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ORANGE
SCAP ALERT

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TO: SCAP Member Agencies and Collection Systems Committee Members
FROM: John Pastore, Executive Director
DATE: November 13, 2006

RWQCB – Region 9 Tentative Order No. R9-2006-0121

SCAP has been working to change the language initially proposed by the RWQCB-Region 9 in Tentative Order No. R9-2006-0121 that makes it mandatory to report all private lateral SSOs in a separate format from the newly adopted state order. The Regional Board has just released the attached newly modified version of Tentative Order No. R9-2006-0121 that incorporates new language. This Order is also available on their website at www.waterboards.ca.gov/sandiego. These modifications provide clarification of the Order's intent, reporting requirements and include a release of liability for the cause, cleanup or repair of the private lateral SSO. It does not, however, remove the requirement for mandatory reporting of all private lateral spills that the agency becomes aware of.

For those of you who are in Region 9 and will fall under this Order, please review the new language and let the SCAP office know if you have any concerns or comments. We would also like to hear from you if you feel that the revised Order is acceptable. If you have any comments, please notify us no later than November 27, 2006.



California Regional Water Quality Control Board

San Diego Region



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Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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November 2, 2006

Subject: Revised Tentative Order No. R9-2006-0121, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region* (for the December 13, 2006 Board Meeting)

Sewage Collection Agencies Representative:

Enclosed for your review and comment is a copy of revised tentative Order No. R9-2006-0121, *Waste Discharge Requirements for Sewage Collection Agencies in the San Diego Region*. This Order, if adopted, will replace current Regional Board Order No. 96-04 and augment State Water Board Order No. R9-2006-003-DWQ.

A copy of the tentative Order was sent out to most of the agencies and interested parties on October 4, 2006 and was presented to the Regional Board on October 11, 2006. At the meeting, the Regional Board suggested several changes that would clarify the findings, definitions, and reporting requirements. The enclosed revised tentative Order, which incorporates those changes will be considered for adoption by the Regional Board at their December 13, 2006 meeting.

If adopted, tentative Order No. R9-2006-0121 will

1. Eliminate duplication of reporting by Sewage Collection Agencies to both the State Board and Regional Board should Order No. 96-04 remain in effect.
2. Eliminate requirements for Sewage Collection Agencies to develop separate plans and procedures should Order No. 96-04 remain in effect.
3. Eliminate the annual fee for the Regional Board requirements for Sewage Collection Agencies.
4. Include all State Board permit enrollees within the San Diego Region under the Regional Board's requirements.
5. Continue this Regional Board's policy prohibiting all sewage spills, which has been very effective in reducing the number and magnitude of sewage spills within the Region during the past 10 years.

California Environmental Protection Agency



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November 2, 2006

6. Continue this Regional Board's policy to require 24-hour notification of all sewage spills that are equal to or greater than 1,000 gallons and/or reach surface water, which has been beneficial to the Regional Board in providing timely information to the public and interested stakeholders, including downstream water users.
7. Add a requirement for Sewage Collection Agencies to report any private sanitary sewer overflows that they become aware of as a means for this Regional Board to begin tracking the number of spills from private SSOs. [p0- private SSOs,

The December 13, 2006 meeting will begin promptly at 9:00 am and will be held at the following location:

Regional Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Please review and comment on the tentative Order at your earliest convenience. To ensure that the Regional Board has the opportunity to fully study and consider written material, comments should be received in the Regional Board's office no later than 5:00 p.m. on Wednesday, November 29, 2006. The final deadline for submittal of written comments, however, is Wednesday, December 6, 2006. Per Regional Board direction, written material submitted to the Regional Board office after the submittal deadline date will not be provided to the Regional Board. Also, it is not likely that written material will be accepted by the Regional Board on the day of the meeting.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions regarding the above, please contact Ms. Joann Cofrancesco at (858) 637-5589 or jcofrancesco@waterboards.ca.gov.

