



Matthew Rodriguez  
Secretary for  
Environmental Protection

## California Regional Water Quality Control Board San Diego Region

Over 50 Years Serving San Diego, Orange, and Riverside Counties  
Recipient of the 2004 Environmental Award for Outstanding Achievement from U.S. EPA



Edmund G. Brown Jr.  
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.waterboards.ca.gov/sandiego>

October 7, 2011

To: Interested Parties(see Enclosed List)

In Reply Refer to:  
LDU:agrove:771798

Dear Interested Parties:

**SUBJECT: TENTATIVE GENERAL WASTE DISCHARGE REQUIREMENTS  
ORDER NO. R9-2012-0003 FOR CLOSED, ABANDONED, OR  
INACTIVE BURN SITES LOCATED WITHIN THE SAN DIEGO REGION**

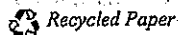
Enclosed please find a copy of Tentative Order No. R9-2012-0003, *General Waste Discharge Requirements for the Maintenance and Monitoring of Closed, Abandoned, or Inactive Burn Sites within the San Diego Region*. The tentative Order has been scheduled for consideration and adoption by the San Diego Regional Water Quality Control Board (San Diego Water Board) in the Spring of 2012.

The Tentative Order updates existing waste discharge requirements Order No. 97-11 to incorporate current regulations including California Code of Regulations (CCR) Title 27. The Tentative Order would also simplify the enrollment process and provide performance-based requirements for the maintenance of Closed, Abandoned, or Inactive Burn Sites (CAI Burn Sites). The San Diego Water Board has determined that it is appropriate to regulate CAI Burn Sites and Closed, Abandoned, or Inactive Waste Management Units (CAI Units) separately, and therefore, the enclosed packet contains Order No. R9-2012-0003, which provides maintenance requirements and specifications for CAI Burn Sites. The Tentative Order for CAI Units and the associated monitoring and reporting program will be sent under a separate cover.

You are being sent this notification regarding the tentative Order because you are either identified as a discharger responsible for a facility currently enrolled under Order No. 97-11, or you have signed up on an Interested Parties List for CAI Burn Sites within the San Diego Region. The San Diego Water Board will be hosting an informal workshop to discuss the proposed tentative Orders and M&RP on Tuesday, **November 1, 2011 at 9:00 am**. The informal workshop will be held in the Board Meeting Room of the San Diego Water Board office, located at 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340. A tentative Agenda for the informal Workshop is included for your review. The San Diego Water Board encourages Dischargers whose CAI Units and/or Burn Sites would be regulated under these tentative Orders and M&RP, to submit informal comments by **November 9, 2011**.

The heading portion of this letter includes a Regional Code number noted after "In reply refer to." In order to assist us in the processing of your correspondence, please include

*California Environmental Protection Agency*



Interested Parties  
General Waste Discharge Requirements  
For Closed, Abandoned, or Inactive Waste  
Management Units

- 2 -

October 7, 2011

this code number in the heading or subject line portion of all correspondence and reports to the San Diego Water Board pertaining to this matter.

If you plan to attend the November 1, 2011 Informal Workshop, either in person or via Webex, please RSVP to Ms. Amy Grove at (858) 637-7136, or via email at [agrove@waterboards.ca.gov](mailto:agrove@waterboards.ca.gov) no later than 5:00 pm on October 25, 2011..

Sincerely,

  
James G. Smith  
Assistant Executive Officer

Enclosures:    1. Interested Parties List  
                  2. Tentative Waste Discharge Requirements Order No. F9-2012-0003  
                  3. Agenda for November 1, 2011 Workshop

*California Environmental Protection Agency*



**General Waste Discharge Requirements for  
CAI Units and Burn Sites in the San Diego Region  
Interested Parties List**

Ms. Leslie Graves  
Division of Clean Water Programs  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, CA 94244-2120  
[lgraves@waterboards.ca.gov](mailto:lgraves@waterboards.ca.gov)

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San Diego, CA 92111-1522

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Environmental Affairs Manager  
San Diego Regional Airport Authority  
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Mr. Roger Mitchell  
Water Board Liason  
State Water Resources Control Board  
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San Diego, CA 92123  
[rmitchell@waterboards.ca.gov](mailto:rmitchell@waterboards.ca.gov)

Mr. Loren Chico  
Civil Engineering Project Manager  
San Diego Unified School District  
4860 Ruffner Street  
San Diego, CA 92111-1522

