

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION**

RESOLUTION R6T-2006-0015

**APPROVAL OF AMENDMENTS TO THE WATER QUALITY CONTROL
PLAN FOR THE LAHONTAN REGION CLARIFYING THE APPLICABILITY
OF WASTE DISCHARGE PROHIBITIONS TO STORMWATER DISCHARGES
AND ADDING AN EXPLICIT STATEMENT TO ALLOW SCHEDULES OF
COMPLIANCE IN NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM (NPDES) PERMITS, AND APPROVAL OF
AN ASSOCIATED ENVIRONMENTAL DOCUMENT**

WHEREAS, the Lahontan Regional Water Quality Control Board (Lahontan Water Board) finds:

The Lahontan Water Board's revised Water Quality Control Plan for the Lahontan Region (Basin Plan) took effect on March 31, 1995, and the proposed amendments were developed in accordance with Water Code section 13240 et seq.;

2. Lahontan Water Board staff prepared draft Basin Plan amendments, including changes to Chapter 4 (Implementation) and Chapter 5 (Water Quality Standards and Control Measures for the Lake Tahoe Basin), to clarify that waste discharge prohibitions do not apply to discharges of storm water when wastes in the discharge are controlled by appropriate management measures and do not cause a violation of water quality objectives, and to add an explicit statement to allow schedules of compliance in National Pollutant Discharge Elimination System (NPDES) permits;
3. The Lahontan Water Board's planning process has been certified pursuant to the California Environmental Quality Act (CEQA) as "functionally equivalent" to the substantive requirements of CEQA. (Public Resources Code section 21080.5.) Lahontan Water Board staff prepared and circulated a draft environmental document for public review. The Lahontan Water Board has reviewed public comments and staff responses to comments. The environmental document, when considered together with the record of the public review process as a whole, indicates that adoption of the proposed amendments to the Basin Plan will have no significant adverse impacts on the environment;
4. The Notice of Filing, written report, environmental checklist, and draft amendments were prepared and distributed to interested individuals and public agencies for review and comment in accordance with state and federal environmental regulations (California Code of Regulations, title 23, section 3775 et seq., 40 C.F.R. part 25 and 40 C.F.R. part 131). The draft amendments and supporting documents were properly noticed in newspapers of general circulation in the areas affected. Copies of the draft amendments and supporting documents were made available to parties on the Lahontan Water Board's Basin Plan mailing list who requested them. Copies of these documents were also made available on the Internet;

- 5 The proposed amendments meet the necessity standard of the Administrative Procedure Act, Government Code section 11353, subdivision (b); and
- 6 The Lahontan Water Board heard and considered all written public comments and all testimony presented at a duly noticed public hearing held at its regular April 2006 meeting.

THEREFORE BE IT RESOLVED:

- 1 The Lahontan Water Board adopts the amendments clarifying the applicability of waste discharge prohibitions to storm water discharges, adding an explicit statement to allow schedules of compliance in National Pollutant Discharge Elimination (NPDES) permits, and making certain related editorial changes.
2. The environmental document prepared by Lahontan Water Board staff pursuant to Public Resources Code section 21080.5, which reflects the independent judgment of the Lahontan Water Board, is hereby certified.
3. The Lahontan Water Board has made a "*de minimis*" finding, and the Executive Officer is authorized to sign the Certificate of Fee Exemption and to transmit it to the California Department of Fish and Game (CDFG) in lieu of payment of the CDFG filing fee.
4. The Executive Officer is authorized to submit the amendment to the State Water Resources Control Board for approval.
5. The Lahontan Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of Water Code section 13245 and Water Code section 13246 and forward them to the Office of Administrative Law (OAL) and the U.S. Environmental Protection Agency for approval.
6. If during its approval process for Lahontan Water Board Basin Plan amendments or policies, Lahontan Water Board staff, the State Water Board, or OAL determines that minor, non-substantive changes to the language of the amendment or policy are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Lahontan Water Board of any such changes.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the Lahontan Regional Water Quality Control Board on April 12, 2006.



HAROLD J. SINGER
EXECUTIVE OFFICER

ATTACHMENT 1

BASIN PLAN AMENDMENTS FOR WASTE DISCHARGE PROHIBITION CLARIFICATION AND NPDES COMPLIANCE SCHEDULE PROVISION

Waste Discharge Prohibitions

Insert the following immediately before the heading “Regionwide Prohibitions” in section 4.1 (p. 4.1-1):

Waste discharge prohibitions in this chapter and Chapter 5 (Water Quality Control Standards for the Lake Tahoe Basin) do not apply to discharges of stormwater when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives. For existing discharges, waste discharge requirements, including NPDES permits, may contain a time schedule for the application of control measures and compliance with water quality objectives. In general, the Regional Board expects that control measures will be implemented in an iterative manner as needed to meet applicable receiving water quality objectives.

