

Staff Report
for an Amendment to the Water Quality Control Plan for the North Coast Region
(Basin Plan)
Regarding Onsite Wastewater Treatment System Implementation Program

March 14, 2014

State of California
North Coast Regional Water Quality Control Board
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Subject: Resolution No. R1-2014-0009; An Amendment to the Water Quality Control Plan for the North Coast Region Regarding Onsite Wastewater Treatment System Implementation Program

Location: Throughout the North Coast Region with the exception of the Russian River Watershed

Type of Waste: Domestic wastewater discharged from individual and community onsitewastewater treatment systems

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SUMMARY

On June 19, 2012, the State Water Resources Control Board (State Water Board) adopted the *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems* (OWTS Policy). Applicable statewide, the OWTS Policy designates the regional water quality control boards with principal responsibility for overseeing its implementation and calls for incorporation of the OWTS Policy requirements into regional boards' basin plans within a year of the policy's effective date. This action is to revise the *Water Quality Control Plan for the North Coast Region* (Basin Plan) to:

1. Incorporate the State Water Board's OWTS Policy, as required;
2. Retain the existing onsite wastewater treatment system policy to apply to the Russian River watershed, including the Laguna de Santa Rosa hydrologic sub area, until such time as the pathogen indicator bacteria total maximum daily load (TMDL) for the Russian River watershed is adopted; and,
3. Retain for application regionwide, an existing provision requiring the identification of a financially responsibility entity for the operation and maintenance of onsite systems.

Implementation of the OWTS Policy will provide effective and efficient regulation of onsite wastewater treatment systems (onsite systems) with clear, consistent criteria; a streamlined-regulatory tool (conditional waiver); broad coverage (systems up to 10,000 gallons per day); and the flexibility of local alternatives where Local Agency Management Programs (LAMPs) are implemented. The OWTS Policy is available at the following link: http://www.waterboards.ca.gov/water_issues/programs/owts/docs/owts_policy.pdf

DISCUSSION

Background- California Water Code (Water Code) section 13200(a) defines the North Coast region as the area that comprises all basins, including Lower Klamath Lake and Lost River Basins, draining into the Pacific Ocean from the California-Oregon state line southerly to the southerly boundary of the watershed of the Estero de San Antonio and Stemple Creek in Marin and Sonoma Counties. In accordance with Water Code section 13240, the North Coast Regional Water Quality Control Board (Regional Water Board) has adopted and implements the *Water Quality Control Plan for the North Coast Region* (Basin Plan). The Basin Plan contains a *Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices* (Onsite Policy) that specifies site evaluation criteria and methods; design criteria and technical guidelines; maintenance responsibilities; and prohibitions for on-site waste treatment and disposal practices taking place in the North Coast Region. This policy was adopted by the Regional Water Board on May 23, 1996 as Resolution No. 96-16, approved by the State Water Board on August 15, 1996, and approved by Office of Administrative Law (OAL) on November 20, 1996¹. In the North Coast Region, discharges from conventional onsite systems with flows at or less than 1,500 gallons per day (GPD) historically have been regulated by local governing jurisdictions (cities and counties) that implement both local requirements and the criteria for onsite systems as set forth in the Onsite Policy contained in the Basin Plan. Other onsite systems historically have been regulated by the Regional Water Board under individual Waste Discharge Requirements (WDR) or individual or general waivers of WDRs.

¹ This policy, adopted under Resolution 96-16, updated and clarified criteria for onsite systems which had been previously amended into the Basin Plan during the period of 1979 to 1983.

Waste Discharge Requirements

Water Code section 13260 requires that persons, who discharge waste or propose to discharge waste that could affect the quality of waters of the state, including discharges from onsite systems, must file a report of waste discharge describing the nature of the proposed discharge. Water Code section 13263 authorizes the Water Boards to prescribe waste discharge requirements, as necessary. Water Code section 13269 authorizes the State Water Board or regional boards to waive the issuance of waste discharge requirements and the requirement to submit a report of waste discharge, provided such waivers are conditional, do not exceed five years, are consistent with applicable state or regional water quality control plans, and are in the public interest. The Regional Water Board has required reports of waste discharge and issued individual Waste Discharge Requirements or individual or general waivers of WDRs for onsite systems when they: 1) are not regulated by local agencies; or 2) are threatening water quality.

OWTS Policy

The State Water Board's OWTS Policy, adopted on June 19, 2012, provides criteria for siting, design, operation, and maintenance of OWTS and provides a conditional waiver of waste discharge requirements for OWTS that comply with the policy. The OWTS Policy calls for regional boards to incorporate the policy into their basin plans. This agenda item proposes revisions to Basin Plan Chapter 4 (Implementation Plan) that will satisfy this requirement. The OWTS Policy contains an express exemption for the Russian River Watershed. This proposed Basin Plan amendment includes language to accommodate this exemption. It is discussed in further detail below. Finally, updating the Basin Plan requirements for onsite systems as proposed in this amendment, will also complete a triennial review list task which is identified as priority number 25 on the most recent Triennial Review list of priorities (2011).