Respectfully,

MICHAEL P. McCANN
Supervising Engineer

Enclosure: Revised Tentative Order No. R9-2006-0121 (for December 13, 2006 Board Meeting)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
REGION 9, SAN DIEGO REGION

TENTATIVE ORDER R9-2006-0121

WASTE DISCHARGE REQUIREMENTS
FOR SEWAGE COLLECTION AGENCIES
IN THE SAN DIEGO REGION

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

1. **STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS:** State Water Resource Control Board (State Board) Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*, adopted by the State Board on May 2 2006, establishes minimum requirements to prevent sanitary sewer overflows (SSOs) from publicly owned/ operated sanitary sewer system. Order No. 2006-0003-DWQ is the primary regulatory mechanism for sanitary sewer systems statewide, but allows each regional board to issue more stringent or more prescriptive Waste Discharge Requirements (WDRs) for sanitary sewer systems within their respective jurisdiction.
2. **ENROLLMENT UNDER ORDER NO. 2006-0003-DWQ:** In accordance with Order No. 2006-0003-DWQ, all federal and state agencies, municipalities, counties, districts, and other public entities that own, operate, acquire, or assume responsibility for sanitary sewer systems greater than one mile in length that collect and/or convey untreated or partially treated wastewater to a publicly owned treatment facility in the State of California are required to apply for coverage under the general WDRs.
3. **ORDER No. 96-04:** On May 9, 1996, ~~the~~this Regional Board adopted Order No. 96-04, *General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows by Sewage Collection Agencies*, prohibiting the discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant. Each Sewage Collection Agency currently regulated ~~enrolled~~ under Order No. 96-04 is required to obtain enrollment under the State Board Order No. 2006-0003-DWQ.
4. **SAN DIEGO REGION SANITARY SEWER OVERFLOW REGULATIONS:** Order No. 96-04 has been an effective regulatory mechanism in reducing the number and magnitude of sewage spills in the Region. The Order is more stringent and prescriptive than Order No. 2006-0003-DWQ in that Order No. 2006-0003-DWQ may allow some SSOs that are currently prohibited under Order No. 96-04. In order to maintain regulation of Sanitary Sewer Systems in the San Diego Region consistent with the provisions of Order No. 96-04, this Order reaffirms the prohibition on all SSOs upstream of a sewage treatment plant. This strict prohibition implements the requirements contained in the Basin Plan, California Water Code, and Federal Clean Water Act.

5. CONSISTENT REGIONAL REQUIREMENTS: The regulation of all Sewage Collection Agencies will be consistent within the San Diego Region by requiring agencies such as California Department of Corrections; California State University, San Marcos; San Diego State University; and University of California, San Diego, which have not been regulated under Order No. 96-04, to comply with Regional Board requirements that augment State Board Order No. 2006-0003-DWQ.

5.6. BASIN PLAN: The Regional Water Board adopted a Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994. The Basin Plan was subsequently approved by the State Water Resources Control Board (State Water Board) on December 13, 1994. Subsequent revisions to the Basin Plan have also been adopted by the Regional Water Board and approved by the State Water Board. The Basin Plan designates beneficial uses, narrative, and numerical water quality objectives, and prohibitions which are applicable to the discharges prohibited under this Addendum Order.

6.7. PROHIBITIONS CONTAINED IN BASIN PLAN: The Basin Plan contains the following prohibitions which are applicable to the discharges prohibited under this Addendum Order:

- a. "The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code Section 13050, is prohibited."
- b. "The discharge of treated or untreated waste to lakes or reservoirs used for municipal water supply, or to inland surface water tributaries thereto, is prohibited."
- c. "The discharge of waste to inland surface waters, except in cases where the quality of the discharge complies with applicable receiving water quality objectives, is prohibited. ..."
- d. "The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited unless authorized by the Regional Board."
- e. "The unauthorized discharge of treated or untreated sewage to waters of the state or to a storm water conveyance system is prohibited."
- f. "The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is prohibited."
- g. "The discharge of waste in a manner causing flow, ponding, or surfacing on lands not owned or under the control of the discharger is prohibited, unless the discharge is authorized by the Regional Board."

