

California Regional Water Quality Control Board
North Coast Region

Resolution No. R1-2014-0009

**Amending the Water Quality Control Plan for the North Coast Region
Regarding the Onsite Wastewater Treatment System
Implementation Program**

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

1. Water Quality Control Plans (Basin Plans) were adopted by the North Coast Regional Water Quality Control Board (Regional Water Board) for the Klamath River Basin and the North Coastal Basin on March 20, 1975 and approved by the State Water Resources Control Board (State Water Board) on April 17, 1975. Each of these Basin Plans was amended several times up through 1988 to incorporate provisions regarding individual waste treatment and disposal practices.
2. On April 28, 1988, the Regional Water Board combined the Basin Plans for the Klamath River Basin and North Coastal Basin into one Basin Plan. The combined Basin Plan was approved by the State Water Board on November 15, 1988.
3. In 1990, the State Water Board initiated a three-year Basin Planning Update Program to review and update regional basin plans on a statewide basis. In December 1993, the Regional Water Board updated its Basin Plan in response to this effort. The resulting Basin Plan amendment was approved by the State Water Board in March 1994 and the Office of Administrative Law (OAL) on August 18, 1994. This Basin Plan has been updated numerous times since to include additional amendments adopted by the Regional Water Board through May 2011.
4. The Basin Plan has been amended in accordance with California Water Code section 13240 et seq.
5. The Basin Plan designates beneficial uses of waters of the State, water quality objectives to protect those beneficial uses or prevent nuisance, and programs of implementation needed for achieving water quality objectives. The Basin Plan addresses point source and nonpoint source discharges; specifies certain conditions or areas where the discharge of waste, or certain types of waste, are prohibited; and incorporates statewide plans and policies.
6. The Basin Plan contains a *Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices* (Onsite Policy) that specifies site evaluation

criteria and methods; design criteria and technical guidelines; maintenance responsibilities; and prohibitions for on-site waste treatment and disposal practices taking place in the North Coast Region. This policy was adopted by the Regional Water Board on May 23, 1996 as Resolution No. 96-16, approved by the State Water Board on August 15, 1996, and approved by OAL on November 20, 1996.

7. On June 19, 2012, the State Water Board adopted the statewide *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Policy). The OWTS Policy includes a conditional waiver of the requirements to submit a report of waste discharge, obtain waste discharge requirements, and pay fees for discharges from onsite wastewater treatment systems covered by the OWTS Policy. The OWTS Policy was approved by OAL on November 13, 2012, and became effective on May 13, 2013.
8. This Resolution No. R1-2014-0009 revises the Onsite Policy section of the Basin Plan and incorporates by reference the OWTS Policy into the Basin Plan.
9. This Basin Plan amendment applies throughout the North Coast Region, where onsite systems are used to treat and dispose of wastewater.
10. Several stream segments within the Russian River watershed, including the Laguna de Santa Rosa, are listed under Section 303(d) of the Clean Water Act as impaired due to pathogen contamination. Under the OWTS Policy, existing onsite systems in the Russian River watershed must meet the requirements of the existing Basin Plan until the Regional Water Board adopts a pathogen TMDL for the Russian River watershed.
11. Non-substantive changes to the Onsite Policy have been made to accommodate its application to the Russian River watershed, only. For example, reference to the Region has either been eliminated or changed to refer to the Russian River watershed. Also, the provisions included in Section VII (Waiver Prohibition Area) have been deleted because there are no waiver prohibition areas identified in the Russian River watershed. Other minor editorial revisions are also included.
12. The operation and maintenance of onsite systems is a critical component for proper system function and waste treatment. Adequate oversight and maintenance of onsite systems is necessary to ensure the protection of water quality. This is particularly true where an onsite system serves multiple dwellings (e.g., subdivision) or includes complicated pre-treatment. Therefore, Regional Water Board staff proposes retaining the existing Basin Plan language specific to onsite system maintenance responsibilities. The existing language requires an individual property owner or a legally responsible entity to be responsible for maintenance, monitoring and repair of any onsite systems.
13. The proposed Basin Plan amendment meets the "Necessity" standard of the California Administrative Procedure Act, Government Code section 11353(b), because the OWTS Policy requires all regional water boards to incorporate the policy into their respective basin plans within one year of the effective date of the policy, Water Code section 13291(e) imposes the same incorporation requirement, and Water Code section 13240

requires each regional water board's water quality control plan to conform with any state policy for water quality control.

