

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401**

RESOLUTION No. R3-2009-0012

**AMENDING THE WATER QUALITY CONTROL PLAN
REGARDING ONSITE WASTEWATER SYSTEM IMPLEMENTATION
PROGRAM**

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

1. The Central Coast Water Board adopted the second edition of the Water Quality Control Plan, Central Coastal Basin (Basin Plan) on September 8, 1994. The Basin Plan designates beneficial uses and water quality objectives, implementation programs for achieving water quality objectives addressing point source and nonpoint source discharges, adopts prohibitions, and incorporates statewide plans and policies.
2. The Basin Plan contains an Implementation Program setting forth criteria regarding siting and design of onsite wastewater systems. The Central Coast Water Board updated its policy regarding siting and design of onsite wastewater systems on September 16, 1983, by adopting Resolution No. 83-12. The text and requirements specified in Resolution No. 83-12 are included in the Basin Plan as provisions of Chapters 4 and 5.
3. On May 9, 2008, the Central Coast Water Board adopted Resolution No. R3-2008-0005, revising the Basin Plan onsite wastewater system criteria. In this Resolution No. R3-2009-0012, the Central Coast Water Board is adopting minor revisions to the onsite wastewater criteria set forth in Resolution No. R3-2008-0005. The text and requirements specified in Resolution No. R3-2008-0005 and Resolution No. R3-2009-0012, as amended with these revisions, will be incorporated into the Basin Plan after review and approval by the State Water Resources Control Board and the Office of Administrative Law.
4. The Central Coast Water Board proposes to amend the Basin Plan by inserting amendments into Chapter 4 of the Basin Plan. To implement the onsite wastewater system criteria set forth in the Basin Plan, this Resolution No. R3-2009-0012 adopts amendments to the Basin Plan Implementation Program that provide for a conditional waiver of waste discharge requirements. The proposed amendment is a revision of the Implementation Program for onsite wastewater systems implemented by the Central Coast Water Board throughout the Region. The revisions to Chapter 4 of the Basin Plan are shown on Attachment A to this Resolution. Attachment A identifies significant additions/deletions shown with underline/strikeout. Text that is simply moved is not identified as a proposed change. The Implementation Program provides that onsite wastewater systems will be regulated under the California Water Code in one of three ways – (1) through issuance of waste discharge requirements

by the Central Coast Water Board, (2) by a conditional waiver of waste discharge requirements for those systems that comply with the Basin Plan criteria and are regulated directly by the Central Coast Water Board, or (3) by a conditional waiver of waste discharge requirements and reports of waste discharge for those systems regulated by local governing agencies where the system complies with the Basin Plan criteria and the agency has entered into a memorandum of understanding (MOU) with the Central Coast Water Board.

5. Appropriately developed and implemented MOUs between the Central Coast Water Board and local permitting agencies (e.g., counties and cities) provide practical and enforceable tools to compel compliance with the Basin Plan criteria for onsite systems and ensure water quality protection.
6. Onsite wastewater systems have been used as a form of wastewater treatment and disposal for many decades. Currently, the number of individual residential and small community onsite wastewater systems in the Central Coast Region exceeds 100,000. In many instances, the discharge from onsite wastewater systems does not adversely affect the beneficial uses of groundwater or surface water quality due to favorable site conditions, adequate system design, and ongoing management practices.
7. When improperly sited, improperly designed, or improperly managed, discharges from onsite wastewater systems may cause or contribute to degradation of water quality. The Basin Plan Implementation Program includes criteria to ensure long-term water quality protection in areas where onsite wastewater systems are used. Onsite wastewater systems located, designed, installed and managed in accordance with the Basin Plan criteria are not expected to cause or contribute to water quality impacts.
8. Section VIII.D.3. of the Basin Plan, as amended by this Resolution, identifies the types and conditions of discharges for which waivers are granted by this Resolution. These discharges will not have a significant effect on the quality of waters of the State provided the conditions of this waiver are met.
9. Area of Applicability - The effect of this amendment will be throughout the Central Coast Region, where onsite systems are used for treatment and disposal of wastewater.
10. California Water Code (Water Code) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate Regional Board a report of waste discharge containing such information and data as may be required by the Central Coast Water Board, unless the Central Coast Water Board waives such requirement.
11. California Water Code §13263 requires the Central Coast Water Board to prescribe waste discharge requirements, or waive waste discharge requirements, for the discharge. The waste discharge requirements must implement relevant water quality control plans and the Water Code.

