

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401**

**DRAFT RESOLUTION NO. R3-2005-0013
AMENDING THE WATER QUALITY CONTROL PLAN**

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

1. The Water Board adopted a policy regarding beneficial use of oil field waste materials in the Santa Maria Valley (Resolution No. 73-05) on December 14, 1973.
2. The Water Board expanded the beneficial use of oil field waste materials policy to apply throughout the region (Resolution No. 89-04) on November 17, 1989.
3. The Water Board adopted the current Water Quality Control Plan, Central Coastal Basin (Basin Plan) on September 8, 1994. The Basin Plan includes beneficial use designations, water quality objectives, implementation plans for point source and nonpoint source discharges, and statewide plans and policies. Resolution Nos. 73-05 and 89-04 are included in the Basin Plan as Appendix A-16 and A-17, respectively.
4. The Water Board periodically revises and amends the Basin Plan. Water Board staff determined the Basin Plan requires further revision and amendment to repeal the reuse policy for oil field waste materials throughout the region. The Water Board will regulate oil field waste materials using waste discharge requirements (WDRs) or waiver of WDRs on oil field leases and fee-properties. The Water Board will consider regulation of oil field waste materials on oil field lease and fee properties using WDRs and waiver of WDRs at the July 8, 2005, Water Board meeting in San Luis Obispo.
5. In January 2005, Water Board staff contacted State Water Resources Control Board (State Water Board) staff to inquire if repeal of Appendix A-16 and Section 5(f) of Appendix A-17 of the Basin Plan required external scientific review to comply with Health and Safety Code Section 57004. State Water Board staff indicated that external scientific review was not required for repeal of the Water Board policy for reuse of oil field wastes.
6. Interested persons and the public have been informed of the Water Boards' intent to repeal Appendix A-16 and Section 5(f) of Appendix A-17 of the Basin Plan. Efforts to inform the public and solicit public comment include a public meeting/

workshop, several individual meetings with vested stakeholders, and a number of telephone conversations with interested parties. Notice of public hearing was given by advertising in newspapers of general circulation within the Region and by mailing a copy of the notice to all persons requesting such notice and applicable government agencies. Water Board staff responded to oral and written comments received from the public.

7. The Water Board considered costs of repealing Resolution No. 73-05 and Section 5(f) of Resolution No. 89-04. If repealed, the Water Board will need to adopt WDRs or waiver of WDRs for the storage and re-use of petroleum waste materials. Dischargers will be required to submit a Report of Waste Discharge and appropriate filing fee, based on the level of complexity and threat to water quality. The Water Board has considered the costs of implementing the amendment to dischargers, and finds these costs to be reasonable relative to the water quality benefits derived from implementing the Basin Plan amendment.
8. Anti-Degradation – This order is consistent with the provisions of the State Water Board Resolution No. 68-16, “Statement of Policy with Respect to Maintaining High Quality of Waters in California” and 40 Code of Federal Regulations (CFR) 131.12. Regulation of oil field wastes using WDRs or a WDR waiver provides more regulatory oversight compared to the re-use policy described in Resolution No. 73-05 and Section 5(f) of Resolution No. 89-04. Therefore, the Basin Plan amendment will result in improved water quality throughout the region and maintains the level of water quality necessary to protect existing and anticipated beneficial uses.
9. The Water Board concurs with the analysis contained in the Environmental Checklist, the staff report, and the responses to comments and find that the analysis complies with the requirements of the State Board’s regulations, as set forth in the California Code of Regulations (CCR), Title 23, section 3775 et seq. Adoption of this resolution is a ministerial act that is not subject to the California Environmental Quality Act (CEQA). Adoption of this resolution is also not a “project” that requires compliance with the CEQA (California Public Resources Code §21000 et seq.). The Regional Board is not directly undertaking an activity, funding an activity or issuing a permit or other entitlement for use (Public Resources Code section 21065; 14 CCR. §15378). Due to the Executive Officer’s October 22, 2002 letter, no one can legally discharge pursuant to Resolution Nos. 73-05 or 89-04. The Water Board is not approving any activity (14 CCR. §15352). This is a clerical amendment to bring the Basin Plan into compliance with current law. Water Board staff has also prepared general waste discharge requirements to regulate waste piles (General WDRs), and a general waiver to regulate beneficial reuse of oily waste (Waiver). The General WDRs and Waiver supercede the outdated Resolutions. Water Board staff has prepared documentation to comply with the CEQA for those two projects (General WDR and Waiver).

10. The proposed amendment will be to repeal Resolution No. 73-05 and section 5(f) noted in Resolution No. 89-04, which amended Resolution No. 73-05 to apply throughout the Region. References to the above-noted resolutions will be deleted in the Basin Plan's Table of Contents and text. The strikethrough version of the Basin Plan text, which references Resolutions Nos. 73-05 and 89-04 (Section VI.C, page V-17), is included as Attachment 1. The strikethrough version of Resolution No. 73-05 is included as Attachment 2. The strikethrough version of Resolution No. 89-04 is included as Attachment 3.
11. The effect of the amendment will be throughout the Region, but more specifically in San Luis Obispo and Santa Barbara Counties, where active oil fields that generate petroleum waste materials are located.
12. The Basin Plan amendment must be submitted for review and approval by the State Water Resources Control Board (State Board) and the State Office of Administrative Law (OAL). The Basin Plan amendment will become effective upon approval by OAL. The subject Resolution will become effective immediately.
13. The amendment to the Basin Plan will result in no potential for adverse effect, either individually or cumulatively, on wildlife and is therefore exempt from fee payments to the Department of Fish and Game under the California Fish and Game Code.
14. On July 8, 2005 in San Luis Obispo, California, the Water Board held a public hearing and heard and considered all public comments and evidence in the record.

THEREFORE, BE IT RESOLVED, that:

1. Pursuant to CWC sections 13240, the Water Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the Basin Plan amendments attached as Attachments 1, 2, and 3.
2. The Water Board's Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of CWC Section 13245.
3. The Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of CWC sections 13245 and 13246, and forward it to OAL for approval and the USEPA for review. The Water Board shall file a Notice of Decision with the Secretary of Resources and the Governor's Office of Planning and Research (State Clearinghouse) after approval by OAL.
4. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

5. If, during its approval process, the State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Water Board of any such changes.

I, ROGER W. BRIGGS, EXECUTIVE OFFICER, do hereby certify the foregoing is a full, true, and correct copy of the resolution adopted by the Central Coast Water Board, on July 8, 2005.

Roger W. Briggs
Executive Officer

Attachments:

Attachment 1: Strikethrough version of Basin Plan text (Section VI.C, page V-17)

Attachment 2: Strikethrough version of Resolution No. 73-05.

Attachment 3: Strikethrough version of Resolution No. 89-04.

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