

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2002-0177

AMENDING THE WATER QUALITY CONTROL PLAN
FOR
THE TULARE LAKE BASIN
TO CLARIFY AND UPDATE LANGUAGE

WHEREAS, in 1975 the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board) adopted the Water Quality Control Plan for the Tulare Lake Basin (Basin Plan), which has been amended occasionally; and

WHEREAS, the Federal Clean Water Act (CWA) Section 303 requires the Regional Board to develop water quality objectives which are sufficient to protect beneficial uses designated for each water body found within its region; and

WHEREAS, the Basin Plan contains the Tulare Lake Basin's water quality standards and implementation plans; and

WHEREAS, the CWA Section 303(c) requires the Regional Board to review the Basin Plan at least every three years and where appropriate modify water quality objectives or beneficial uses in the Basin Plan; and

WHEREAS, the Regional Board has prepared draft amendments which revise outdated portions of the Basin Plan, corrects language in the Basin Plan for consistency with the California Water Code and the remainder of the Basin Plan, and provides consistency with the Water Quality Control Plan for the Sacramento and San Joaquin Rivers Basin; and

WHEREAS, the proposed amendment will revise Chapter V "Policies and Plans" to remove the description of the federal antidegradation policy, and Chapter IV "Implementation" will also be revised to update the water quality limited segments section, include new State Water Resource Control Board (State Board) policies; and all chapters to update outdated references to regulations; and

WHEREAS, the proposed amendment is consistent with State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*), the State's "Antidegradation Policy," in that the changes to water quality objectives (i) consider maximum benefits to people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in a water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (Title 40 Code of Federal Regulations (40 CFR) Section 131.12); and

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WHEREAS, the regulatory action proposed meets the “Necessity” standard of the Administration Procedures Act, Government Code, Section 11353, subdivision (b); and

WHEREAS, the basin planning process has been certified as “functionally equivalent” to the California Environmental Quality Act requirements for preparing environmental documents as specified in Title 23 California Code of Regulations (23 CCR) Section 3782 and is, therefore, exempt from those requirements (Public Resources Code, Section 21000 et seq.); and

WHEREAS, Regional Board staff has prepared a draft amendment and a staff report dated August 2002; and

WHEREAS, the Notice of Filing and environmental checklist indicates that the amendment results in no potential for adverse effect, either individually or cumulatively, on the environment because the draft amendment includes only Non-Regulatory changes; and

WHEREAS, the draft amendment, staff report, Notice of Filing and environmental checklist have been prepared, noticed, and circulated to interested individuals and public agencies for review and comment in accordance with state and federal environmental regulations (23 CCR Section 3775, 40 CFR 25, and 40 CFR 131); and

WHEREAS, the Regional Board held a public hearing on 17 October 2002, for the purpose of receiving testimony on the draft Basin Plan amendment. Notice of the public hearing was sent to all interested persons and published in accordance with California Water Code, Section 13244; and

WHEREAS, A Basin Plan amendment that does not adopt or revise or otherwise affect a water quality standard applicable to surface waters must be approved by the State Board and the Office of Administrative Law (OAL) before becoming effective; and

WHEREAS, the Regional Board finds that the proposed amendment to the Basin Plan was developed in accordance with California Water Code, Section 13240, et seq.:

THEREFORE BE IT RESOLVED, pursuant to Section 13240, et seq. of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendment to the Basin Plan as set forth in Attachment 1; and be it further

RESOLVED, that the Executive Officer is directed to forward copies of the Basin Plan amendment to the State Board in accordance with the requirements of Section 13245 of the California Water Code; and be it further

RESOLVED, that the Regional Board requests that the State Board approve the Basin Plan amendment in accordance with the requirements of Sections 13245 and 13246 of the California Water Code and forward it to OAL; and be it further

ATTACHMENT 1
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AMENDMENT TO BASIN PLAN
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Revise Basin Plan sections as follows:

CHAPTER II – PRESENT AND POTENTIAL BENEFICIAL USES

The following sentence is proposed to be added to the end of the second complete paragraph in the second column of Page II-2.

The judgment of the Regional Board on beneficial use evaluations and designations, particularly to change the above designated and assigned beneficial uses, will be conducted in accordance with California Water Code Sections 13240 through 13247 and 40 CFR Part 131 which relate to the adoption and approval of water quality control plans and water quality standards.

CHAPTER III – WATER QUALITY OBJECTIVES

Page III-1, second column, first full paragraph:

Changes to the water quality objectives can also occur because of new scientific information on the effects of specific waste constituents~~a pollutant on beneficial uses.~~

Page III-7, Bacteria objective:

In ground waters designated for use as domestic or municipal supply (MUN) designated MUN, the ~~concentration for total~~ most probable number of coliform organisms over any 7-day period shall be less than 2.2/100 ml.

CHAPTER IV – IMPLEMENTATION

The following revision is proposed for the “Water Quality Limited Segments (WQLSs)” section on Page IV-26:

WQLSs are those sections of lakes, streams, rivers or other fresh water bodies where water quality does not meet (or is not expected to meet) water quality standards even after the application of appropriate effluent limitations for point sources (40 CFR 130, et seq.).

Additional treatment beyond minimum federal requirements will be imposed on dischargers to WQLSs. Point source dischargers will be assigned or allocated a maximum allowable load of critical pollutants. If necessary, nonpoint source discharges will be identified and reduction goals will be developed for these sources.