The OWTS Policy implements criteria for siting, design, operation, and maintenance in a manner similar to the Regional Water Board's Onsite Policy. But, the new OWTS Policy implements levels (tiers) of requirements based upon potential threat to water quality that may be caused by the OWTS. The tiers are as follows:

Tier 0 provides a conditional waiver of waste discharge requirements for existing, properly functioning systems that are not failing or in need of corrective action (Tier 4) and are not determined to be contributing to an impairment of surface water (Tier 3). Tier 0 conditions for existing OWTS are specified in section 6 of the OWTS Policy.

Tier 1 provides a conditional waiver of waste discharge requirements for new or replacement systems that comply with specific criteria intended to be protective of water quality. The criteria are intentionally conservative (similar to those previously adopted by the Regional Water Board) to ensure that use of such systems, without specific monitoring, will not result in water quality impairment. Tier 1 conditions for low-risk OWTS are specified in sections 7 and 8 of the OWTS Policy.

Tier 2 provides alternative criteria to be implemented by local governing jurisdictions in areas with approved Local Agency Management Plans (LAMPs). At its discretion, the local agency may implement a LAMP that provides a similar level of water quality protection while addressing unique geologic conditions or management approaches. Where LAMPs have been approved by a regional board, the LAMP requirements supersede Tier 1 criteria. Tier 2 requirements for LAMPs are described in section 9 of the OWTS Policy.

Tier 3 provides special conditions for OWTS located near impaired waters listed in Attachment 2 of the OWTS Policy. New, existing, and replacement OWTS must comply with the applicable Total Maximum Daily Load (TMDL) implementation program, or special provisions contained in a LAMP. Where there is no TMDL or special provisions in place, new or replacement OWTS within 600 feet of certain impaired waters listed in Attachment 2 of the OWTS Policy must meet advanced protection requirements specified in the policy. The Tier 3 advanced treatment requirements are in section 10 of the OWTS Policy.

Tier 4 specifies corrective actions for failing OWTS. After completion of corrective action and repair, the onsite system would then return to Tier 1, Tier 2, or Tier 3 (whichever is appropriate in the specific circumstances). Tier 4 criteria for OWTS requiring corrective action are specified in section 11 of the OWTS Policy.

Waiver

In accordance with Water Code section 13269, the OWTS Policy includes in Section 12 a waiver of waste discharge requirements for owners of onsite systems who comply with conditions set forth in the OWTS Policy. It should be noted that the OWTS Policy does not limit the Regional Water Board's authority to require reports of waste discharge and to issue individual or general waivers or waste discharge requirements when such actions are needed to protect water quality. The OWTS Policy upholds and does not waive any Basin Plan prohibitions.

As described above, the onsite criteria for siting, design, operation, and maintenance specified in the OWTS Policy are consistent with (though not identical to) criteria adopted by the Regional Water Board in the Onsite Policy currently in the Basin Plan. The OWTS Policy provides increased detail and incorporates related requirements, such as those for drinking water protection from the California Department of Public Health. These requirements are effective through the OWTS Policy regardless of Basin Plan provisions. However, updating the Basin Plan will provide the public and local agencies with more clear and consistent direction regarding onsite systems and is required by the OWTS Policy.

LOCAL AGENCY MANAGEMENT PROGRAMS (LAMPs)

A key component of the OWTS Policy is onsite management programs developed and implemented by local agencies. Tier 2 of the Policy provides for Local Agency Management

Programs (LAMPs) that may implement area-specific programs with different conditions, different criteria, and different methods of assessing compliance than those specified in tiers 1, 2 and 3. Typically, LAMPs are implemented in areas that differ (more or less favorable conditions for onsite systems) from the conditions considered during policy development.

Regional Water Board staff has been available to county staff to provide guidance on the development of LAMPs to meet the OWTS Policy requirements and plans to continue to work with local agencies to complete LAMPs for review and approval by this Board. State Water Board and Regional Water Board staff are working to provide written LAMP development guidance which addresses common provisions expected to be included in LAMPs, as well as region-specific provisions which are most relevant to the conditions observed in individual counties.

The OWTS Policy requires local agencies that intend to implement a LAMP to submit a proposed LAMP to the regional board within 36 months of the effective date of the OWTS Policy (May 13, 2013). Local agencies will continue to implement existing onsite system permitting programs in compliance with the Basin Plan until May 13, 2018, or until approval of a LAMP, whichever comes first. Staff anticipates that several agencies throughout the region will have their LAMPs ready for approval well in advance of the deadlines specified in the OWTS Policy).

