

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION

Resolution No. R14-0XX

Amendments to the *Water Quality Control Plan for the Los Angeles Region* to incorporate the *Statewide Water Quality Control Policy for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems*

May 8, 2014

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) finds that:

1. The *Water Quality Control Plan for the Los Angeles Region* (Basin Plan) is the Los Angeles Water Board's master water quality control plan for the coastal watersheds of Los Angeles and Ventura Counties. The Basin Plan designates beneficial uses of waters of the State, establishes water quality objectives to protect those beneficial uses and prevent nuisance, and describes implementation programs to achieve water quality objectives. The Basin Plan also incorporates the State's "Statement of Policy with respect to Maintaining High Quality of Waters in California" (Resolution No. 68-16). The Basin Plan addresses point source and nonpoint source discharges, and specifies certain conditions or areas where the discharge of waste, or certain types of waste, is prohibited. The Basin Plan also includes non-regulatory descriptions of the region covered by the plan.
2. The Basin Plan may be amended in accordance with California Water Code section 13240 *et seq.*
3. The current Basin Plan was adopted by the Los Angeles Water Board on June 13, 1994, and approved by the State Water Resources Control Board (State Water Board) on November 17, 1994 and by the State Office of Administrative Law (OAL) on February 23, 1995. Since then, numerous Basin Plan amendments have been adopted – most of which are reflected in the Basin Plan through the November 2011 update to Chapter 2 "Beneficial Uses" (Resolution No. R11-011) and the May 2013 update of Chapter 3: "Water Quality Objectives" (Resolution No. R13-003).
4. The Basin Plan's Chapter 4 "Strategic Planning and Implementation" contains a section on regulating onsite wastewater treatment systems (also referred to as septic systems) that references the California Water Code criteria for regulating individual onsite wastewater treatment systems, and discusses the Los Angeles Water Board's regulation of these systems through either general waste discharge requirements or, in some specific areas, through discharge prohibitions. This section also includes the prohibitions on onsite wastewater treatment systems applicable to the Oxnard Forebay and Malibu Civic Center areas.
5. On June 19, 2012, the State Water Board adopted the *Water Quality Control Policy for Siting, Design, Operation and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Policy). The purpose of the OWTS Policy is to allow the continued

T
E
N
T
A
T
I
V
E

use of onsite wastewater treatment systems, while protecting water quality and public health. It is also the intent of the policy to efficiently utilize and improve upon, where necessary, existing local OWTS management programs through coordination between State and local agencies.

6. The OWTS Policy establishes a statewide, risk-based, tiered approach for the regulation and management of onsite wastewater treatment system installations and replacements and sets levels of performance and protection required of these systems. In particular, the policy requires additional actions for certain water bodies where onsite wastewater treatment systems contribute to water quality degradation that adversely affects beneficial uses.
7. The OWTS Policy only authorizes subsurface disposal of domestic strength and, in limited instances, high strength wastewater, and it establishes minimum requirements for the permitting, monitoring, and operation of onsite wastewater treatment systems to protect beneficial uses of waters of the State and prevent or correct conditions of pollution and nuisance.
8. The OWTS Policy conditionally waives the requirement for owners of OWTS to apply for and receive waste discharge requirements (WDRs) in order to operate their systems as long as they meet the conditions set forth in the policy. The policy does not supersede or require modification to total maximum daily loads (TMDLs) or Basin Plan prohibitions of discharges from onsite wastewater treatment systems.
9. The Office of Administrative Law approved the OWTS Policy on November 19, 2012.
10. These amendments revise a portion of the section in Chapter 4 of the Basin Plan that discusses onsite wastewater treatment systems (also known as septic systems). Specifically, the amendments incorporate the OWTS Policy into the Basin Plan by reference, and stipulate that the requirements of the OWTS Policy apply throughout the Los Angeles Region where onsite wastewater treatment systems are used to treat and dispose of waste, unless such systems are prohibited by the Basin Plan or are otherwise regulated by individual WDRs.
11. These Basin Plan amendments meet the “necessity” standard of the California Administrative Procedures Act Government Code section 11353(b), because the OWTS Policy requires that all regional water boards incorporate the requirements of the policy into their respective basin plans within one year of the effective date of the policy. California Water Code section 13291 also requires the regional water boards to incorporate regulations or standards adopted by the State Water Board for the permitting and operation of onsite sewage treatment systems into their respective basin plans, and Water Code section 13240 requires each regional water board’s basin plan to conform with any State policy for water quality control.
12. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the water boards’ basin planning process as a “certified regulatory program” that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) requirements for preparing environmental documents (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3775). The Los Angeles Water Board generally prepares “substitute environmental documents” for amendments to its Basin Plan that contain the required environmental

T
E
N
T
A
T
I
V
E

documentation under the State Water Board's CEQA regulations (23 Cal. Code Regs. §§ 3775-3781).

