

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION

STAFF REPORT FOR REGULAR MEETING OF SEPTEMBER 19, 2013

Prepared on July 26, 2013

Subject: Resolution No. R7-2013-0049; An Amendment to the Water Quality Control Plan for the Colorado River Basin Regarding Onsite Wastewater System Implementation Program

Location: Throughout the Colorado River Basin Region

Type of Waste: Domestic wastewater discharged from individual and community onsite wastewater systems

Proposed Action: Adopt Resolution No. R7-2013-0049

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SUMMARY

On June 19, 2012, the State Water Resources Control Board (State Water Board) adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). The OWTS Policy was approved by the California Office of Administrative Law (OAL) on November 13, 2012, and became effective on May 13, 2013. Applicable statewide, the OWTS Policy designates the regional water boards with principal responsibility for overseeing its implementation and calls for incorporation of the OWTS Policy requirements into the regional water boards' basin plans within a year of the policy's effective date of May 13, 2013. This action is to amend the Water Quality Control Plan for the Colorado River Basin Region (Basin Plan) to incorporate the State Water Board's OWTS Policy's requirements. Implementation of the OWTS Policy will provide more effective and efficient regulation of onsite systems due to clear (single source) criteria, a streamlined regulatory tool (conditional waiver), broader coverage (up to 10,000 gpd systems), and flexibility of local alternatives where Local Agency Management Programs are implemented.

DISCUSSION

Background - Historically, conventional onsite wastewater disposal systems (onsite systems) discharging less than 5,000 gpd were regulated by local governing jurisdictions (cities and counties) that implemented local requirements and by the 1979 “Guidelines For Sewage Disposal from Land Developments” referenced in the Regional Water Board’s Basin Plan. Onsite systems discharging 5,000 gpd or greater were regulated pursuant to General Board Order No. 97-500, which addresses onsite system discharges from mobile home parks, recreational vehicle parks, and similar facilities. Since 1983 the Regional Water Board had a general waiver of waste discharge requirements for onsite systems, among other categories of discharges. However, this waiver was eliminated following the passage of Senate Bill 390 in 2003, which required all regional water boards to update their existing waivers every five years, include conditions such as monitoring, and to issue waivers so long as they were in the best interests of the people of the State. In response to Senate Bill 390, the Regional Water Board reviewed existing waivers, and chose to renew only waivers associated with “de minimis” discharges (i.e., discharges with a low threat to water quality). Because discharges from onsite systems do not meet “de minimis” criteria, the Regional Water Board’s waiver was allowed to expire on January 15, 2003. Subsequent to the expiration of this waiver, discharges from onsite systems were authorized by the Regional Water Board on a case by case basis, as required by the California Water Code and as resources allowed. As a result, several new projects received waste discharge requirements (WDRs) that often required “package plant” treatment systems.

The Regional Water Board has prohibited discharges from traditional septic systems in several regions within its jurisdiction, including areas overlying the Mission Creek and Desert Hot Springs aquifers, and within the Cathedral City Cove, pursuant to changes in the Water Code enacted by the California Legislature. Most recently, in May 2011 the Regional Water Board adopted a Basin Plan amendment to prohibit the discharge from septic systems in the Town of Yucca Valley. Some of the Regional Water Board’s prohibitions required expanding the local sewer systems, which was the case for the systems in Mission Creek / Desert Hot Springs, and in the Cathedral City Cove. Because the Town of Yucca Valley does not have any existing sewer collection system, however, the septic tank prohibition’s effective dates for the Town were correlated with the estimated dates of when the three phases of the sewer construction project would be completed. Accordingly, the prohibition for the Town would be effective for parcels located within the Phase 1 project boundaries by May 19, 2016, or when a municipal sewage collection system becomes available, whichever occurs first. Phases 2 and 3 deadlines were similarly worded and specified dates of May 19, 2019, and May 19, 2022, respectively.

OWTS Policy - The State Water Board’s OWTS Policy provides criteria for siting, design, operation, and maintenance of onsite systems, and provides a conditional waiver for onsite systems that comply with the policy. The OWTS Policy is available at the following link: http://www.waterboards.ca.gov/water_issues/programs/owts/docs/owts_policy.pdf

The OWTS Policy requires regional water boards to incorporate the onsite criteria into their basin plans. To accomplish this task for the Regional Water Board, this agenda item proposes to revise Chapter 4 (Implementation Plan), Section H “Septic Systems”, of the Basin Plan.

Discharge Regulation - Persons, who discharge waste that could affect the quality of waters of the state, including discharges from onsite wastewater systems, are required to submit a report of waste discharge (application) under California Water Code section 13260, and obtain waste discharge requirements or a waiver of waste discharge requirements. California Water Code section 13263 authorizes the regional water boards to issue waste discharge requirements. California Water Code section 13269 authorizes the state or regional water boards to waive the issuance of waste discharge requirements and the requirement to submit a report of waste discharge, provided such waivers are conditional, do not exceed five years, are consistent with applicable state or regional water quality control plans, and are in the public interest. The State Water Board OWTS Policy contains a conditional waiver of waste discharge requirements, a waiver of the requirement to submit a report of waste discharge, and a waiver of application fees for onsite systems that comply with the OWTS Policy.

The Regional Water Board encourages direct regulation of onsite systems by an authorized and qualified local agency, and has historically entered into informal agreements as well as formal Memoranda of Agreements (MOAs) with such agencies to regulate discharges from small onsite wastewater discharges. The State Water Board OWTS Policy facilitates direct local regulation to be implemented through Local Area Management Programs (LAMPs) approved by the regional water boards. Generally, MOAs between local agencies and the Regional Water Board are no longer needed to facilitate plan development and implementation. Further discussion regarding LAMP development, approval, and ongoing implementation is included below.

