

Executive Officer's Summary Report
8:30 a.m., July 23, 2009
North Coast Regional Water Board
David C. Joseph Hearing Room
5550 Skylane Blvd., Suite A
Santa Rosa, California

ITEM: 10

SUBJECT: Public Hearing on Resolution No. R1-2009-0004 to consider adoption of a Proposed Amendment to the Water Quality Control Plan for the North Coast Region to Establish Exception Criteria to the Point Source Waste Discharge Prohibitions by **Revising the Action Plan for Storm Water Discharges** and **Adding a New Action Plan** for Low Threat Discharges

DISCUSSION

The North Coast Regional Water Quality Control Board (Regional Water Board) is scheduled to hold a Public Hearing for the proposed amendment to the *Water Quality Control Plan for the North Coast Region* (Basin Plan) to "Establish Exception Criteria to the Point Source Waste Discharge Prohibitions by Revising the Action Plan for Storm Water Discharges and Adding a New Action Plan for Low Threat Discharges" (hereinafter proposed Amendment). A copy of the Public Notice is included as Attachment A to this Executive Officer's Summary Report (EOSR). Copies of proposed Resolution R1-2009-004, and the two proposed Action Plans, to adopt the proposed Amendment and included as Attachment B with this EOSR.

The draft Staff Report for the proposed Amendment was released November 20, 2008. The draft Staff Report contained:

- A description of the types of discharge eligible for consideration as "low threat";
- A description of the existing regulatory framework and the necessity for the proposed Amendment;
- An overview of the proposed Amendment;
- An analysis of antidegradation compliance;
- The proposed new *Action Plan for Low Threat Dischargers*;
- The proposed revisions to the existing *Action Plan for Storm Water Discharges*; and
- The environmental analysis and checklist.

A staff workshop to inform the public on the proposed Amendment and receive public comment was held on January 8, 2009 in Santa Rosa. The public comment period was open from November 20, 2008 through January 29, 2009. A strikeout and underline version of the Staff Report (dated July 1, 2009), revised in response to public comment,

is included with the agenda item as Exhibit B. A summary of, and responses to, the oral testimony and written comments received by Regional Water Board staff during the comment period, and response to the comments are also included with this agenda item as Exhibit C.

During the public hearing, the Regional Water Board may receive further comments on the proposed Amendment. Following closure of the hearing, the Regional Water Board will consider adoption of Resolution R1-2009-0004, including the new Low Threat Discharge Action Plan Low Threat Discharge and the revisions to the existing Storm Water Action Plan (Attachments 1 and 2 to the Resolution).

BACKGROUND

At the direction of the Regional Water Board, staff developed a proposed Amendment to the *Water Quality Control Plan for the North Coast Region* (Basin Plan) that would provide exception criteria to the point source waste discharge prohibitions (point source prohibitions) contained in the Basin Plan. The proposed Amendment would apply only to permitted point source discharges from specific categories of activities where there is a minimal potential (or low threat) for adverse impacts to water quality to occur from the discharge. The proposed Amendment sets specific criteria for permitting low threat discharges that require an exception.

The purpose of this proposed Amendment is to address the conflict between conditions in existing regional and statewide point source discharge permits that allow low threat discharges and the existing prohibitions in the Basin Plan which do not. Some regional and statewide permits allow year-round point source discharges while the Basin Plan limits point source surface water discharges to the period of October 1 through May 14 in some waterbodies in the North Coast Region and prohibits all point source surface water discharges in others. Where the discharge period is limited to October 1 through May 14, the discharge during this period is limited to less than one percent of the receiving stream's flow (one-percent prohibition).

To address the conflict between existing permits and the point source prohibitions, staff recommends that the Regional Water Board consider adoption of the proposed Amendment, which would provide criteria under which exceptions to the point source prohibitions would be permitted.

The proposed Amendment consists of two distinct action plans:

- A new Low Threat Discharge "Action Plan" (Low Threat Action Plan):

The proposed Low Threat Action Plan would apply to certain point source categories of planned, short-term discharges from definable projects where the discharge is controlled to eliminate or reduce pollutants and minimize volume and discharge rates through the implementation of best management practices (BMPs). The proposed Low Threat Action Plan would also allow for exceptions

to the one-percent prohibition for low threat discharges. The criteria for exceptions include, in part, that the treatment facility is reliable, the discharge is limited to rates and constituents which protect the beneficial uses of water, and that alternatives to the discharge were analyzed. The proposed Low Threat Action Plan provides the framework for permitting these low threat discharges and granting exceptions to the point source prohibitions; and

- Revisions to the existing Action Plan for Storm Water Discharges (Storm Water Action Plan):

The proposed revisions to the Storm Water Action Plan would apply to discharges of storm water and certain categories of low threat non-storm water flows that are incidental to urban activities (hereinafter referred to as non-storm water flows) from regulated storm water collection systems and would identify the conditions that must be met in order to prevent or preclude these discharges from being subject to the point source and one-percent prohibitions. A key condition of the revised Storm Water Action Plan is the requirement for implementation of an approved BMP program by the regulated storm water entity that focuses on the elimination and reduction of pollutants in storm water and non-storm water flows and minimization of volume and discharge rate of non-storm water flows. BMPs are compliance methods designed, implemented and maintained to eliminate or reduce pollutants and reduce the volume or rate of discharge. A combination of structural (engineered features), non-structural (e.g., operation and maintenance practices) and managerial methods (e.g., policies and procedures) are typically utilized to attain this goal.

STAFF RECOMMENDATION: Adopt Resolution R1-2009-0004 with Attachments 1 and 2 amending the Basin Plan to include revisions to the Storm Water Action Plan and adding a new Low Threat Discharges Action Plan.