

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

RESOLUTION No. R3-2011-0004

**AMENDING THE WATER QUALITY CONTROL PLAN REGARDING THE ONSITE
WASTEWATER SYSTEM IMPLEMENTATION PROGRAM**

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

1. The Central Coast Water Board adopted the second edition of the Water Quality Control Plan, Central Coast Basin (Basin Plan) on September 8, 1994. The Basin Plan designates beneficial uses and water quality objectives, implementation programs for achieving water quality objectives addressing point source and nonpoint source discharges, adopts prohibitions, and incorporates statewide plans and policies.
2. The Basin Plan contains an implementation program setting forth criteria regarding siting and design of onsite wastewater systems. The Central Coast Water Board updated its policy regarding siting and design of onsite wastewater systems on September 16, 1983, by adopting Resolution No. 83-12. The text and requirements specified in Resolution No. 83-12 are included in the Basin Plan as provisions of Chapters 4 and 5.
3. On May 9, 2008, the Central Coast Water Board adopted Resolution No. R3-2008-0005, revising the Basin Plan onsite wastewater system criteria. On March 20, 2009, the Central Coast Water Board adopted Resolution No. R3-2009-0012, revising the Basin Plan onsite implementation program and adopting minor revisions to the onsite wastewater criteria set forth in Resolution No. R3-2008-0005. This Resolution, No. R3-2011-0004, revises the Basin Plan amendments (Resolution No. R3-2008-0005 and Resolution No. R3-2009-0012) with clarifying language and reorganized and renumbered sections. The text and requirements specified in Resolution No. R3-2011-0004, as amended with these revisions, will be incorporated into the Basin Plan after review and approval by the State Water Resources Control Board and the Office of Administrative Law.
4. Section VIII.D.1. of the Basin Plan, as amended by this Resolution, specifies the criteria, conditions, recommendations, and prohibitions of discharges that onsite wastewater systems must meet to be eligible for waivers described in the implementation program. These discharges will not have a significant effect on the quality of waters of the State provided the conditions of the Basin Plan criteria and implementation program are met.
5. Area of Applicability - The effect of this amendment will be throughout the Central Coast Region, where onsite systems are used to treat and dispose of wastewater.

6. Onsite wastewater systems have been used as a form of wastewater treatment and disposal for many decades. Currently, the number of individual residential and small community onsite wastewater systems in the Central Coast Region exceeds 100,000. In most instances, the discharge from onsite wastewater systems does not adversely affect the beneficial uses of groundwater or surface water quality due to favorable site conditions, adequate system design, and ongoing management practices.
7. When improperly sited, improperly designed, or improperly managed, discharges from onsite wastewater systems may cause or contribute to degradation of water quality. The Basin Plan Implementation Program includes criteria to ensure long-term water quality protection in areas where onsite wastewater systems are used. Onsite wastewater systems located, designed, installed and managed in accordance with the Basin Plan criteria are not expected to cause or contribute to water quality impacts.
8. California Water Code (Water Code) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a report of waste discharge containing such information and data as may be required by the Central Coast Water Board, unless the Central Coast Water Board waives such requirement.
9. California Water Code §13263 requires the Central Coast Water Board to prescribe waste discharge requirements, or waive waste discharge requirements, for the discharge. The waste discharge requirements must implement relevant water quality control plans and the Water Code.
10. California Water Code §13269 authorizes the Central Coast Water Board to waive the submittal of reports of waste discharge and waste discharge requirements for specific types of discharges where such a waiver is consistent with applicable state and regional water quality control plans and is in the public interest.
11. California Water Code §13269 requires that waivers shall be conditional and may be terminated at any time by the Central Coast Water Board. Waivers may be granted for discharges of waste to land, but may not be granted for discharges of waste subject to the NPDES requirements of the federal Clean Water Act. The waiver must also include monitoring unless the Regional Board determines that the discharges do not pose a significant threat to water quality.
12. The Basin Plan amendment waives the requirement that certain individual onsite wastewater system dischargers submit a report of waste discharge and obtain waste discharge requirements from the Central Coast Water Board, if the discharge is regulated by a local agency that has an MOU with the Water Board, that develops an onsite management plan, and regulates onsite systems consistent with the conditions of the Basin Plan and complies with the criteria set forth in the Implementation Program for Onsite Wastewater Systems in the Basin Plan. The Basin Plan amendment does not require local agencies to enter into an MOU or develop onsite management plans. Where there is no MOU and onsite management plan, individuals seeking approval for new onsite systems will be required to submit

reports of waste discharge and seek waste discharge requirements or a waiver from the Water Board.