MAINTENANCE RESPONSIBILITIES

The maintenance and monitoring of onsite wastewater treatment is a critical component in protecting and maintaining water quality. This is particularly true where an onsite system serves multiple dwellings (e.g., subdivision) or includes complicated pre-treatment. Therefore, Regional Water Board staff proposes retaining the existing Basin Plan language specific to onsite system maintenance responsibilities. The existing language requires an individual property owner or a legally responsible entity to be responsible for maintenance, monitoring and repair of any onsite systems. The requirement further specifies that the legally responsible entity be a public agency, unless the entity demonstrates to the satisfaction of the Regional Water Board that a public agency is unavailable and formation of a new agency is unreasonable. Additionally, if such an exception is approved by the Regional Water Board, the private entity must establish that it has adequate financial, legal, and institutional assurances to assume responsibility. This provision is particularly important to the protection of water quality from onsite systems which serve multiple homes or landowners.

RUSSIAN RIVER WATERSHED EXEMPTION

In accordance with Section 4.2.1 of the OWTS Policy, the Regional Water Board will continue to implement its existing Basin Plan requirements pertaining to onsite systems within the Russian River watershed until it adopts the Russian River TMDL, at which time it

will comply with section 4.2 of the OWTS Policy for the Russian River watershed. The Russian River watershed includes the Laguna de Santa Rosa.

Water quality impairments related to pathogenic indicator bacteria apply to several segments within the Russian River watershed, including the Laguna de Santa Rosa. A TMDL is currently in development and is anticipated to take effect in 2016. Sources of pathogens will be identified in the TMDL, load allocations assigned, and a TMDL Action Plan proposed. It is anticipated that a range of actions will be identified in the TMDL Action Plan, including actions related to onsite systems to be taken by the Regional Water Board, Sonoma County, and others.

Non-substantive revisions of the existing Basin Plan requirements pertaining to onsite systems are proposed to clarify its applicability to the Russian River watershed (including the Laguna de Santa Rosa), only. For example, references to “regionwide” have been changed to “watershed.” In addition, Section VII of the existing policy identifies waiver prohibition areas in the Humboldt County area. Staff proposes this language be replaced with a statement that no waiver prohibition areas are identified in the Russian River watershed area. Finally, several editorial revisions are recommended to correct errors.

AVAILABLE DOCUMENTS

California Environmental Quality Act (CEQA)

Because this amendment is completely within the scope of the environmental review conducted by the State Water Board when it prepared Substitute Environmental Documentation (SED) for the OWTS Policy, the recommended action does not require any further environmental review pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code § 21166; Cal. Code Regs. tit. 14, §§ 15161 & 15163), or the Water Boards’ CEQA-exempt certified regulatory basin planning program (Pub. Resources Code § 21080.5; Cal. Code Regs., tit. 14, § 15251(g); tit. 23, §§ 3720-3781). The SED for the OWTS Policy can be found at the following location:

http://www.waterboards.ca.gov/water_issues/programs/owts/docs/owts_sed_061912.pdf

Public Notice

A notice of public hearing will be published in newspapers with general circulation throughout the North Coast Region. A notice of public hearing, draft staff report, resolution, and text of proposed revisions to the Basin Plan were circulated to known interested parties throughout the North Coast Region and posted on the Regional Water Board’s website. Further information regarding onsite wastewater systems is available at: http://www.waterboards.ca.gov/northcoast/water_issues/programs/basin_plan/owts_policy.shtml

Proposed Resolution

The draft resolution is intended to align the Basin Plan with the State Water Board’s OWTS Policy, as required by state law and the OWTS Policy. Proposed Resolution No. R1-2014-

0009 amends the Basin Plan onsite systems sections by incorporating (by reference) the State Water Board's OWTS Policy. To be consistent with the OWTS Policy, the existing (1996) Basin Plan language has not been deleted, but instead has been modified to apply only to the Russian River watershed, including the Laguna de Santa Rosa, until the TMDL is adopted.

Specific revisions are described in Attachments A and B to the proposed Resolution. Revised Basin Plan text is shown on Attachment A and all proposed revisions highlighted (with underline and strikeout) on Attachment B of the proposed Resolution No. R1-2014-0009.

ATTACHMENTS

1. Proposed Resolution No. R1-2014-0009 with Attachments
 - A. Revisions to Basin Plan Chapter 4 – Clean Copy (Onsite Systems section only)
 - B. Revisions to Basin Plan Chapter 4- Strikeout/Underline (Onsite Systems section only)

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