

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – SAN FRANCISCO BAY REGIONAL BOARD
NOVEMBER 18, 2014**

ITEM 4

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY BASIN TO INCORPORATE THE NEW ONSITE WASTEWATER TREATMENT SYSTEM POLICY, AMEND THE WET WEATHER OVERFLOW POLICY, AND UPDATE OTHER BASIN PLAN INFORMATION.

DISCUSSION

The San Francisco Bay Regional Board adopted this amendment on June 11, 2014, with [Resolution No. R2-2014-0028](#). The amendment contains four elements: The first element revises the San Francisco Bay Region's Water Quality Control Plan's (Basin Plan's) section on onsite wastewater treatment systems (OWTS) to incorporate, by reference, the State Board's OWTS Policy (OWTS Policy) and to revise existing Basin Plan language to maintain consistency with the OWTS Policy. Resolution No. R2-2014-0028 rescinded two San Francisco Bay Regional Board policies from 1978 and 1979 that had been the basis of the Regional Board's regulation of onsite systems prior to adoption of the OWTS Policy. However, two "guiding principles" from the 1978 Policy that are consistent with the OWTS Policy were retained in the Basin Plan as common-sense statements that inform San Francisco Bay Regional Board regulatory practice.

The second element of the amendment revises the Basin Plan's implementation section on wet weather overflows. It deletes language that conflicts with the federal Clean Water Act and revises the section on combined sewer overflows (CSOs) to ensure consistency with U.S. EPA's CSO Control Policy. This element was identified as a high priority Basin Planning project in the San Francisco Bay Regional Board's 2012 Triennial Review because it satisfies a directive of the State Board's remand of the 2005 East Bay Municipal Utility District wet weather facilities permit.

The third and fourth elements include additional revisions to keep the information in the Basin Plan up-to-date. These minor editorial updates include amended language to: 1) the informational section on graywater systems to reflect the revised California graywater standards approved in 2009 by the California Building Standards Commission, 2) Table 4-8 of the Basin Plan, which lists the effluent flow rates and discharge locations for municipal wastewater treatment plants, and 3) deleting mention of a previously-rescinded resolution.

POLICY ISSUE

Should the State Water Board approve an amendment to the San Francisco Bay Water Board's Basin Plan to align the Basin Plan with the OWTS Policy, amend wet weather overflow policy, and update other Basin Plan information?

FISCAL IMPACT

San Francisco Bay Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACT

Approval of this resolution will amend the San Francisco Bay Water Board's Basin Plan, meet the requirement for Basin Plan alignment specified in the OWTS Policy, and complete a priority project from the San Francisco Bay Regional Water Board's 2012 triennial review to address the combined sewer overflow policy revision.

STAFF RECOMMENDATION

That the State Water Board:

1. Approve the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution No. R2-2014-0028.
2. Authorize the Executive Director or designee to submit the amendment as approved and the administrative record for this action to the Office of Administrative Law for approval.

State Water Board action on this item will assist the Water Boards in reaching Goal 2 (of the Strategic Plan Update: 2008-2012) to improve and protect groundwater quality in high-use basins by 2030 and in reaching Goal 6 to enhance consistency across the Water Boards, on an ongoing basis, to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures. In particular, approval of this item will assist in fulfilling Objective 2.1 to implement an integrated groundwater protection approach and to improve and protect groundwater in high-use basins that (a) evaluates and regulates activities that impact or have the potential to impact beneficial uses, (b) recognizes the effects of groundwater and surface water interactions on groundwater quality and quantity, and (c) encourages and facilitates local management of groundwater resources. Also, approval of this item will assist in fulfilling Objective 6.1 to improve consistency in process and policy for Water Board enforcement activities to promote compliance.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2014-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY BASIN TO INCORPORATE THE NEW ONSITE WASTEWATER TREATMENT SYSTEM POLICY, AMEND THE WET WEATHER OVERFLOW POLICY, AND UPDATE OTHER BASIN PLAN INFORMATION

WHEREAS:

1. On June 11, 2014, the Regional Water Quality Control Board for the San Francisco Bay Region (San Francisco Bay Water Board) adopted [Resolution No. R2-2014-0028](#), an amendment to the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan amendment, Attachment 1), to: incorporate new onsite wastewater treatment system (OWTS) policy; amend wet weather overflow policy; update graywater system information; and update a table of municipal wastewater discharge locations.
2. The San Francisco Bay Water Board found that the portion of the subject amendment concerning OWTS is completely within the scope of the OWTS Policy as analyzed by the State Water Board in the Substitute Environmental Document (SED) its staff prepared for the OWTS Policy in accordance with the Water Boards' certified regulatory program (Cal. Code Regs., tit. 23, §§ 3775-3781). The State Water Board approved the OWTS Policy and the SED on June 19, 2012. No substantive changes or modifications to the previously approved OWTS Policy are proposed in the subject Basin Plan amendment, 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 (Pub. Res. Code § 21166; Cal. Code Regs., tit. 14, §§ 15162 and 15163). The rescission of Water Board policies described herein is not a project as defined in CEQA. There is no possibility that the activity in question may have a significant effect on the environment (Cal. Code Regs., tit. 14, §§ 15378 and 15061, subd. (b)(3) and Cal. Code Regs., tit. 23, § 3720).
3. The San Francisco Bay Water Board found that the portions of the subject amendment updating non-regulatory Basin Plan language concerning wet weather overflow implementation, graywater systems, Table 4-8, and Resolution No. 77-1 are entirely informational and contain no regulatory provisions. Therefore, they are not subject to CEQA because they will not result in a direct or reasonably foreseeable indirect physical change in the environment (Pub. Res. Code § 21065; Cal. Code Regs., tit. 14, §§ 15061, subd. (b)(3) and 15378).
4. The San Francisco Bay Water Board found the Basin Plan amendment would not have a significant adverse effect on the environment and is consistent with the State Antidegradation Policy ([State Water Board Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12).
5. The Executive Officer of the San Francisco Bay Board transmitted a [memo](#) to the State Water Board's Deputy Director on October 21, 2014 to communicate two non-substantive corrections to the Basin Plan amendment. These corrections address an erroneous California Code of Regulations citation pertaining to graywater standards and a typographical error in a single digit of the longitude of the Sewerage Agency of

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Southern Marin discharge shown in Table 4-8 of the amendment. The Regional Water Board Resolution No. R2-2014-0028 allows the Executive Officer to make such corrections without the need for a Board hearing.

6. The State Water Board finds that the regulatory action meets the “necessity” standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). The necessity of the Basin Plan amendment is established in the Staff Report for the amendment.
7. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that regional water quality control boards may revise basin plans.
8. A Basin Plan amendment does not become effective until approved by the State Water Board and submitted to the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution No. R2-2014-0028.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution No. R2-2014-0028 to OAL.

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 November 18, 2014.

Jeanine Townsend
Clerk to the Board