14. CEQA: The Regional Water Board's discretionary decisions are typically subject to the requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21000 et seq.). The Secretary for the California Natural Resources Agency has certified the basin planning process as an exempt regulatory program. Therefore, the Water Boards are exempt from the specific CEQA requirement to prepare an environmental impact report or negative declaration when the Water Boards are complying with the procedures identified in the State Water Board's certified regulatory program (Pub. Resources Code § 21080.5; Cal. Code Regs., tit. 14, § 15251(g); tit. 23, §§ 3720-3781).
15. Substitute Environmental Documentation (SED) was prepared by the State Water Board for the OWTS Policy in accordance with the Water Boards' certified regulatory program (Cal. Code Regs., tit. 23 §§ 3777-3781). On June 19, 2012, the State Water Board approved the OWTS Policy and the SED. The proposed Basin Plan amendment removes existing Basin Plan provisions regulating onsite septic systems and incorporates the OWTS Policy. No substantive changes or modifications to the previously approved OWTS Policy are proposed, no substantial changes with respect to circumstances under which the project will be undertaken have occurred, and no new information triggers the need for supplemental or subsequent CEQA analysis.
16. This Basin Plan amendment is completely within the scope of the OWTS Policy as analyzed by the State Water Board in the SED. As such, the recommended actions do not require further environmental review pursuant to the certified regulatory program or CEQA (Pub. Resources Code § 21166; Cal. Code Regs., tit. 14, §§ 15161 & 15163).
17. The State Water Board paid the Department of Fish & Wildlife (DFW) CEQA document filing fee, required by California Fish and Game Code section 711.4, for its review of the SED and related certified regulatory program documents when it adopted the OWTS Policy. In addition, because the Regional Water Board is relying on that comprehensive SED prepared by the State Water Board, the Regional Water Board does not need to prepare any additional environmental documents that would require DFW review. Therefore, this Basin Plan amendment is exempt from any additional CEQA document filing fee payments to DFW under the California Fish and Game Code.
18. The State Water Board, in adopting the OWTS Policy, considered a wide range of factors affecting water quality and the availability of treatment measures to protect beneficial uses and public health, consistent with the goals and requirements set forth in State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California*. The State Water Board analyzed the potential environmental impacts of reasonably foreseeable methods of compliance with the OWTS Policy, concluding that alternatives to the OWTS Policy do not accomplish the objectives of adopting consistent standards that will ensure public health and protection of beneficial uses of the state's waters while establishing an effective implementation process that considers cost and technological capabilities.