Mr. Mike Scott  
8847 Summerhill Point  
Alpine, CA 91901



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## INFORMAL STAFF WORKSHOP

TENTATIVE WASTE DISCHARGE REQUIREMENTS FOR CLOSED,  
ABANDONED, OR INACTIVE WASTE MANAGEMENT UNITS AND BURN  
SITES LOCATED WITHIN THE SAN DIEGO REGION

### AGENDA

November 1, 2011  
9:00 am – 1:00 pm  
San Diego Water Board  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

- |                            |   |
|----------------------------|---|
| <b>9:00 am – 9:15 am</b>   | Introduction and Opening Remarks  |
| <b>9:15 am – 9:45 am</b>   | Presentation of Concepts for Draft General Orders and Monitoring and Reporting Program (M&RP) |
| <b>9:45 am – 10:50 am</b>  | Stakeholder Comments and General Discussion of Draft Orders                                   |
| <b>10:50 am – 11:00 am</b> | Break   |
| <b>11:00 am – 12:45 pm</b> | Continue Stakeholder Comments and General Discussion of Draft Orders and M&RP                 |
| <b>12:45 pm – 1:00 pm</b>  | Wrap Up   |

*California Environmental Protection Agency*



**Teleconference Participants:**

Call-in Number (877) 932-8821; Access Code 3684515

**WebEx Participants:**

1. Go to

<https://waterboards.webex.com/waterboards/j.php?ED=172605537&UID=1229387607&PW=NYzAzMzdiZDli&RT=MiM0>

2. If requested, enter your name and email address.

3. If a password is required, enter the meeting password: Region9

4. Click "Join".



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October 7, 2011

To: Interested Parties(see Enclosed List)

In Reply Refer to:  
LDU:agrove:771797

Dear Interested Parties:

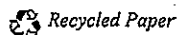
**SUBJECT: TENTATIVE GENERAL WASTE DISCHARGE REQUIREMENTS  
ORDER NO. R9-2012-0001 AND MONITORING AND REPORTING  
PROGRAM NO. R9-2012-0002 FOR CLOSED, ABANDONED, OR  
INACTIVE WASTE MANAGEMENT UNITS LOCATED WITHIN THE SAN  
DIEGO REGION**

Enclosed please find a copy of Tentative Order No. R9-2012-0001, *General Waste Discharge Requirements for the Maintenance and Monitoring of Closed, Abandoned, or Inactive Waste Management Units within the San Diego Region*, and associated tentative Monitoring and Reporting Program (M&RP) No. R9-2012-0002. The tentative Order and M&RP have been scheduled for consideration and adoption by the San Diego Regional Water Quality Control Board (San Diego Water Board) in the Spring of 2012.

The Tentative Order and M&RP updates existing waste discharge requirements Order No. 97-11 to incorporate current regulations including California Code of Regulations (CCR) Title 27. The Tentative Order would also simplify the enrollment process and provide performance-based requirements for the maintenance of Closed, Abandoned, or Inactive Waste Management Units (CAI Units). The San Diego Water Board has determined that it is appropriate to regulate CAI Units and Closed, Abandoned, or Inactive Burn Sites (CAI Burn Sites) separately, and therefore, the enclosed packet contains Order No. R9-2012-0001 and M&RP No. R9-2012-0002, which provide maintenance and monitoring requirements and specifications for CAI Units. The Tentative Order for CAI Burn Sites will be sent under a separate cover.

You are being sent this notification regarding the tentative Order because you are either identified as a discharger responsible for a facility currently enrolled under Order No. 97-11, or you have signed up on an Interested Parties List for CAI Units within the San Diego Region. The San Diego Water Board will be hosting an informal workshop to discuss the proposed tentative Orders and M&RP on Tuesday, **November 1, 2011 at 9:00 am**. The informal workshop will be held in the Board Meeting Room of the San Diego Water Board office, located at 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340. A tentative Agenda for the informal Workshop is included for your review. The San Diego Water Board encourages Dischargers whose CAI Units and/or Burn

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Interested Parties  
General Waste Discharge Requirements  
For Closed, Abandoned, or Inactive Waste  
Management Units

- 2 -

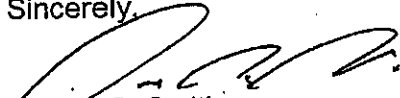
October 7, 2011

Sites would be regulated under these tentative Orders and M&RP, to submit informal comments by **November 9, 2011**.

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If you plan to attend the November 1, 2011 Informal Workshop, either in person or via Webex, please RSVP to Ms. Amy Grove at (858) 637-7136, or via email at [agrove@waterboards.ca.gov](mailto:agrove@waterboards.ca.gov) no later than 5:00 pm on October 25, 2011..