13. The State Water Board prepared Substitute Environmental Documentation (SED) for the OWTS Policy in accordance with the water boards' certified regulatory program (23 Cal. Code Regs. §§ 3775-3781). The State Water Board approved the OWTS Policy and the accompanying SED on June 19, 2012. The proposed amendments incorporate the OWTS Policy and remove certain existing Basin Plan provisions regulating onsite wastewater treatment systems that are no longer applicable as a result of the OWTS Policy. No substantive changes or modifications to the OWTS Policy are proposed, no substantial changes with respect to the circumstances under which the Policy will apply have occurred, and no new information triggers the need for supplemental or subsequent CEQA analysis.
14. These Basin Plan amendments are wholly within the scope of the OWTS Policy as analyzed by State Board in the SED. As such, the recommended actions do not require further environmental review pursuant to the certified regulatory program or CEQA (Pub. Resources Code § 21166; Cal. Code Regs., title 14, §§ 15162 & 15163).
15. The State Water Board paid the Department of Fish and Wildlife (DFW) CEQA document filing fee, required by California Fish and Game Code section 711.4, for its review of the SED and related certified regulatory program documents when it adopted the OWTS Policy. Because the Los Angeles Water Board is relying on the comprehensive SED prepared by the State Water Board, the Los Angeles Water Board does not need to prepare any additional documents that would require DFW review. Therefore, these Basin Plan amendments are exempt from any additional CEQA document filing fees required under the California Fish and Game Code.
16. The State Water Board, in adopting the OWTS Policy, considered a wide range of factors affecting water quality and the availability of treatment measures to protect beneficial uses, consistent with the goals and requirements set forth in State Water Board's Resolution No. 68-18 "Statement of Policy with respect to Maintaining High Quality of Waters in California." The State Water Board analyzed the potential water quality impacts of reasonable foreseeable methods of compliance with the OWTS Policy, and considered that alternatives to the OWTS Policy do not accomplish the objectives of adopting consistent standards that will ensure protection of public health and beneficial uses of the State's waters, while establishing an effective regulatory process that considers cost and technological capabilities.
17. The State Water Board found that the OWTS Policy sets standards that could allow water quality impacts from pathogen or nitrogen contamination as well as cumulative water quality and public health impacts. The State Water Board also found that available mitigation measures would not meet the goals of the OWTS Policy, and that specific overriding economic, legal, social, technological, and other benefits outweigh any degradation resulting from new or continuing discharges that are in compliance with the OWTS Policy. With respect to local agency management programs, the State Water Board rejected mitigation measures that would remove local agency flexibility, render too many sites unsuitable for new and replaced onsite wastewater treatment systems, or impose significant costs without corresponding environmental benefit. The State Water Board concluded that effective

T
E
N
T
A
T
I
V
E

implementation of protections to allow continued use of onsite wastewater treatment systems for wastewater disposal in areas not suitable for a centralized treatment system is an important public benefit, and the protections afforded by the OWTS Policy provide the best practicable treatment to ensure the highest water quality, consistent with the maximum benefit to the people of the State. The State Water Board concluded that the OWTS Policy establishes a statewide, risk-based, tiered approach for the regulation and management of onsite wastewater treatment system installations and replacements, and sets the level of performance and protection required of these systems in each tier.

