

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2015-0020

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE NORTH COAST REGION (BASIN PLAN) TO ESTABLISH A POLICY FOR THE REGION-WIDE IMPLEMENTATION OF THE WATER QUALITY OBJECTIVES FOR TEMPERATURE AND ACTION PLANS TO ADDRESS TEMPERATURE IMPAIRMENTS IN THE MATTOLE, NAVARRO, AND EEL RIVER WATERSHEDS.

WHEREAS:

1. On March 13, 2014, the North Coast Regional Water Quality Control Board (North Coast Water Board) adopted [Resolution No. R1-2014-0006](#) amending the Basin Plan to establish the *Policy for the Implementation of the Water Quality Objectives for Temperature* (Temperature Policy, [Attachment 1](#)). The Temperature Policy directs Staff to examine and address temperature when developing permits. At a minimum, any program or permit should implement temperature shade load allocations in areas subject to existing temperature Total Maximum Daily Loads (TMDLs), including U.S. EPA-established temperature TMDLs. Any program or permit should implement riparian management measures, sediment controls, and stream flow considerations as appropriate and necessary to address and prevent further impairments. The North Coast Water Board shall do so in coordination with the State Water Resources Control Board and other local, state, and federal agencies to the extent possible.
2. The purpose of the Temperature Policy (Attachment 1) is to describe the range of tools available for protection against anthropogenically elevated water temperatures; to remediate, restore, and protect temperature-impaired waterbodies; and to control the cumulative impacts of elevated water temperature on other waterbodies. It affirms the need to address water temperatures region-wide, but on a case-by-case basis in the context of a given permit or other action to reduce impairments and prevent further impairment. It directs staff to continue implementing temperature TMDL through regional nonpoint source programs, permits, waivers, and enrollments as appropriate, and to work with other agencies to address elevated water temperatures.
3. In 2012, the North Coast Water Board adopted [Resolution No. R1-2012-0013](#), the *Policy Statement for the Implementation of the Water Quality Objective for Temperature* (Resolution, [Attachment 2](#)), which the Temperature Policy incorporates by reference. The Resolution describes in one cohesive document the North Coast Water Board's efforts to date in implementing temperature objectives and guidance on the range of implementation tools to apply for temperature protection in future programs and permits, including coordination with other federal, state, and local agencies to the extent possible. The Resolution articulates in further detail ongoing and future efforts for implementing temperature controls in a site- or activity-specific context.
4. The *Action Plans to Address Elevated Water Temperature in the Eel River Watershed, Navarro River Watershed, and Mattole River Watershed* (Action Plans, [Attachment 3](#)) will implement the U.S. EPA-established Eel River, Navarro River, and Mattole River TMDLs.¹ The Action Plans each include a standalone implementation plan applicable to

¹ The USEPA has established the following temperature TMDLs:

actions addressing temperature impairments in each watershed. The Action Plans are consistent with the more general Temperature Policy, but include more specificity on actions to take place in the individual watersheds. The three Action Plans were developed to address temperature impairments, implement the TMDLs, and satisfy a stipulated agreement.

5. The State Water Board finds that under Clean Water Act section 303(d)(2), once U.S. EPA establishes a TMDL, the state must incorporate the TMDL into its water quality management plan, which includes the Basin Plan and other plans developed as part of the state's continuing planning process under Clean Water Act section 303(e). The Temperature Policy and Action Plans will become part of the Basin Plan, and be considered part of the continuing planning process under Clean Water Act section 303(e). The Temperature Policy not only implements existing temperature TMDLs, but is intended to implement future temperature TMDLs and prevent additional temperature impairments to avoid the need for further listings and TMDLs.
6. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that the regional water quality control boards may revise basin plans, and 13242, which requires a program of implementation for achieving water quality objectives. First, the Policy and Action Plans describe multiple actions that are necessary for achieving the water quality objectives for temperature. The Policy directs Regional Water Board staff to prevent, minimize, and mitigate temperature alterations associated with various factors through a combination of riparian management and other temperature controls as appropriate in nonpoint source control programs, permits and waivers, grants and loans, and enforcement actions; support of restoration projects; and coordination with other agencies with jurisdiction over controllable factors that influence water temperature. This sufficiently describes actions necessary for achieving water quality objectives and includes recommendations for appropriate actions by other entities.
7. The North Coast Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) "Substitute Environmental Documents" for the proposed Basin Plan amendment, including the CEQA checklist, the final staff report entitled "Supporting the Policy for the Implementation of the Water Quality Objectives for Temperature and Action Plan to Address Temperature Impairment in the Mattole River Watershed, Action Plan to Address Temperature Impairment in the Navarro River Watershed, and Action Plan to Address Temperature Impairment in the Eel River Watershed", and the response to comments complies with the State Water Boards' regulations for the implementation of CEQA as set forth in the California Code of Regulations, title 23, sections 3775 through 3871. The North Coast Water Board's analysis takes into account a reasonable range of environmental, economic, and

