

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2014-0036

AMENDMENTS TO THE WATER QUALITY CONTROL PLANS FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS
AND THE TULARE LAKE BASIN
REGARDING ONSITE WASTEWATER SYSTEM IMPLEMENTATION PROGRAM

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

1. In 1975 the Central Valley Water Board adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Sacramento/San Joaquin Rivers Basin Plan) and the Water Quality Control Plan for the Tulare Lake Basin (Tulare Lake Basin Plan) (Basin Plans), which have been amended occasionally.
2. The Basin Plans may be amended in accordance with Water Code section 13240, et seq.
3. Water Code section 13242 sets forth the requirements for a program for implementation for achieving water quality objectives. Water Code section 13243 authorizes the Central Valley Water Board to specify certain conditions or areas where the discharges of certain types of waste will not be permitted.
4. The Basin Plans contain guidelines that contain criteria for siting and designing septic tank and leaching systems.
5. The State Water Resources Control Board (State Water Board), on 19 June 2012, adopted the 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 systems covered by the OWTS Policy. The OWTS Policy was approved by the California Office of Administrative Law on 13 November 2012, and became effective on 13 May 2013.
6. The Central Valley Water Board has prepared draft amendments which replace the current guidelines for siting and designing septic tank and leaching systems with an incorporation by reference to the OWTS Policy.
7. The proposed amendments will revise Chapter IV (Implementation Program) of each Basin Plan to replace references to the current guidelines with a reference to the OTWS Policy and deletes the Appendix in each Basin Plan that contains the Guidelines for Disposal from Land Developments.
8. The proposed amendments will also add the OWTS Policy, including future revisions, to the list of State Water Board policies contained in Chapter IV (Implementation Program)

of the Sacramento/San Joaquin Rivers Basin Plan and in Chapter V (Plans and Policies) of the Tulare Lake Basin Plan.

9. The regulatory action proposed meets the “Necessity” standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (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 regional water board’s water quality control plans to conform with any state policy for water quality control.
10. The State Water Board staff submitted the scientific basis of the OWTS Policy for independent, external scientific peer review in March 2012 in accordance with Health and Safety Code Section 57004. The State Water Board staff revised the policy in response to comments provided by the peer reviewers, or provided written responses that explained the basis for not incorporating other proposed changes in accordance with Health and Safety Code Section 57004. The proposed amendments remove existing Basin Plan provisions regulating septic systems and incorporate the OWTS Policy by reference. 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 peer review.
11. 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. Consistent with the State Water Board’s findings and the requirements of the OWTS Policy, these proposed amendments are 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.
12. The basin planning process has been certified by the Natural Resources Agency as an exempt regulatory program because its process adequately fulfills the purposes of the California Environmental Quality Act (CEQA). The Central Valley Water Board is therefore exempt from CEQA’s requirements to prepare an environmental impact report, negative declaration, or initial study (Public Resources Code, section 21000 et seq.) for the proposed amendment. (Cal. Code Regs., tit. 23, § 3777; Pub. Res. Code §21080.5; Cal. Code Regs., tit. 14, §15251, subd. (g)).
13. A Substitute Environmental Document (SED) was prepared by the State Water Board for the OWTS Policy in accordance with the Water Board’s certified regulatory program

(Cal. Code Regs., tit. 23 § 3775 et seq.). The State Water Board approved the OWTS Policy and the SED on 19 June 2012. The proposed amendments remove existing Basin Plan provisions regulating septic systems and incorporate the OWTS Policy by reference. 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.

14. These amendments are 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. Res. Code §21166; Cal. Code Regs. tit. 14, §§15161, 15163).
15. Central Valley Water Board staff has prepared draft amendments and a staff report dated December 2013. The staff report included a description of the proposed amendment.
16. Central Valley Water Board staff has circulated a Notice of Public Hearing and a written staff report, including draft proposed amendments, to interested individuals and public agencies for review and comment in accordance with state requirements. (Wat. Code § 13245.).
17. Responses to all comments have been prepared and the draft amendments and staff report have been revised as appropriate in response to comments.
18. The Central Valley Water Board held a public hearing on 27 March 2014, for the purpose of receiving testimony on the draft Basin Plan amendments. Notice of the public hearing was sent to all interested persons and published in accordance with Water Code section 13244.
19. A Basin Plan amendment becomes effective after it is approved by the State Water Board and the Office of Administrative Law (OAL).
20. The Central Valley Water Board finds that the amendment to the Basin Plan was developed in accordance with Water Code section 13240, et seq.

THEREFORE BE IT RESOLVED:

1. Pursuant to Water Code section 13240, et seq., the Central Valley Water Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendments to the Basin Plans as set forth in Attachments 1 and 2.
2. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of Water Code section 13245.