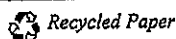
Sincerely,



James G. Smith  
Assistant Executive Officer

- Enclosures:
1. Interested Parties List
  2. Tentative Waste Discharge Requirements Order No. F9-2012-0001
  3. Tentative Monitoring and Reporting Program No. R9-2012-0002
  4. Agenda for November 1, 2011 Workshop

*California Environmental Protection Agency*





**General Waste Discharge Requirements for  
CAI Units and Burn Sites in the San Diego Region  
Interested Parties List**

Ms. Leslie Graves  
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Mr. James Watts  
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Environmental Affairs Manager  
San Diego Regional Airport Authority  
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Mr. Loren Chico  
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Mr. Mike Scott  
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Alpine, CA 91901



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San Diego Region**



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**INFORMAL STAFF WORKSHOP**

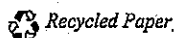
TENTATIVE WASTE DISCHARGE REQUIREMENTS FOR CLOSED,  
ABANDONED, OR INACTIVE WASTE MANAGEMENT UNITS AND BURN  
SITES LOCATED WITHIN THE SAN DIEGO REGION

**AGENDA**

November 1, 2011  
9:00 am – 1:00 pm  
San Diego Water Board  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123-4340

- 
- 9:00 am – 9:15 am** Introduction and Opening Remarks
  - 9:15 am – 9:45 am** Presentation of Concepts for Draft General Orders and Monitoring and Reporting Program (M&RP)
  - 9:45 am – 10:50 am** Stakeholder Comments and General Discussion of Draft Orders
  - 10:50 am – 11:00 am** Break
  - 11:00 am – 12:45 pm** Continue Stakeholder Comments and General Discussion of Draft Orders and M&RP
  - 12:45 pm – 1:00 pm** Wrap Up

*California Environmental Protection Agency*



**Teleconference Participants:**

Call-in Number (877) 932-8821; Access Code 3684515

**WebEx Participants:**

1. Go to

<https://waterboards.webex.com/waterboards/j.php?ED=172605537&UID=1229387607&PW=NYzAzMzdiZDli&RT=MiM0>

2. If requested, enter your name and email address.

3. If a password is required, enter the meeting password: Region9

4. Click "Join".

November 14, 2011

Reference Code - LDU:agrove:771797

Mr. James G. Smith, Assistant Executive Officer  
Regional Water Quality Control Board – San Diego  
9174 Sky Park Court  
Suite 100  
San Diego, CA 92123-4353

**Subject: Comments on the Tentative General Waste Discharge Requirements Order No. R9-2012-0001 and Monitoring and Reporting Program No. R9-2012-0002 for Closed, Abandoned, or Inactive Waste Management Units.**

Dear Mr. Smith,

Thank you for the opportunity to provide comments on Tentative Order No. R9-2012-0001, *General Waste Discharge Requirements for the Maintenance and Monitoring of Closed, Abandoned, or Inactive Waste Management Units* (Tentative Order) and the associated Monitoring and Reporting Program No. R9-2012-0002 (M&RP). The Tentative Order and M&RP were presented to stakeholders at the November 1, 2011, workshop in San Diego. We appreciate the open communication the San Diego Regional Water Board is having with stakeholders to update existing Order No. 97-11, which is intended to simplify the enrollment process and establish performance-based requirements for the maintenance of Closed, Abandoned, or Inactive waste management (CAI) units. We are offering the following comments from a broad policy standpoint given that this Order and M&RP may be used as a model template for other Regional Water Boards that are considering issuing new or updating existing General Waste Discharge Requirements for CAI units.

### **Discharger Designation**

The definition of Discharger which designates the responsible parties under this Tentative Order is in conflict with the definition of *Operator* in the California Code of Regulations, Title 27, Section 20164. As stated in regulation, the *Operator* is defined as:

*“...the landowner or other person who through a lease, franchise agreement or other arrangement with the landowner becomes legally responsible to the State for including, but not limited to, the following requirements for a solid waste facility or disposal site:*

- (a) obtaining a solid waste facility permit;*
- (b) complying with all applicable federal, state and local requirements;*
- (c) the physical operation of the facility or site; and*
- (d) closing and maintaining the site during the postclosure maintenance period.”*

Given that one of the objectives of this Tentative Order and M&RP is to incorporate current regulations from the California Code of Regulations, Title 27, the definition of *Discharger* should be updated to be consistent with the definition of *Operator*. Designating the current landowner as the responsible entity makes legal and practical sense given that they have control over the usage of property which affects the maintenance of the disposal site. Conversely, the Regional Board's definition of *Discharger* is much broader in scope in that it includes the former operator of the disposal site. We believe the former operator should not be held legally liable for postclosure maintenance at a CAI unit given that they have no land use control or rights on the usage of the property. Consequently, it is impactful for a former operator to effectively maintain the CAI unit to meet the performance-based standards of the regulations.