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- *Lower Main Eel River* (December 18, 2007)
 - *North Fork Eel River* (December 30, 2002)
 - *Middle Fork Eel River* (December, 2003)
 - *South Fork Eel River* (December 16, 1999)
 - *Middle Main Eel River* (December, 2005)
 - *Upper Main Eel River* (December 29, 2004)
 - *Mattole River* (December 30, 2002)
 - *Navarro River* (December, 2000)

technical factors. The State Water Board has reviewed the Substitute Environmental Documents for the Basin Plan amendment and concurs with the North Coast Water Board's findings and determinations including the programmatic Statement of Overriding Considerations (CEQA Findings, [Attachment 4](#)).

8. The North Coast Water Board also adopted the Basin Plan amendment pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). It is necessary to articulate in the Basin Plan the range of implementation mechanisms that are necessary for achieving the water quality objectives for temperature, and to formally incorporate the implementation plans for U.S. EPA-established temperature TMDLs into the state's continuing planning process under Clean Water Act section 303(e).
9. The Temperature Policy and Action Plans are consistent with the provisions of Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality Waters in California." The Policy and Plans identify a wide range of factors affecting temperature and compliance measures to attain temperature objectives, both within and outside of the Board's permitting jurisdiction, that will help attain temperature objectives and ensure the protection of beneficial uses of the state's waters. The Temperature Policy and Action Plans are intended to implement the antidegradation standard as it applies to unimpaired waters and waters that became impaired after 1968. The Policy directs the Regional Water Board staff to incorporate temperature protection measures into its nonpoint source permitting, which relies on implementation of best management practices and other measures that can be considered best practicable treatment or control methods. Management measures are generally applied through individual water quality plans that tailor measures to a particular site that includes an iterative planning approach based on monitoring feedback. The Policy and Action Plans do not themselves authorize or permit any activity that will discharge waste into high quality waters. A full antidegradation analysis is appropriate at the time of permit development and adoption.

Site- or activity-specific projects that will cause degradation to existing high quality waters will undergo additional analysis to determine whether the change in water quality is consistent with maximum benefit to the people of the State, and will not unreasonably result in water quality less than that prescribed in the Basin Plan and other Policies.

10. A Basin Plan amendment does not become effective until approved by the State Water Board, the regulatory provisions are approved by the Office of Administrative Law (OAL) and the CEQA filing fee is collected by the California Department of Fish and Wildlife.
11. Occasionally during its approval process, Regional Water Board staff, State Water Board, or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity and consistency. Under such circumstances, the Executive Officer should be authorized to make such changes, provided that the Regional Water Board is informed of any such changes.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under Regional Water Board Resolution No. R1-2014-0006.
2. Authorizes the Executive Director or designee to submit the amendment adopted under Regional Water Board Resolution No. R1-2014-0006 as approved and the administrative record for this action to the Office of Administrative Law for approval.

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 April 8, 2015.

AYE: Vice Chair Frances Spivy-Weber
 Board Member Tam M. Doduc
 Board Member Steven Moore
 Board Member Dorene D'Adamo

NAY: None

ABSENT: Chair Felicia Marcus

ABSTAIN: None



Jeanine Townsend
Clerk to the Board