3. The Central Valley Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of Water Code sections 13245 and 13246 and forward it to OAL.
4. If during its approval process the Central Valley Water Board staff, State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Valley Water Board of any such changes.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 27 March 2014.

Original Signed by
PAMELA C. CREEDON, Executive Officer

Attachments:

Attachment 1: Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins

Attachment 2: Amendments to the Water Quality Control Plan for the Tulare Lake Basin

ATTACHMENT 1

RESOLUTION NO. R5-2014-0036

AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS

Revise Page IV-6.00, third paragraph under “Other Discharge Activities”

Improperly located, designed, constructed and/or maintained on-site wastewater treatment and disposal systems can result in ground and surface water degradation and public health hazards. The Regional Water Board's approach is that the control of individual wastewater treatment and disposal systems is best accomplished by local environmental health departments enforcing county ordinances designed to provide protection to ground and surface waters. ~~To help the counties with enforcement, the Regional Water Board adopted guidelines which contain criteria for proper installation of conventional systems (see Guidelines section of this chapter and Appendix). Although the Regional Water Board has also prohibited septic tank usage in certain areas, it has formal and informal agreements with counties to evaluate field performance of alternative and special design systems.~~ Consistent with this approach, the Regional Water Board implements the State Water Board's *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Policy).

Add the following new policy to “Policies and Plans” under the “Control Action Considerations of the State Water Board” beginning on page IV-8.00

Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy)

This Policy implements Water Code, Chapter 4.5, Division 7, sections 13290 through 13291.7 by establishing statewide regulations and standards for permitting onsite wastewater systems. The OWTS Policy specifies criteria for existing, replacement, and new onsite systems and establishes a conditional waiver of waste discharge requirements for onsite systems that comply with the policy. The OWTS Policy, including future revisions, is incorporated into this Basin Plan and shall be implemented according to the policy's provisions.

Delete Item 4 on Page IV-26.01:

~~4. Disposal from Land Developments~~

~~This Guideline contains criteria for the siting of septic tanks, sewer lines, leach fields, and seepage pits to protect water quality.~~

Delete Appendix 36.

ATTACHMENT 2

RESOLUTION NO. R5-2014-0036

AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE TULARE LAKE BASINS

Revise Page I-3 as follows:

Waste disposal from land developments and from animals in confinement must conform with ~~guidelines~~ the State Water Board's Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy). ~~Most existing unsewered communities need not be sewerred if individual waste systems are properly sited, operated and maintained.~~ New developments must consider collection systems and should connect if within the sphere of influence of an established collection and treatment system. Septic tank pumpings must be treated and disposed of in a way that prevents impact to waters of the state.

Revise "Individual Waste Systems" beginning on Page IV-8 as follows:

Individual Waste Systems

Control of individual waste treatment and disposal systems can best be accomplished by local county environmental health departments if these departments are strictly enforcing an ordinance that is designed to provide complete protection to ground and surface waters as well as public health. ~~The Regional Water Board's policies and guidelines for waste disposal from land developments is in Appendix 32, which is included by reference into this plan.~~ Consistent with this approach, the Regional Water Board implements the State Water Board's Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy).

The Regional Water Board will consider adoption of a ban on new septic tank systems and elimination of existing systems in areas where the systems contaminate underlying ground water or where a substantial percentage of existing systems fail annually. In making this determination, the Regional Water Board must consider the factors listed in Section 13281 of the California Water Code. (See the "Prohibitions" section of this chapter for a listing of communities with septic tank system moratoria.) The Regional Water Board will also review alternatives to protect water quality standards and beneficial uses; and prevent nuisance, pollution and contamination. Alternatives may include any combination of individual disposal systems, community collection and disposal systems with subsurface disposal, and conventional treatment systems.

A problem may develop in some agricultural areas of the Basin owing to saturation of the soil when irrigation water along the valley trough is restricted from percolating through the soil profile. As the areal extent of this condition expands, individual waste disposal systems in areas where community sewers are not an option may create surfacing waste and a public health problem.

Add the following new policy to “State Water Board Policies and Plans” beginning on Page V-1

Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (OWTS Policy)

This Policy implements Water Code, Chapter 4.5, Division 7, sections 13290 through 13291.7 by establishing statewide regulations and standards for permitting onsite wastewater systems. The OWTS Policy specifies criteria for existing, replacement, and new onsite systems and establishes a conditional waiver of waste discharge requirements for onsite systems that comply with the policy. The OWTS Policy, including future revisions, is incorporated into this Basin Plan and shall be implemented according to the policy's provisions.

Delete Appendix 32.