12. California Water Code §13269 authorizes the Central Coast Water Board to waive the submittal of reports of waste discharge and waste discharge requirements for specific types of discharges where such a waiver is consistent with applicable state and regional water quality control plans and is in the public interest.
13. California Water Code §13269 requires that waivers shall be conditional and may be terminated at any time by the Central Coast Water Board. Waivers may be granted for discharges of waste to land, but may not be granted for discharges of waste subject to the NPDES requirements of the federal Clean Water Act. The waiver must also include monitoring unless the Regional Board determines that the discharges do not pose a significant threat to water quality.
14. This Resolution waives the requirement that certain individual onsite wastewater system dischargers submit a report of waste discharge and obtain waste discharge requirements from the Central Coast Water Board, if the discharge is regulated by a local agency that has an MOU with the Water Board that meets the conditions of the Basin Plan and complies with the criteria set forth in the Implementation Program for Onsite Wastewater Systems in the Basin Plan.
15. Such a waiver is consistent with the Basin Plan and is in the public interest, if conditioned upon a local agency entering into an individual MOU and compliance with the criteria. By entering into an MOU, a local agency commits to ensuring that its onsite wastewater system permitting program is substantially equivalent to the Basin Plan and any statewide standards adopted pursuant to California Water Code §13291. The adoption of this Basin Plan amendment and conditional waiver is also in the public interest because: (1) it was adopted in compliance with Water Code Sections 13260, 13263, and 13269 and other applicable law; (2) it requires compliance with the Basin Plan criteria that are developed to be protective of waters of the state; (3) it includes conditions that are intended to reduce and prevent pollution and nuisance and protect the beneficial uses of the waters of the State; (4) it contains more specific and more stringent conditions for protection of water quality compared to the existing Basin Plan criteria; and (5) given the magnitude of the number of persons who operate onsite systems, it provides for an efficient and effective use of limited Central Coast Water Board resources.
16. This Basin Plan amendment and conditional waiver do not impose monitoring and reporting requirements for each discharge. The types of discharges subject to this conditional waiver are not expected to pose a significant threat to water quality if the Basin Plan criteria are properly implemented. The Water Board's Executive Officer may impose monitoring and reporting requirements as authorized pursuant to Water Code section 13267 on any discharger subject to this conditional waiver.
17. At this time, it is appropriate to adopt a Basin Plan amendment conditionally waiving waste discharge requirements for onsite wastewater systems that fit within the Basin Plan criteria because: 1) the discharges have the same or similar waste from the same or similar operations and use the same or similar treatment methods and management practices; and 2) the discharges will be regulated by local agencies in compliance with the Basin Plan criteria.
18. In addition, it is appropriate to regulate onsite wastewater systems with a conditional waiver rather than individual waste discharge requirements in order to simplify and

streamline the regulatory process. There are more than 100,000 individual onsite wastewater systems in the Central Coast Region and it would not be practicable for the Water Board to issue individual waste discharge requirements. These systems are already being regulated by local permitting agencies applying Basin Plan criteria.

19. The Central Coast Water Board will evaluate local permitting agencies at least once every five years to ensure their onsite wastewater system approval practices consistently implement Basin Plan criteria for onsite wastewater systems and ensure water quality protection.
20. Anti-Degradation – State Water Board Resolution No. 68-16 *Statement of Policy with Respect to Maintaining High Quality of Waters in California* (Resolution No. 68-16) requires Regional Water Boards, in regulating the discharge of waste, to maintain high quality waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in a Regional Water Board's policies (e.g., quality that exceeds applicable water quality standards). Resolution No. 68-16 also states, in part:

Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge to existing high quality waters will be required to meet waste discharge requirements which will result in best practicable treatment and control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

This Resolution is consistent with the provisions of the State Water Board Resolution No. 68-16. Dischargers that could be subject to this conditional waiver will be required to comply with the Basin Plan criteria that are expected to prevent degradation of waters of the state, prevent pollution or nuisance, and implement best practicable treatment or control. The Basin Plan Implementation Program prohibits systems that do not meet the criteria.

