

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
MARCH 15, 2011**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE NORTH COAST REGION (BASIN PLAN) TO ESTABLISH EXEMPTION CRITERIA TO THE POINT SOURCE WASTE DISCHARGE PROHIBITIONS BY REVISING THE ACTION PLAN FOR STORMWATER DISCHARGES AND ADDING A NEW ACTION PLAN FOR LOW THREAT DISCHARGES (LOW THREAT DISCHARGE AMENDMENT)

DISCUSSION

On July 23, 2009, the North Coast Regional Water Board (North Coast Water Board) adopted Resolution No. R1-2009-0004 ([Attachment 1](#)) amending the Basin Plan to establish exemption criteria to the Point Source Waste Discharge Prohibitions by revising the implementation measures (referred to in the Basin Plan as an "Action Plan") for storm water discharges and adding a new Action Plan for low threat discharges.

As it is currently written, the Basin Plan contains broad seasonal and year around prohibitions against point source discharges within the Region. Specifically, the Basin Plan limits point source surface water discharges to the period of October 1 through May 14 in the Eel, Mad, and Russian River watersheds and prohibits all point source surface water discharges in the rest of the North Coast Region watersheds. Where the discharge period is limited to October 1 through May 14, the discharge during this period is limited to less than one-percent of the receiving stream's flow (one-percent prohibition).

In contrast, some regional and statewide permits allow year-round point source discharges. To address this conflict between existing permits and the Basin Plan's point source prohibitions, the amendment provides criteria under which exceptions to the point source prohibitions would be permitted. The proposed amendment would apply only to permitted discharges from specific types of activities where there is a minimal potential (or low threat) for adverse impacts to water quality to occur from the discharge.

There are two Action Plans to address this conflict between existing permits and the point source prohibitions. The proposed Amendment consists of:

- A new "Action Plan for Low Threat Discharges" (Low Threat Action Plan):

The proposed Low Threat Action Plan would apply to certain point source categories of planned, short-term discharges from definable projects where the discharge is controlled to eliminate or reduce pollutants and minimize volume and discharge rates through the implementation of best management practices (BMPs). The proposed Low Threat Action Plan would also allow for exceptions to the one-percent prohibition for low threat discharges. The criteria for exceptions include, in part, that the treatment facility is reliable (reliability shall be demonstrated through analysis of the features of the facility

including, but not limited to, system redundancy, proper operation and maintenance, and backup storage capacity to prevent the threat of pollution or nuisance), the discharge is limited to rates and constituents which protect the beneficial uses of water, and that alternatives to the discharge were analyzed.

- Revisions to the existing Action Plan for Storm Water Discharges (Storm Water Action Plan):

The proposed revisions to the Storm Water Action Plan would apply to discharges of storm water and certain categories of low threat non-storm water flows that are incidental to urban activities (hereinafter referred to as non-storm water flows) from regulated storm water collection systems and would identify the conditions that must be met in order to prevent or preclude these discharges from being subject to the point source and one-percent prohibitions. A key condition of the revised Storm Water Action Plan is the requirement for implementation of an approved BMP program by the regulated storm water entity that focuses on the elimination and reduction of pollutants in storm water and non-storm water flows. As utilized for the purpose of this project, BMPs are compliance methods designed, implemented and maintained to eliminate or reduce pollutants and reduce the volume or rate of discharge.

Generally, a discharge is considered to be of “low threat” to water quality when it meets following criteria, although the first two criteria are not always applicable to all storm water conveyance system discharges:

- Short-term and/or periodic in nature.
- Minimized volume, discharge rate and pollutant load to the greatest extent possible by use of BMPs and other disposal alternatives to protect beneficial uses.
- Meets all water quality objectives.
- The discharge does not cause adverse effects on the beneficial uses of the receiving water or cause nuisance conditions.

The following table identifies the types of discharges which are eligible for consideration as low threat. Some discharges however may not qualify as a low threat discharge if water quality objectives are not met due to site specific conditions.