18. The criteria for regulation of onsite wastewater treatment systems in the OWTS Policy do not differ significantly from the criteria previously imposed by the Basin Plan for the Los Angeles Region and general waste discharge requirements adopted by the Los Angeles Water Board. Incorporation and implementation of the OWTS Policy is therefore not expected to impact the volume or concentration of waste discharged to high quality waters.
19. The OWTS Policy requires local agencies implementing management programs to monitor and assess water quality to ensure that beneficial uses are protected. The monitoring and assessment must evaluate the impact of OWTS discharges and assess the extent to which groundwater and local surface water quality may be adversely impacted. Local agencies must report the results to the applicable regional water board, and identify any changes in the local agency management program that will be undertaken to address impacts from onsite wastewater treatment systems. The regional water board may also require modifications to an approved local agency management program, as appropriate.
20. Prior to adoption of these amendments, the Los Angeles Water Board entered into memoranda of understanding with authorized and qualified local agencies to develop and implement local onsite wastewater treatment system management plans, which are substantially similar to the local agency management plans authorized by the OWTS Policy. Development and implementation of local agency management plans pursuant to the OWTS Policy is therefore not expected to impact the volume or concentration of waste discharged to high quality waters.
21. Consistent with the State Water Board's findings and the requirements of the policy, these Basin Plan amendments are consistent with maximum benefit to the people of the State; will not unreasonably affect present and anticipated beneficial uses; will not result in water quality less than that prescribed in applicable State policies, including the OWTS Policy; and requires OWTS dischargers to use the best practicable treatment or control of the discharge necessary to avoid pollution or a condition of nuisance and to maintain the highest water quality consistent with the maximum benefit to the people of the State. Therefore, the adoption of these Basin Plan amendments is consistent with Resolution No. 68-16.
22. The Los Angeles Water Board has prepared a staff report that describes the proposed amendments, as well as the specific necessity and rationale for the incorporation of the OWTS Policy into the Basin Plan. The staff report entitled "Incorporation of the Statewide Onsite Wastewater Treatment Systems Policy into the Los Angeles Region's Water Quality Control Plan" was reviewed and considered by the Los Angeles Water Board before adoption of this Resolution.

T
E
N
T
A
T
I
V
E

23. The public had a reasonable opportunity to participate in the review of the proposed amendments to the Basin Plan. A Notice of Hearing was published in the Los Angeles Times and Ventura County Star on February 27, 2014, and circulated 45 days preceding the Los Angeles Water Board's action. A draft of the staff report, tentative resolution, and proposed Basin Plan language, were released for public comment on February 27, 2014 to allow a 45-day public comment period in advance of the public hearing. The Los Angeles Water Board responded to written and oral comments received from the public on the proposed action. On May 8, 2014, prior to the Los Angeles Water Board's action on this resolution, a public hearing was held to consider incorporation of the OWTS Policy into the Basin Plan. The public had an opportunity to provide oral comments and testimony during the hearing. The public also had the opportunity to comment on the OWTS Policy during the State Water Board adoption process.
24. These Basin Plan amendments must be submitted for review and approval by the State Water Board and the Office of Administrative Law (OAL). The Basin Plan amendments will become effective upon approval by OAL.
25. If during the approval process, Los Angeles Water Board staff, the State Water Board or State Water Board staff, or OAL determines that minor, non-substantive modifications to the language of the amendments are needed for clarity or consistency, the Executive Officer should make such changes consistent with the Los Angeles Water Board's intent in adopting these amendments, and should inform the Los Angeles Water Board of any such changes.

THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to Water Code section 13240, the Los Angeles Water Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendments to the Basin Plan to incorporate the OWTS Policy, as set forth in Attachment A hereto.
2. The Los Angeles Water Board is taking this action pursuant to State Water Board Resolution No. 2012-0032 (Resolved Clause 5), in which the State Water Board directs the regional water boards to amend their basin plans to incorporate the requirements of the policy within 12 months of the effective date of the OWTS Policy.
3. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of California Water Code section 13245.
4. The Los Angeles Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of California Water Code sections 13245 and 13246, and forward it to OAL for approval.
5. The Executive Officer shall request that the State Water Board, on behalf of the Los Angeles Water Board, file a Notice of Decision with the California Natural Resources Agency and the Governor's Office of Planning and Research (State Clearinghouse) after approval by OAL.

T
E
N
T
A
T
I
V
E

6. If during the approval process, Los Angeles Water Board staff, the State Water Board or State Water Board staff, or OAL determines that minor, non-substantive modifications to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Los Angeles Water Board of any such changes.

I, Samuel Unger, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of the resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on May 8, 2014.

Samuel Unger, P.E.
Executive Officer