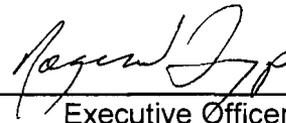
21. Waivers granted for discharges that do not pose a significant threat to water quality, and where such waivers are in the public interest, enable staff resources to be used more effectively and avoid unnecessary expenditures of limited resources.
22. Central Coast Water Board staff will develop and implement a waiver tracking and compliance program.
23. Issuance of a waiver does not override other more stringent local, state, or federal regulations prescribed by other agencies.
24. Although a discharge may qualify for waiver enrollment, the Central Coast Water Board retains the right to regulate that discharge through other programs or Central Coast Water Board actions (such as enforcement orders, individual waste discharge requirements, general orders, etc.) The Central Coast Water Board may terminate a waiver at any time and require the discharger to obtain waste discharge requirements or terminate the discharge.

25. CEQA – The Central Coast Water Board is the lead agency with respect to the California Environmental Quality Act (CEQA). The action proposed in this Resolution is an amendment to the Basin Plan. The Secretary of Resources has certified the basin planning process as exempt from the CEQA requirement to prepare an environmental impact report or negative declaration. (PRC 21080.5; Cal. Code Regs., tit. 14, §15251(g)). The State Water Resources Control Board (State Water Board) has adopted regulations to implement certified regulatory programs that require the regional boards to prepare substitute environmental documents, including a written report and an accompanying CEQA Environmental Checklist. (Cal. Code Regs., tit. 23, §3775 et seq.) The staff of the Central Coast Water Board has prepared substitute environmental documents. The Central Coast Water Board concurs with the analysis contained in the Substitute Environmental Document, including the Environmental Checklist, the staff report, and the responses to comments and finds that the analysis complies with the requirements of CEQA and the State Water Board's regulations with respect to certified regulatory programs. The Central Coast Water Board finds that, as described in the staff report and the CEQA Checklist, the proposed amendments to the Basin Plan will not have a significant effect on the environment.
26. Central Coast Water Board staff followed appropriate procedures to satisfy the environmental documentation requirements of the California Environmental Quality Act [in accordance with §15307 and §15308 of the California Code of Regulations (CCR)].
27. Public Notice - Interested persons and the public have been informed of the Central Coast Water Board's intent to revise the Basin Plan Implementation Program for onsite wastewater systems. Efforts to inform the public and solicit public comment include a public meeting/workshop and meetings with interested persons. Public notice of the amendments provided the public with a public comment period in excess of 45 days in advance of the Central Coast Water Board hearing. Notice of public hearing was given by advertising in newspapers of general circulation within the region, by posting on the Water Board website, and by mailing a copy of the notice to all persons requesting such notice and applicable government agencies. Central Coast Water Board staff responded to oral and written comments received from interested persons.
28. On March 20, 2009, the Central Coast Water Board held a public hearing and considered all the evidence and comments concerning this matter. Notice of this hearing was given to all interested parties in accordance with CCR, Title 14, §15072.
29. The Basin Plan amendment must be submitted for review and approval by the State Water Resources Control Board (State Board) and the State Office of Administrative Law (OAL). The Basin Plan amendment will become effective upon approval by OAL. The subject Resolution will become effective immediately.
30. This amendment to the Basin Plan will result in no potential for adverse effect, either individually or cumulatively, on wildlife and is therefore exempt from fee payments to the Department of Fish and Game under the California Fish and Game Code.

THEREFORE, BE IT RESOLVED that:

1. Pursuant to California Water Code §13240, the Water Board, after considering the record, including oral testimony at the hearing, hereby adopts the Basin Plan amendments shown in Attachments A to this Resolution that waive waste discharge requirements and reports of waste discharge as set forth in the Resolution.
2. The Central Coast Water Board's Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of California Water Code §13245.
3. The Central Coast Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of California Water Code §13245 and §13246, and forward it to OAL for approval. The Central Coast Water Board shall file a Notice of Decision with the Secretary of Resources and the Governor's Office of Planning and Research (State Clearinghouse) after approval by OAL.
4. The Central Coast Water Board Executive Officer is authorized to sign a Certificate of Fee Exemption (included as Attachment B to this Resolution).
5. If, during its approval process, the State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Central Coast Water Board Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.

I, Roger W. Briggs, Executive Officer of the California Regional Water Quality Control Board, Central Coast Region, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on March 20, 2009.



Executive Officer

4-22-09

Date

Attachments: A - Revised Basin Plan Chapter 4 (onsite sections only)
B - Certificate of Fee Exemption
C - Report for Basin Plan Amendment (with Environmental Checklist)