Low Threat Action Plan (Intentional discharges from planned projects)
• Construction Dewatering
• Installation, development, test pumping, maintenance, and purging of water supply or geothermal wells
• Hydrostatic testing, maintenance, repair, and disinfection of potable water supply vessels, pipelines, tanks, reservoirs, etc.
• Hydrostatic testing of newly constructed pipelines, tanks, reservoirs, etc. used for purposes other than potable water supply (e.g., gas, oil, reclaimed water, etc.)
• Dredge spoils dewatering
• Other Similar types of point source discharges that pose a low threat to water quality, yet technically must be regulated under an NPDES permit

Storm Water Action Plan (Storm water and non-storm water flows into a regulated storm water system):
• Storm water runoff
• Recycled or potable irrigation runoff that is incidental ¹
• Releases from potable drinking water supply and distribution systems during or after emergency repairs
• Drain discharges from foundations, footings, and crawl spaces
• Air conditioning condensate
• Dechlorinated/debrominated swimming and landscape pool discharges
• Non-commercial car washing by residents
• Sidewalk rinsing
• Fire hydrant testing or flushing

¹ Defined under Master Water Recycler Permits as "runoff that is unintentional (e.g. accidental breakage of sprinkler head) and not associated with negligence on the part of the permittee.

Implementation Plan

Low threat discharges that result in the discharge of pollutants to surface waters must be covered under an NPDES permit/Waste Discharge Requirements. Several permit options are available, including, but not limited to Statewide general municipal, industrial, or construction storm water permits, Statewide General NPDES Permit for Discharges from Utility Vaults and Underground Structures, Regional Water Board general permits designed to address low threat discharges, and individual permits.

Discharges may be eligible for consideration for permit coverage as a low-threat discharge after the discharger submits specific information to the Regional Water Board for review and approval as required by and outlined in the appropriate permit or as otherwise required by the Regional Water Board. The information that a discharger submits for coverage under a statewide permit meets this requirement for the Regional Board permit. For dischargers who are covered under statewide stormwater permits, they must submit a stormwater management plan which adequately addresses the Regional Boards requirements in order for specific activities that may result in a discharge to the stormwater system to be considered low threat.

POLICY ISSUE

Should the State Water Board approve the amendment to the Basin Plan to establish exemption criteria to the Point Source Waste Discharge Prohibitions by revising the Action Plan for storm water discharges and adding a new Action Plan for low threat discharges?

FISCAL IMPACT

North Coast Water Board and State Water Board work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACT

Yes, approval of this resolution will amend the North Coast Water Board's Basin Plan

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendment to the Basin Plan adopted under North Coast Water Board Resolution No. R1-2009-0004.
2. Authorizes the Executive Director or designee to submit the amendment adopted under North Coast Water Board Resolution No. R1-2009-0004, as approved by the State Water Board, and the administrative record for this action to the Office of Administrative Law for approval, and to U.S. EPA for information.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to comprehensively address water quality protection and restoration. In particular, approval of this item will assist in fulfilling Objective 4.2 which envisions basin plans that are updated by 2015 and that fully integrate other statewide plans and policies.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2011-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE NORTH COAST REGION (BASIN PLAN) TO ESTABLISH EXEMPTION CRITERIA TO THE POINT SOURCE WASTE DISCHARGE PROHIBITIONS BY REVISING THE ACTION PLAN FOR STORM WATER DISCHARGES AND ADDING A NEW ACTION PLAN FOR LOW THREAT DISCHARGES (LOW THREAT DISCHARGE AMENDMENT)

WHEREAS:

1. On July 23, 2009, the North Coast Regional Water Board (North Coast Water Board) adopted Resolution No. R1-2009-0004 ([Attachment 1](#)) amending the Basin Plan to establish exemption criteria to the Point Source Waste Discharge Prohibitions by revising the action plan for Storm Water Discharges and adding a new action plan for Low Threat Discharges.
2. The North Coast Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) substitute documentation for the proposed Basin Plan amendment, including the CEQA Checklist, the staff report, the responses to comments and the Resolution complies with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq.
3. The North Coast Water Board found the Basin Plan amendment is consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California ([State Water Board Resolution No. 68-16](#)) and the Federal Antidegradation Policy (40 CFR section 131.12).
4. The State Water Resources Control Board (State Water Board) finds that, in amending the Basin Plan, the San Francisco Bay Water Board complied with the requirements set forth in sections 13140 et seq of the Water Code. The State Water Board also finds that the regulatory action meets the "necessity" standard of the Administrative Procedures Act, Government Code section 11353, Subdivision (b).
5. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan as adopted under North Coast Board Resolution No. R1-2009-0004.

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2. Authorizes the Executive Director or designee to submit the amendment adopted under North Coast Water Board Resolution No. R1-2009-0004, as approved by the State Water Board, and the administrative record for this action to the Office of Administrative Law for approval, and to US EPA for review.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 15, 2011.

Jeanine Townsend
Clerk to the Board