13. The Central Coast Water Board hereby amends the Basin Plan by inserting amendments into Chapter 4 of the Basin Plan. To implement the onsite wastewater system criteria set forth in the Basin Plan, Resolution No. R3-2009-0012 amended the Basin Plan Implementation Program that provides for a conditional waiver of waste discharge requirements. This proposed amendment, Resolution No. R3-2011-0004, is a revision of the Implementation Program for onsite wastewater systems implemented by the Central Coast Water Board throughout the Region. The Implementation Program provides that onsite wastewater systems will be regulated under the California Water Code in one of three ways – (1) through issuance of waste discharge requirements by the Central Coast Water Board, (2) by a conditional waiver of waste discharge requirements for those systems that comply with the Basin Plan criteria and are regulated directly by the Central Coast Water Board, or (3) by a conditional waiver of waste discharge requirements and reports of waste discharge for those systems regulated by local governing agencies where the system complies with the Basin Plan criteria and the agency has entered into a memorandum of understanding (MOU) with the Central Coast Water Board and developed an onsite wastewater management plan.
14. The waiver of waste discharge requirements set forth in the Basin Plan amendment is consistent with the Basin Plan and is in the public interest, if conditioned upon a local agency entering into an individual MOU, developing an onsite management plan, and complying with the Basin Plan criteria. By entering into an MOU, a local agency commits to ensuring that its onsite wastewater system permitting program is substantially equivalent to the Basin Plan and any statewide standards adopted pursuant to California Water Code §13291. The adoption of this Basin Plan amendment and conditional waiver is also in the public interest because: (1) it was adopted in compliance with Water Code Sections 13260, 13263, and 13269 and other applicable law; (2) it requires compliance with the Basin Plan criteria that are developed to be protective of waters of the state; (3) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the State; (4) it contains more specific and more stringent conditions for protection of water quality compared to the existing Basin Plan criteria; and (5) given the magnitude of the number of persons who operate onsite systems, it provides for an efficient and effective use of limited Central Coast Water Board resources.
15. This Basin Plan amendment and conditional waiver do not impose monitoring and reporting requirements for each discharge. The types of discharges subject to this conditional waiver are not expected to pose a significant threat to water quality if the Basin Plan criteria are properly implemented. The Water Board's Executive Officer may impose monitoring and reporting requirements as authorized pursuant to Water Code section 13267 on any discharger subject to this conditional waiver.
16. At this time, it is appropriate to adopt a Basin Plan amendment conditionally waiving waste discharge requirements for onsite wastewater systems that fit within the Basin Plan criteria because: 1) the discharges have the same or similar waste from the same or similar operations and use the same or similar treatment methods and management practices; and 2) the discharges will be regulated by local agencies in

compliance with the Basin Plan criteria.

17. In addition, it is appropriate to regulate onsite wastewater systems with a conditional waiver rather than individual or general waste discharge requirements in order to simplify and streamline the regulatory process. There are more than 100,000 individual onsite wastewater systems in the Central Coast Region and it would not be practicable for the Water Board to issue individual waste discharge requirements. The issuance of general waste discharge requirements for the individual systems would result in duplicate regulation for most and duplicate fees. These systems have historically been and continue to be regulated by local permitting agencies applying Basin Plan criteria.
18. Anti-Degradation – State Water Board Resolution No. 68-16 *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution No. 68-16) requires Regional Water Boards, in regulating the discharge of waste, to maintain high quality waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a Regional Water Board's policies (e.g., quality that exceeds applicable water quality standards). Resolution No. 68-16 also states, in part:

Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in best practicable treatment and control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

The Basin Plan implementation program revised by this Resolution is consistent with the provisions of the State Water Board Resolution No. 68-16. Dischargers that could be subject to the conditional waiver established in the implementation program will be required to comply with the Basin Plan criteria that are expected to prevent degradation of waters of the state, prevent pollution or nuisance, and implement best practicable treatment or control. The Basin Plan implementation program will prevent systems that do not meet the criteria.