Insert the following immediately before the heading “Regionwide Prohibitions” in section 5.2 (p. 5.2-1):

Waste discharge prohibitions in this chapter do not apply to discharges of stormwater when wastes in the discharge are controlled through the application of management practices or other means and the discharge does not cause a violation of water quality objectives. For existing discharges, waste discharge requirements, including NPDES permits, may contain a time schedule for the application of control measures and compliance with water quality objectives. In general, the Regional Board expects that control measures will be implemented in an iterative manner as needed to meet applicable receiving water quality objectives.

Compliance Schedules

Chapter 4

Include the following revisions to the text of “Compliance Schedules” starting on page 4-3 of Chapter 4 – Implementation.

Compliance Schedules. The Porter-Cologne Act (CA Water Code § 13242[b]) requires a Basin Plan's program of implementation for achieving water quality objectives to include a “time schedule for the actions to be taken.” Because of the

lack of ambient water quality monitoring data for most of the water bodies of the Lahontan Region (see Chapter 7), it is not possible to state whether or not these waters are in achievement of all water quality objectives, or to set compliance schedules for achievement. The Regional Board periodically reviews available information on attainment of objectives and support of beneficial uses as part of the Water Quality Assessment (ongoing), Section 305(b) reporting (every two years), and Triennial Review (every three years) processes. These reviews may result in Basin Plan amendments and/or the issuance of new or revised discharge permits ~~that which~~ will include specific compliance schedules for particular dischargers or for all discharges affecting particular water bodies. The Regional Board is also required to prioritize impaired water bodies listed as "Water Quality Limited" under Section 303(d) of the Clean Water Act for the development of "Total Maximum Daily Loads" (TMDLs) of pollutants to be used in setting wasteload allocations for dischargers, in order to ensure attainment of standards.

Where the Regional Board determines it is infeasible to achieve immediate compliance with water quality objectives adopted by the Regional Board or State Board, with water quality criteria adopted by the USEPA, or with an effluent limitation based on these objectives or criteria, the Regional Board may establish in NPDES permits a schedule of compliance in accordance with federal NPDES regulations (40 CFR §122.47). Compliance schedules may not be included that would violate federal Clean Water Act statutory requirements that are applicable to municipal POTWs and industrial point source discharges.

The schedule of compliance shall include a time schedule for completing specific actions that demonstrate reasonable progress toward the attainment of the objectives or criteria and shall contain a final compliance date, based on the shortest practical time (determined by the Regional Board) required to achieve compliance. Compliance schedules for California Toxic Rule (CTR) objectives shall comply with the provisions of the State Implementation Plan (SIP) [40 C.F.R. section 131.38(e)(6) and in the CTR-SIP, Section 2.1].

Schedules of compliance may also be included in NPDES storm water permits where an iterative approach is necessary to develop appropriate strategies and controls to meet water quality objectives.

~~The 1975 Basin Plans included recommendations that specific studies be carried out by specific dates on needs for community wastewater collection and treatment facilities in certain areas of the Lahontan Region. These plans also recommended that some communities construct specific facilities by given dates. Most of these schedules were not met. Because expected year to year changes in availability of and priorities for funding will ensure that long term schedules are unrealistic, this Basin Plan does not include such recommendations. Priorities are set on a short-term basis for studies through the State Board's use of the Clean Water Strategy~~

~~ranking system in various grant programs, and for facilities construction through the State Board Division of Clean Water Programs needs assessment process for loans and grants. Once funding is allocated, completion schedules are set through the contract process.~~

~~Some of the water quality control programs for the Lahontan Region do have specific compliance deadlines, which are discussed later in this Basin Plan. For example, the control measures for the Lake Tahoe Basin which are discussed in Chapter 5 are to be implemented over a 20-year period (through 2007) to ensure attainment of objectives. Some of the waste discharge prohibitions discussed later in this Chapter also include specific compliance dates.~~

~~The Regional Board maintains discharge permits (WDRs and NPDES permits) for point sources, each of which includes its own compliance schedule. Waste discharge permits for construction projects generally require implementation of Best Management Practices during and immediately after construction; long-term maintenance of permanent BMPs is expected. Regional Board enforcement orders for specific problems also include compliance schedules.~~