19. The State Water Board found that the OWTS Policy sets standards that could allow potentially significant direct water quality impacts from pathogen or nitrogen contamination as well as cumulative water quality and public health impacts. The State Water Board also found that available mitigation measures would not meet the goals of the OWTS Policy, and that specific overriding economic, legal, social, technological or other benefits outweigh any adverse environmental impacts resulting from new or continuing discharges in compliance with the OWTS Policy. With respect to local agency management programs, the State Water Board rejected mitigation measures that would remove too much local agency flexibility, render too many sites unsuitable for new and replaced OWTS, and/or impose significant costs without corresponding environmental benefit. The State Water Board concluded that effective implementation of protections to allow continued use of OWTS for wastewater disposal in areas not suitable for centralized treatment systems is an important public benefit, and the protections afforded by the OWTS Policy provide the best treatment to ensure the highest water quality consistent with the maximum benefit to the people of the State. The State Water Board concluded that the OWTS Policy establishes a statewide, risk-based, tiered approach for the regulation and management of OWTS installations and replacements and sets the level of performance and protection expected from OWTS.
20. The OWTS Policy requires local agencies implementing management programs to monitor and assess water quality to ensure that beneficial uses are protected. The assessments must evaluate the impact of OWTS discharges and assess the extent to which groundwater and local surface water quality may be adversely impacted. Local agencies must report the results to the applicable regional water board, and identify any changes in the local agency management program that will be undertaken to address impacts from OWTS. The regional water board may also require modifications to an approved local agency management program as appropriate.
21. Consistent with the State Water Board's findings and the requirements of the OWTS Policy, this Basin Plan amendment is consistent with maximum benefit to the people of the State; will not unreasonably affect present and anticipated beneficial uses; will not result in water quality less than that prescribed in applicable state policies, including the OWTS Policy; and requires OWTS dischargers to use the best practicable treatment or control of the discharge necessary to avoid a pollution or nuisance and to maintain the highest water quality consistent with the maximum benefit to the people of the State. Therefore, the adoption of this Basin Plan amendment is consistent with Resolution No. 68-16.
22. Interested persons and the public have been informed of the Regional 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 amendment providing the public with a 45-day comment period in advance of the Regional Water Board public hearing. Notice of the public hearing was given by posting on the Regional Water Board website, by mailing a copy of the notice to all persons requesting such notice and to applicable government agencies, and by publishing notice in newspapers of general circulation throughout the North Coast region. The Regional Water Board has provided responses to timely written comments received from

interested persons. The public also had the opportunity to comment on the OWTS Policy during the State Water Board adoption process.

23. On _____, the Regional 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 the procedures specified in the California Code of Regulations, title 14, section 15072.
24. The Basin Plan amendment must be submitted for review and approval by the State Water Board and the California Office of Administrative Law (OAL). The Basin Plan amendment will become effective upon approval by OAL. This Resolution will become effective upon adoption by the Regional Water Board.

THEREFORE BE IT RESOLVED THAT:

1. Pursuant to California Water Code section 13240, the Regional Water Board, after considering the record, including oral testimony at the hearing, hereby adopts the Basin Plan amendment set forth in Attachments A and B to this Resolution adopting the OWTS Policy into the Basin Plan.
2. In accordance with Section 4.2.1 of the OWTS Policy, the Regional Water Board will continue to implement its existing Basin Plan Onsite Policy requirements pertaining to onsite systems within the Russian River watershed until it adopts the Russian River Total Daily Maximum Load (TMDL) for pathogens, at which time it will comply with section 4.2 of the OWTS Policy for the Russian River watershed.
3. The Regional Water Board retains the existing Basin Plan Onsite Policy language regarding maintenance responsibilities to ensure that in circumstances that necessitate community onsite systems, the formation of a responsible entity of dischargers has the legal and financial ability to properly maintain, monitor and repair such systems.
4. The Regional 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 section 13245 for its review and approval.
5. The Regional Water Board requests the State Water Board approve the Basin Plan amendment in accordance with requirements of California Water Code section 13246, and forward it to OAL for approval.
6. The Executive Officer shall request that the State Water Board, on behalf of the Regional Water Board, file a Notice of Decision with the Secretary for the California Natural Resources Agency and the Governor's Office of Planning and Research (State Clearinghouse) after approval by OAL.
7. If, during the 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 Regional Water Board Executive Officer may make such changes, and shall inform the Regional Water Board of any such changes.

I, Matthias St. John, Executive Officer of the California Regional Water Quality Control Board, North 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, North Coast Region, on _____.

Matthias St. John
Executive Officer

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Attachments:

- A. Revisions to Basin Plan Chapter 4 – Clean Copy (Onsite Systems section only)
- B. Revisions to Basin Plan Chapter 4 – Strikeout/Underline (Onsite Systems section only)