined to land.</li> <li>• Excludes sand and gravel operations in stream channels or drainage courses that have the potential to discharge to surface waters.</li> </ul>

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- 1 Does not preclude the Executive Officer from requesting a RWD for a specific project as necessary to perform an evaluation of the discharge.
  - 2 Applicant should contact staff regarding applicability of the discharge meeting the conditions of the waiver without need for a RWD.
  - 3 Covered by Statewide General Order No. 2003-0003-DWQ for low threat discharges to land. For those categories that are covered by both, the waiver should only apply to those discharges that represent the very lowest threat to water quality.

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