The list of WQLSs is contained in Appendix Item 33, updated biennially as required by the Clean Water Act Section 303(d). The current list may be obtained by contacting the Regional Water Board office.

Page IV-7, first column, beginning of first full paragraph:

... Chapter 15/Title 27 contains standards to protect both surface and ground waters from discharge of mining wastes.

Page IV-18, first column, first paragraph:

... If the concentrations of waste constituents ~~pollutants~~ in the land-discharged waste are sufficiently high to prevent the waste from being classified as "inert waste" under ~~23 CCR, Section 252427~~ CCR, Section 20230, discharges of such wastes to waste management units require long term containment or active treatment following the discharge in order to prevent waste or waste constituents from migrating to and impairing the beneficial uses of waters of the State.

The following two sentences will be added to Page IV-18, second column, end of paragraph continued from previous column:

In addition, the Toxic Pits Cleanup Act of 1984 precludes the storage or disposal of liquid hazardous wastes or hazardous wastes containing free liquid. The Regional Water Board is responsible for enforcing this Act under the authority of the Health and Safety Code, Section 25208 et seq.

Page IV-18, second column, last paragraph:

... Recent monitoring efforts under the State and Regional Water Boards' Chapter 15/Title 27 have revealed that discharges of municipal solid wastes to unlined landfills have resulted in ground water degradation and pollution by volatile organic constituents (VOCs) and other waste constituents.

Page IV-19, first column, first full paragraph:

... ~~The State Water Board is in the process of developing revised regulations under 23 California Code of Regulations, Division 3, Chapter 15, Discharges of Waste to Land, adopted revised regulations in 27 CCR, Division 2, Subdivision 1 to fully implement water quality-related portions of the RCRA Subtitle D federal regulations.~~

Page IV-23, first column, first paragraph under Ground Water Cleanup:

The Regional Water Board's strategy for managing contaminated sites is guided by several important principles, which are based on Water Code Sections 13000 and 13304, the Chapter 15/Title 27 regulations and State Water Board Resolution Nos. 68-16 and 92-49:

Page IV-23, first column, Item 1:

The Regional Water Board will require conformance with the provisions of State Water Board Resolution No. 68-16 in all cases and will require conformance with applicable or relevant provisions of Title 23, California Code of Regulations, Division 3, Chapter 15 and 27 CCR, Division 2, Subdivision 1 to the extent feasible.

Page IV-25, second column, Item 12:

Where leachable/mobile concentrations of constituents of concern remain on-site in concentrations which threaten water quality, the Regional Water Board will require implementation of applicable provisions of Chapter 15/Title 27. Relevant provisions of Chapter 15/Title 27 which may not be directly applicable, but which address situations similar to those addressed at the cleanup site will be implemented to the extent feasible, in conformance with Title 23, California Code of Regulations, Section 2511(d) 27 CCR, Section 20090(d). This may include, but is not limited to, surface or subsurface barriers or other containment systems, pollutant immobilization, toxicity reduction, and financial assurances.

CHAPTER V – PLANS AND POLICIES

Item 2 under “State Water Board Policies and Plans” on Page V-1.

2. State Water Board Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality of Water in California.

This policy, adopted on 28 October 1968, is intended to maintain high quality waters. It established criteria the Regional Water Board must satisfy before allowing discharges that may reduce water quality of surface or ground waters even though such a reduction will still protect beneficial uses.

Changes in water quality may be allowed only if the change is consistent with maximum benefit to the people of the State, does not unreasonably affect present and anticipated beneficial uses, and does not result in water quality less than that prescribed in water quality control plans and policies. USEPA water quality standards regulations require each state to adopt an “antidegradation” policy and specify the minimum requirements for the policy (40 CFR 131.12). Although Resolution No. 68-16 preceded the federal policy, The State Water Board has interpreted State Water Board Resolution No. 68-16 to incorporate the federal antidegradation policy. Therefore, the federal antidegradation policy must be followed where it is applicable. The federal antidegradation policy applies if a discharge or other activity, which began after November 28, 1975, will lower surface water quality. Application of the federal policy may be triggered by water quality impacts or mass loading impacts to receiving waters. Appendix 2 contains Resolution No. 68-16; Appendix 26 contains the federal policy.

Add the following to the “State Water Board Policies and Plans” section on Page V-2:

12. State Water Board Resolution No. 2000-015, Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California” (SIP)

In March 2000, the State Water Board adopted the SIP in Resolution No. 2000-015. This Policy establishes: (1) implementation provisions for priority pollutant criteria promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the National Toxics Rule (NTR) (promulgated on December 22, 1992 and amended on May 4, 1995) and through the California Toxics Rule (CTR), and for priority pollutant objectives established by Regional Water Boards in their basin plans; (2) monitoring requirements for 2,3,7,8-TCDD equivalents; and (3) chronic toxicity control provisions. In addition, this Policy includes special provisions for certain types of discharges and factors that could affect the application of other provisions in this Policy.

The following revision is proposed for Item 3 under “State Water Board Management Agency Agreements (MAAs), Memoranda of Understanding (MOUs), and Memoranda of Agreement (MOAs)” on Page V-3.

3. Department of Health Services

In ~~1988~~1996, the State Water Board signed an MOA with the Department of Health Services regarding the use of reclaimed water.

APPENDIX

Appendix 13 is proposed to be replaced with current Memoranda of Agreement (MOA) signed 20 February 1996.

Appendix 33 is proposed to be removed.