Accordingly, CalRecycle assigns responsibility for maintaining a closed disposal site to the current landowner for regulatory compliance and enforcement purposes. We suggest the Regional Board discuss with CalRecycle's legal counsel the responsible party designation and to develop a definition that is consistent among both agencies.

### **Landfill Gas**

Currently, the requirement to control the subsurface migration of landfill gas is designated under the authority of CalRecycle and enforced through certified Local Enforcement Agencies. In addition, atmospheric and surface emissions of landfill gas are regulated by the Air Resources Board and Air Pollution Control Districts. We believe the landfill gas provisions required in the Tentative Order are in conflict with AB 1220 (Chapter 656, Statutes of 1993) which defined the roles and responsibilities of the CalRecycle and the State and Regional Water Quality Control Boards in regulating solid waste disposal sites. One of the objectives of AB 1220 was to reduce overlap, duplication, and conflict among the State agencies in terms of regulatory development, oversight, and enforcement. We are concerned that introducing landfill gas requirements in the Tentative Order and M&RP that are already regulated by other agencies is duplicative and exposes dischargers to another layer of enforcement and potentially to fines from the Regional Board. In addition, the Tentative Order and M&RP imposes additional landfill gas requirements that are not required by these other agencies, who are assigned primary regulatory responsibility for such issues.

While we recognize that landfill gas could potentially be a source of contamination to groundwater, any landfill gas detected in vadose zone probes should not be presumed to negatively impact groundwater supplies. Other factors that may determine groundwater contamination from landfill gas are the soil and hydraulic properties of the soil matrix, depth to groundwater, and migration pathway of the gas plume. Given that one of the goals of the Tentative Order is to be performance-based, a well-designed groundwater monitoring system should serve as the appropriate indicator for detection of groundwater contamination as a result of landfill gas migration.

We do agree that if evidence shows that landfill gas has indeed contaminated groundwater and the CAI unit is in corrective action, the Regional Board could impose landfill gas requirements to remediate the contamination. Otherwise, we suggest the provisions of the landfill gas requirements in the Tentative Order and M&RP be deleted.

### Applicability

We suggest additional language be inserted in the Applicability section (page 5) to clarify that CAI units with individual Waste Discharge Requirements are not subject to the Tentative Order and M&RP. The language we are providing was previously in Order 97-11 and should be carried over to this Tentative Order. We recommend the following language insert:

“17. **APPLICABILITY.** *Order No. R9-2012-0001 supersedes Order No. 97-11. All CAI Units previously regulated by Order No. 97-11 are automatically enrolled under Order No. R9-2012-0001. In the case of issuing an individual Waste Discharge Requirement, the applicability of this general permit to the individual permittee will be terminated on the effective date.*”

As indicated by Regional Board staff during the workshop, the M&RP will not apply to those CAI units where an individual Waste Discharge Requirement has been issued. However, not all individual Waste Discharge Requirements have been issued a separate Monitoring and Reporting Program. It is our understanding that the Regional Board plans to update the individual Waste Discharge Requirements and incorporate the provisions of the M&RP on a case-by-case basis. We suggest the following change to the section heading of Discharger (first page) in the M&RP:

“3. **DISCHARGER.** Dischargers enrolled under Order No. R9-2012-0001 are subject to this M&RP, unless a Discharger has been issued ~~separate monitoring and reporting individual Waste Discharge Requirements~~ for site-specific conditions, pursuant to Water Code section 13267.”

### Industrial Storm Water Discharges

Within the Tentative Order and existing Order 97-11, CAI units are required to enroll under State Water Board Order No. 97-03-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities*. The purpose of the statewide permit is to control stormwater discharge of industrial activities from manufacturing facilities, mining and gas facilities, vehicle maintenance yards, active landfills and similar activities where such activities could impact stormwater. In many cases, once a CAI unit is closed, the disposal site can be converted into a non-industrial land use such as a park or a golf course that has little to no industrial activity that would warrant coverage under the Industrial NPDES permit. This is particularly true in cases where disposal sites that are owned by cities and counties have been redeveloped into a new land use that provides a benefit to the community. In these situations, coverage under a regional Municipal Separate Storm Sewer Permit System (MS4) permit is appropriate and equally protective of surface water quality objectives. We recommend that the Tentative Order allow for CAI Units be covered under the MS4 Permit or Industrial NPDES Permit based on site specific conditions and the postclosure land use of the CAI unit.