The OWTS Policy implements criteria for siting, design, and operation of onsite systems using different levels (tiers) of requirements based upon potential threat to water quality that may be caused by the onsite system. The tiers are as follows:

Tier 0 provides a conditional waiver of waste discharge requirements for existing, properly functioning systems that are not failing or in need of corrective action (Tier 4) and are not determined to be contributing to an impairment of surface water (Tier 3). Tier 0 conditions for existing OWTS are specified in section 6 of the OWTS Policy.

Tier 1 provides a conditional waiver of waste discharge requirements for new or replacement systems that comply with specific criteria intended to be protective of water quality. The criteria are intentionally conservative to ensure that use of such systems, without specific monitoring, will not result in water quality impairment. Tier 1 conditions for low-risk OWTS are specified in sections 7 and 8 of the OWTS Policy.

Tier 2 provides alternative criteria to be implemented by local governing jurisdictions in areas with approved LAMPs. At its discretion, the local agency may implement a LAMP that provides a similar level of water quality protection while addressing unique geologic conditions or management approaches. Where LAMPs have been approved by a regional water board, the local criteria will supplement Tier 1 criteria. Tier 2 requirements for LAMPs are described in section 9 of the OWTS Policy.

Tier 3 provides special conditions for onsite systems located near impaired waters listed in Attachment A of the OWTS Policy. New and existing onsite systems must comply with the

applicable TMDL implementation program. Where there is no TMDL in place, onsite systems within 600 feet of certain impaired waters must meet advanced protection requirements specified in the policy. The Tier 3 advanced treatment requirements are described in section 10 of the OWTS Policy.

Tier 4 specifies corrective actions for failing onsite systems. After completion of corrective action and repair, the onsite system would then return to Tier 1, Tier 2, or Tier 3 (whichever is appropriate in the specific circumstances). Tier 4 criteria for OWTS requiring corrective action are specified in section 11 of the OWTS.

Policy Waiver - The OWTS Policy conditionally waives requirements to submit a report of waste discharge and associated application fees, and waives waste discharge requirements for onsite systems that comply with the Policy (OWTS Policy, Section 12). This conditional waiver will allow for use of onsite systems in a manner protective of water quality yet without having to go through the often lengthy process of applying for and obtaining waste discharge requirements from the Regional Water Board. It should be noted, however, the OWTS Policy does not limit the Regional Water Board's authority to require reports of waste discharge when such actions are needed to protect water quality, or to issue individual or general waivers or waste discharge requirements if the Regional Water Board determines that the waiver or waste discharge requirements are consistent with any applicable State Water Board and Regional Water Board water quality control plan and is in the public interest. Moreover, the OWTS Policy does not supersede or waive any Basin Plan prohibitions and/or local agency requirements.

As described in the Background section above, the onsite criteria for siting, design, operation, and maintenance specified in the OWTS Policy are not necessarily consistent with the 1979 "Guidelines for Sewage Disposal From Land Developments" referenced in the Regional Water Board's Basin Plan. The OWTS Policy provides details and related requirements, such as those for drinking water protection from the California Department of Public Health. These requirements are effective through the OWTS Policy regardless of Basin Plan provisions. However, updating the Basin Plan, as required by the OWTS Policy, will provide the public and local agencies with clearer and more consistent direction regarding onsite systems.

Local Agency Management Programs - A key component of the OWTS Policy is onsite management programs developed and implemented by local agencies. Tier 2 of the Policy provides for LAMPs that may implement area-specific programs with different conditions, different criteria, and different methods of assessing compliance than those specified in Tiers 1, 3, and 4. Typically, LAMPs are implemented in areas that differ (more or less favorable conditions for onsite systems) from the conditions considered during policy development. This local agency management approach has been the preferred model in the Colorado River Basin Region for many years, and the Regional Water Board staff has been working with local agencies to develop such plans. The Regional Water Board staff has provided guidance for developing LAMPs to meet the OWTS Policy requirements and plans to continue to work with local agencies to complete LAMPs for review and approval by this Board. Accordingly, we anticipate that several agencies throughout the region will have their LAMPs ready for approval well in advance of the deadlines specified in the OWTS Policy (five years).

California Environmental Quality Act (CEQA) - Because this amendment is completely within the scope of the environmental review conducted by the State Water Board when it prepared Substitute Environmental Documentation for the OWTS Policy, the recommended action does not require any further environmental review pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21166; Cal. Code Regs. tit. 14, §§ 15161 & 15163), or the Water Boards' CEQA-exempt certified regulatory basin planning program (Pub. Resources Code § 21080.5; Cal. Code Regs., tit. 14, § 15251(g); tit. 23, §§ 3720-3781).

Proposed Resolution - This resolution is intended to align the Basin Plan with the State Water Board's OWTS Policy, as required by state law and the OWTS Policy. Proposed Resolution No. R7-2013-0049 amends the Basin Plan onsite wastewater sections by incorporating (by reference) the State Water Board's OWTS Policy. To be consistent with the OWTS Policy, the existing (2006) Basin Plan language referencing the 1979 "Guidelines For Sewage Disposal From Land Developments" is also deleted.

Revised Basin Plan text is shown on Attachment A, and all proposed revisions highlighted (with underline and strikeout) are shown on Attachment B of the proposed Resolution No. R7-2013-00549.