

ANTIDegradation LANGUAGE IN THE BASIN PLAN

1. Amend the following language from page 3-1.00 (paragraph 4) of the Basin Plan as shown below:

In addition, the State Water Board “Policy With Respect to Maintaining High Quality Waters in California” (state Antidegradation Policy) also applies. The state policy incorporates the federal Antidegradation Policy, where the federal Antidegradation Policy is applicable.

2. Amend the following language from page 3-2.00 of the Basin Plan:

GENERAL OBJECTIVE

The following objective shall apply to all waters of the Region.

Whenever the existing quality of the water is better than the water quality objectives established herein, such existing quality shall be maintained unless otherwise provided by the provisions of the State Water Resources Control Board Resolution No. 68-16, ‘Statement of Policy With Respect to Maintaining High Quality Waters in California,’ including any revisions thereto. A copy of this policy is included verbatim in the Appendix Section of this Plan.

State Water Resources Control Board (State Board) Resolution No. 68-16 contains the state Antidegradation Policy. It is titled the “Statement of Policy with Respect to Maintaining High Quality Waters in California and is commonly known as “Resolution 68-16.” The State Board has interpreted Resolution No. 68-16 to incorporate the federal Antidegradation Policy where the federal policy applies. (State Board Order WOO 86-17). The federal policy is found at 40 CFR Section 131.12. The state and federal antidegradation policies are included as Appendices to the Basin Plan.

The state Antidegradation Policy applies more comprehensively to water quality changes than the federal policy. In particular, the state policy applies to both groundwater and surface waters whose quality meets or exceeds (better than) water quality objectives. The state policy establishes two conditions that must be met before the quality of high quality waters may be lowered by waste discharges. First, the state must determine that lowering the quality of high quality waters:

1. *Will be consistent with the maximum benefit to the people of the state,*
2. *Will not unreasonably affect present and anticipated beneficial uses of such water, and*
3. *Will not result in water quality less than that prescribed in state policies (e.g., water quality objectives in Water Quality Control Plans).*

Second, any activities that result in discharges to high quality waters are required to a) meet waste discharge requirements that will result in the best practicable treatment or control of the discharge necessary to avoid pollution or nuisance and b) maintain the highest water quality consistent with the maximum benefit to the people of the state. If such treatment or control results in a discharge that maintains the existing water quality, then a lowering of water quality would not be consistent with Resolution 68-16. Likewise, the discharge could not be allowed under Resolution 68-16; a) if the discharge, even after

treatment, would unreasonably affect beneficial uses or b) would not comply with applicable provisions of water quality control plans.

The federal Antidegradation Policy applies to surface waters, regardless of the water quality. Where water quality is better than the minimum necessary to support instream uses, the federal policy requires that quality to be maintained and protected, unless the state finds, after ensuring public participation, that:

1. Such activity is necessary to accommodate important economic or social development in the area in which the waters are located,
2. Water quality is adequate to protect existing beneficial uses¹ fully, and
3. The highest statutory and regulatory requirements for all new and existing point source discharges and all cost-effective and reasonable best management practices for non point source control are achieved.

Under this policy, an activity that results in discharge would be prohibited if the discharge will lower the quality of surface waters that do not currently attain water quality standards.

Both, the state and federal antidegradation policies acknowledge that an activity that results in a minor water quality lowering, even if incrementally small, can result in violation of antidegradation policies through cumulative effects, especially, for example, when the waste is a cumulative, persistent, or bioaccumulative pollutant.

The state and federal antidegradation policies are enforceable independent of this Basin Plan provision. The above summary of the state and federal antidegradation policies is provided merely for the convenience of the reader.

¹ Existing uses are those that actually occurred on or after November 28, 1975 (date of promulgation of USEPA's first water quality standards regulation (Tit. 40, Code of Federal Regulations, Section 131.3)), or that the water quality was, or is, suitable to allow such a use to occur.