19. Issuance of a waiver does not override other more stringent local, state, or federal regulations prescribed by other agencies.
20. Although a discharge may qualify for waiver enrollment, the Central Coast Water Board retains the right to regulate that discharge through other programs or Central Coast Water Board actions (such as enforcement orders, individual waste discharge requirements, general orders, etc.). The Central Coast Water Board may terminate a waiver at any time and require the discharger to obtain waste discharge requirements or terminate the discharge. Pursuant to Water Code section 13263(g) no discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

21. CEQA – The Central Coast Water Board is the lead agency with respect to the California Environmental Quality Act (CEQA). The Secretary of Resources has certified the basin planning process as exempt from the CEQA requirement to prepare an environmental impact report or negative declaration. [PRC 21080.5; Cal. Code Regs., tit. 14, §15251(g)]. The State Water Resources Control Board (State Water Board) has adopted regulations to implement certified regulatory programs that require the regional boards to prepare substitute environmental documents, including a written report and an accompanying CEQA Environmental Checklist. (Cal. Code Regs., tit. 23, §3775 et seq.) The staff of the Central Coast Water Board prepared substitute environmental documents for Resolution No. R3-2008-0005 and Resolution No. R3-2009-0012. Consistent with CEQA Guidelines section 15162, the Central Coast Water Board is not required to prepare a subsequent or supplemental CEQA document because the revisions proposed in this action do not constitute substantial changes from the previously approved projects, do not involve new information, and would not result in any new or more significant environmental effects than those reviewed in the previous CEQA substitute environmental documents. [Cal. Code Regs. tit. 14, § 15162, subd. (a).] This action today revises previously adopted Basin Plan amendments by reorganizing and clarifying, without making significant substantive changes. A detailed explanation of the revisions is contained in the Staff Report for this matter dated May 5, 2011. The substitute environmental documents for this Basin Plan amendment have been made available to the public. The Central Coast Water Board finds that the proposed amendments to the Basin Plan will not have a significant effect on the environment.
22. Public Notice - Interested persons and the public have been informed of the Central Coast Water Board's intent to revise the Basin Plan Implementation Program for onsite wastewater systems. Efforts to inform the public and solicit public comment include a public notice of the amendments providing the public with a comment period in excess of 45 days in advance of the Central Coast Water Board hearing. Notice of public hearing was given by posting on the Water Board website, by mailing a copy of the notice to all persons requesting such notice and applicable government agencies. The Central Coast Water Board has provided responses to timely written comments received from interested persons. The public had the opportunity to comment on proposed amendments in 2008 and 2009, as set forth in Finding 3, above. The administrative record, including comments and responses to comments on those items are included in the record for this action today.
23. On May 5, 2011, the Central Coast Water Board held a public hearing and considered all the evidence and comments concerning this matter. Notice of this hearing was given to all interested persons in accordance with CCR, Title 14, §15072.
24. 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.
25. This 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.

THEREFORE, BE IT RESOLVED that:

1. Pursuant to California Water Code §13240, the Water Board, after considering the record, including oral testimony at the hearing, hereby adopts the Basin Plan amendment set forth in Attachment A to this Resolution adopting an implementation program that conditionally waives waste discharge requirements and submittal of reports of waste discharge for onsite wastewater systems.
2. The Central Coast Water Board's Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of California Water Code §13245.
3. The Central Coast Water Board requests the State Water Board approve the Basin Plan amendments in accordance with requirements of California Water Code §13245 and §13246, and forward it to OAL for approval. The State Water Board, on behalf of the Central Coast 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. 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 Central Coast Water Board Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.

I, Roger W. Briggs, Executive Officer of the California Regional Water Quality Control Board, Central Coast Region, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on May 5, 2011.



Executive Officer

Attachment: A. Revised Basin Plan Chapter 4 (onsite sections only)