- 7.8. PORTER-COLOGNE WATER QUALITY CONTROL ACT (CALIFORNIA WATER CODE, DIVISION 7):** California Water Code Section 13243 provides that a Regional Board, in establishing waste discharge requirements, may specify certain conditions or areas where the discharge of waste, or certain types of waste, is prohibited. California Water Code 13260 prohibits the discharge of waste to land prior to the filing of a required report of waste discharge and the subsequent issuance of either WDRs or a waiver of WDRs.
- 8.9. FEDERAL CLEAN WATER ACT:** The Federal Clean Water Act largely prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under an NPDES permit. In general, any point source discharge of sewage effluent to waters of the United States must comply with technology-based, secondary treatment standards, at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the Clean Water Act. Furthermore, the Code of Federal Regulation requires proper operation and maintenance of all POTW facilities including collection systems, which results in prevention of SSOs.
- 9.10. RESCISSION OF ORDER No. 96-04:** Order No. 96-04 can be rescinded after all of the Sewage Collection Agencies regulated under Order No. 96-04 have obtained coverage under Order No. 2006-0003-DWQ.
- 11. PRIVATE LATERAL SEWAGE DISCHARGES PRIVATE SANITARY SEWER OVERFLOW REPORTING:** Order No. 96-04 does not require Sewage Collection Agencies to report Private Lateral Sewage Discharges SSOs from the privately owned portion of the Agency's sanitary sewer system. Over the past several years, however, ~~the this~~ Regional Board has been tracking the number of Private Lateral Sewage Discharges private SSOs based on courtesy reports from the Sewage Collection Agencies. ~~It is not known how many Agencies are currently reporting private SSOs to the Regional Board, since they are not required to do so. It is also not known if the Agencies that are reporting private spills, report all of the private SSOs they become aware of. Even so, during~~ During the period from July 2004 through June 2006, a total of 268 Private Lateral Sewage Discharges private SSOs were reported by the Agencies. ~~In fact, during~~ During some of those months, more Private Lateral Sewage Discharges private SSOs were reported than public SSOs. Because the Agencies are not required to report Private Lateral Sewage Discharges, it is not known if the numbers reported fully represent the number and locations of Private Lateral Sewage Spills in the Region.

Finding Nos. 2, 3, and 4 of State Board Order No. 2006-0003-DWQ pertaining to causes of SSOs and the potential threat to water quality resulting from SSOs are also applicable to Private Lateral Sewage Discharges~~private SSOs~~. ~~Since Because Private Lateral Sewage Discharges~~~~private SSOs~~ are numerous and ~~may also be aare a potential~~ threat to public health and the environment, there is a need to have a reliable reporting system for Private Lateral Sewage Discharges~~private SSOs~~ for similar reasons as the public SSOs. Although sewage collection agencies are not responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges, sewage collection agencies are typically notified and/or are the first responders to Private Lateral Sewage Discharges. Consequently, requiring the sewage collection agencies to report all known Private Lateral Sewage Discharges is reasonable and a first step toward development of a regulatory approach for reducing Private Lateral Sewage Discharges in the San Diego Region. Since it is impractical to regulate private entities and it is typically the sewer collection agencies that are notified and/or are the first responders to private SSOs, the sewer collection agencies are the appropriate representative to report all known private SSOs. This is the first step toward development of a regulatory approach for reducing private SSOs in the San Diego Region.

~~11.12.~~ **Permitting Fees:** This Order will serve as additional requirements to the State Board Order No. 2006-0003-DWQ. Sewage Collection Agencies that are covered and pay the fees under State Board Order No. 2006-0003-DWQ (or orders that supersede 2006-0003-DWQ) will not be required to pay for fees under this ~~Tentative~~ Order No. R9-2006-0121.

~~12.13.~~ **CALIFORNIA ENVIRONMENTAL QUALITY ACT:** This Order involves a prohibition of discharge and as such is exempt from the provisions of the California Environmental Quality Act in accordance with Title 14, California Administrative Code, Chapter 3, Section 15270.

~~13.14.~~ **PUBLIC NOTICE:** The Regional Board has notified all known interested persons and the public of its intent to consider adoption of this Order. Interested persons and the public have had reasonable opportunity to participate in review of the proposed Order.

~~14.15.~~ **PUBLIC HEARING:** The Regional Board has considered all comments pertaining to this Order submitted to the Regional Board in writing, or by oral presentations at the public hearing held on ~~November 8~~December 13, 2006.

IT IS HEREBY ORDERED, that all ~~Sewer~~Sewage Collection Agencies within the San Diego Region, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, in addition to the State Water Resource Control Board ~~(State Board)~~ Order No. 2006-0003-DWQ (or orders that supersede ~~SB-2006-0003-DWQ~~) and its addendums~~addenda~~ (hereinafter referred to as State Board Order):