### **Financial Assurances**

As discussed during the workshop, the intent of the financial assurances requirement in the Tentative Order is for the discharger to maintain sufficient funds to cover the cost of maintaining the CAI unit and to comply with Waste Discharge Requirements. The financial assurances are not to be confused with the corrective action financial assurance requirement of Section 22100, et al., of Title 27 of the California Code of Regulations, which is only applicable to disposal sites that were operating on or after July 1, 1991. All CAI units identified in the Tentative Order closed prior November 1984. Similarly, the postclosure maintenance financial assurance requirements of Section 22210 et al. only applies to disposal sites that operated on and after January 1, 1988, none of which are identified in the Order. The Tentative Order as written could be potentially misinterpreted as imposing the financial assurance requirements of Title 27 on dischargers. We suggest deleting all references to “Financial Assurances” and replacing it with a different terminology such as “Funding Availability.”

### **2-Day Written Notification of Routine Maintenance**

Given that the Tentative Order is performance-based, the two working day notification to the Regional Board for minor maintenance and routine activities is burdensome to dischargers. The notification requirement becomes more burdensome if the discharger is frequently at the CAI unit conducting postclosure maintenance activities. A more effective evaluation of the maintenance work by the discharger is to report the activities in the Semi-Annual Monitoring and Maintenance Report. We suggest deleting this requirement in its entirety.

### **Groundwater Monitoring Report**

The M&RP calls for semi-annual groundwater monitoring at a CAI unit. We suggest that language be added to the M&RP that allows a reduction in the groundwater monitoring frequency from semi-annual to annual to possibly terminating groundwater monitoring. The frequency of the groundwater monitoring should be commensurate with the data results of the monitoring parameters and any historical trends to show any potential threat that the CAI unit may cause to groundwater. As time passes, a CAI unit’s potential to threaten water quality should diminish. Consequently, the frequency of groundwater monitoring should also decrease unless there are conditions that indicate otherwise. CAI units where groundwater monitoring requirements have been terminated, or where the currently approved frequency of monitoring has been reduced, should not be retroactively returned to semi-annual or quarterly monitoring and reporting.

Thank you for the consideration of our comments. We look forward to working with the San Diego Regional Water Board to develop a general permit that is protective of water quality yet does not impose burdensome requirements on dischargers. If you have any questions, please contact Mr. David Tieu at 714-834-4064 or at [david.tieu@ocwr.ocgov.com](mailto:david.tieu@ocwr.ocgov.com).



Mr. James G. Smith  
General Waste Discharge Requirements – CAI Units  
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Sincerely,

A handwritten signature in black ink that reads "Chip Monaco". The signature is written in a cursive, slightly slanted style.

**CHIP MONACO, DEPUTY DIRECTOR**  
Government & Community Relations

cc: Amy Grove, San Diego Regional Water Quality Control Board  
Roger Mitchell, State Water Resources Control Board  
OC Waste & Recycling Executive Management  
John Arnau, OC Waste & Recycling  
Matthew Harper, OC Waste & Recycling  
Patti Henshaw, OC Waste & Recycling



## Mary Pitto

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**From:** Larry Sweetser  
**Sent:** Thursday, November 10, 2011 6:27 PM  
**To:** Mary Pitto  
**Cc:** 'Sweetser@aol.com'  
**Subject:** ESJPA/RCRC Closed, Abandoned, Inactive Landfills

I could not resist creating a database that calculated the number of CIA landfills in our counties. There are 1478 listed and ESJPA Members have 332 (22.5%) and the remaining RCRC counties have 106 (7.2). 130 of the ESJPA List are indicated as owed by the County or a City, 131 are not listed. The current owner would need to meet any new standards. Here is the per County count.

### ESJPA

Alpine	1
Amador	20
Butte	14
Calaveras	15
Colusa	13
Del Norte	9
El Dorado	22
Glenn	13
Imperial	13
Inyo	14
Lassen	23
Madera	9
Mariposa	10
Modoc	14
Mono	17
Nevada	15
Plumas	24
Sierra	12
Siskiyou	33
Tehama	13
Trinity	17
Tuolumne	11
TOTAL	332

### RCRC Only

Lake	7
Merced	22
Napa	7
Placer	17
San Benito	3
Shasta	27
Sutter	2
Yolo	11
Yuba	10
TOTAL	106

Larry

Larry Sweetser  
ESJPA Consultant  
Phone (510) 703-0898