A. Definitions

1. For purposes of this Order, a Sewage Collection Agency shall mean ~~a public agency that owns or operates any portion of a sanitary sewer system within the boundaries of the San Diego Region required to be enrolled under State Board Order No. 2006-0003-DWQ~~ an “enrollee”, as defined in the State Board Order, within the boundaries of the San Diego Region.
- ~~2. Private Sanitary Sewer Overflow (SSO)— A sanitary sewer overflow that is caused by blockages or other problems within a privately owned lateral connected to a sanitary sewer system owned or operated by a Sewage Collection Agency.~~
- ~~3. Public Sanitary Sewer Overflow— An SSO that is caused by blockages or other problems within the portion of a sanitary sewer system owned or operated by a Sewage Collection Agency.~~
- ~~4.2.~~ Category 1 Private Lateral Sewage Discharges~~Private SSO – All Private Lateral Sewage Discharges~~Private SSOs, as defined in the State Board Order, that:
 - a. Equal or exceed 1,000 gallons, or
 - b. Result in a discharge to a drainage channel and/or surface water; or
 - c. Discharge to a storm drainpipe that was not fully captured and returned to the sanitary sewer system.
- ~~5.3.~~ Category 2 Private Lateral Sewage Discharges~~Private SSO – All Private Lateral Sewage Discharges~~, as defined in the State Board Order,Private SSOs that do not meet the Category 1 Private Lateral Sewage Discharges~~Private SSO~~ definition above.

B. Prohibition

1. The discharge of sewage from a sanitary sewer system at any point upstream of a sewage treatment plant is prohibited.

C. Monitoring and Reporting Program Requirements

1. Each Sewage Collection Agency shall ~~provide written notification to this Regional Board no later than 14 days after its sanitary sewer overflows can successfully be reported to the State Board Online SSO System in accordance with Order No. 2006-0003-DWQ~~report all SSOs in accordance with the Monitoring and Reporting Program No. 96-04 until the Sewage Collection Agency notifies the Regional Board that they can successfully report the SSOs to the State Water Resource Control Board Online SSO System.

2. For Category 1 (as defined in State Board ~~Order Monitoring and Reporting Program~~ No. 2006-0003-DWQ) SSOs ~~and Category 1 Private SSOs (as defined above)~~, the Sewage Collection Agency shall provide notification of the SSO to the Regional Board by phone, email, or fax within 24 hours after the Sewage Collection Agency becomes aware of the SSO, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the name and phone number of the person reporting the SSO, the responsible sewage collection agency ~~or jurisdiction where the private SSO occurred~~, the estimated total sewer overflow volume, the location of the SSO, the receiving water (if any), the start date/time of the SSO (if known), the end date/time of the SSO (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.
3. Category 1 Private Lateral Sewage Discharges (as defined above), the Sewage Collection Agency shall provide notification of the SSO to the Regional Board by phone or fax within 24 hours after the Sewage Collection Agency becomes aware of the SSO, notification is possible, and notification can be provided without substantially impeding cleanup or other emergency measures. The information reported to the Regional Board shall include the name and phone number of the person reporting the SSO, the reporting jurisdiction where the Private Lateral Sewage Discharge occurred, the responsible party (other than the Sewage Collection Agency, if known), the estimated total sewer overflow volume, the location of the SSO, the receiving water (if any), the start date/time of the SSO (if known), the end date/time of the SSO (or whether or not the sewer overflow is still occurring at the time of the report), and confirmation that the local health services agency was or will be notified as required under the reporting requirements of the local health services agency.
4. The following requirement supersedes the SSO Reporting Timeframe for Private Lateral Sewage Discharges in the State Board: For Category 1 and 2 Private Lateral Sewage Discharges Private SSOs that occur within a Sewage Collection Agency's jurisdiction and that a Sewage Collection Agency becomes aware of, the Sewage Collection Agency shall report the SSO to the State Board Online SSO Database within 30 days after the end of the calendar month in which the SSO occurs. The Sewage Collection Agency must identify the sewage discharge as occurring and caused by a private lateral, and a responsible party (other than the Sewage Collection Agency) should be identified, if known. The Sewage Collection Agency will not be responsible for the cause, cleanup, or repair of Private Lateral Sewage Discharges, but only the reporting of those within their jurisdiction and for which they become aware of. ~~System within 30 days after the Sewage Collection Agency becomes aware of the SSO.~~

D. Notification

~~1. All Sewage Collection Agencies shall continue to comply with the Monitoring and Reporting Program No. 96-04 until sanitary sewer overflows can successfully be reported to the State Water Resource Control Board Online Sanitary Sewer Overflow System under Order No. 2006-0003-DWQ.~~

~~2.1.~~ Upon completion with ~~Monitoring and Reporting Program Requirements B.2~~ Monitoring and Reporting Program Requirement C.1, regulation of the Sewage Collection Agency under Order No. 96-04 is terminated.

~~3.2.~~ Order No. 96-04 is rescinded once regulation of all Sewage Collection Agencies under Order No. 96-04 is terminated.

I, John Robertus, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of ~~Addendum No. 7 to Order No. R9-1996-004~~ 2006-0121 adopted by the California Regional Water Quality Control Board, San Diego Region on ~~November 8~~ December 13, 2006.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer