

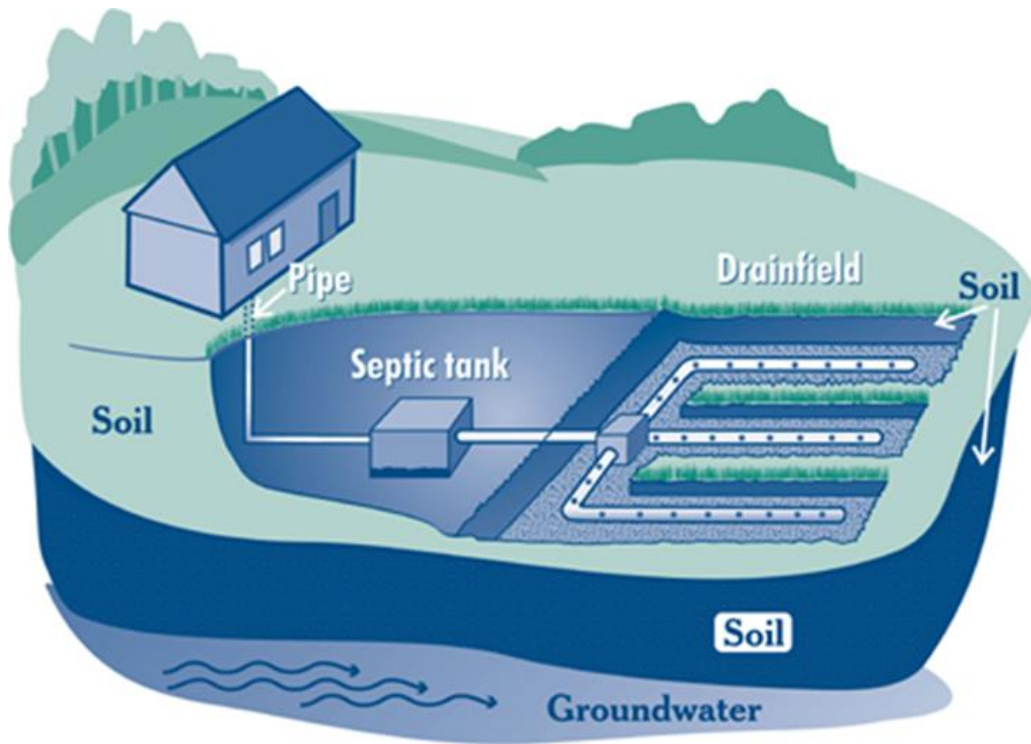
Appendix D

Response to Comments

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Basin Plan Amendment to Incorporate New Onsite Wastewater Treatment System Policy, Amend Wet Weather Overflow Policy, Update Graywater Information, and Update Table of Municipal Wastewater Discharge Locations

Response to Comments



**California Regional Water Quality Control Board
San Francisco Bay Region**

June 4, 2014

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PART I

**STAFF RESPONSE TO WRITTEN COMMENTS ON THE STAFF REPORT
AND PROPOSED BASIN PLAN AMENDMENT**

We received three comment letters during the public comment period, which closed on April 28, 2014. The comment letters and our responses are presented here.

Comment letters received:

1. San Francisco Public Utilities Commission (Tommy T. Moala)
2. Robert Feinbaum (private citizen)
3. Solano County Department of Resource Management (Terry Schmidtbauer)

Comment Letter No. 1: San Francisco Public Utilities Commission

Comment 1.1: “In general, the San Francisco Public Utilities Commission (SFPUC) supports the Regional Water Quality Control Board (Water Board) staff recommendations for improvements to the Basin Plan provisions regarding wet weather overflows. The SFPUC requests additional non-regulatory modifications to Basin Plan section 4.11.1, to address that section’s outdated description of San Francisco’s infrastructure and incomplete description of the City and County of San Francisco’s approach to compliance with the federal Combined Sewer Overflow (CSO) Policy.” The commenter suggested specific changes to section 4.11.1 in underline-strikeout format.

Staff Response

We did not propose edits to section 4.11.1 of the Basin Plan in the draft Basin Plan amendment made available to the public for review and comment. However, the commenter’s proposed changes are editorial in nature, updating factual statements concerning the City and County of San Francisco’s operations. There are no substantive changes to any policy, standard or prohibition. For these reasons, we agree that language in section 4.11.1 should be updated, and we accepted most of the changes suggested by the commenter, as shown below.

The commenter suggests an additional paragraph that summarizes the federal CSO Policy and describes permits issued to the City and County of San Francisco based on this policy. Information on the federal CSO policy appears in section 4.9.1. Staff has already proposed changes to section 4.9.1, where the federal CSO Policy is introduced and its relation to the City and County of San Francisco is identified. We explained on pages 3-4 of the Staff Report why we are proposing to streamline section 4.9.1 to eliminate unnecessary and potentially misleading text in the summary of the federal CSO Policy. Therefore, the commenter’s suggested additional paragraph on how the Water Board applies the federal CSO Policy is not appropriate for section 4.11.1. However, a portion of the suggested additional paragraph is appropriate for inclusion in section 4.9.1. We have therefore included this suggested text as follows (text added in response to this comment is double-underlined to distinguish it from text proposed for addition or deletion in the amendment version circulated for public comment):

4.9.1 FEDERAL COMBINED SEWER OVERFLOW CONTROL POLICY

On April 11, 1994, the U.S. EPA adopted the Combined Sewer Overflow (CSO) Control Policy (50 FR 18688)¹. This policy establishes a consistent national approach for controlling wet weather discharges from CSOs to the nation's water. The policy requires implementation of nine minimum controls that serve as minimum technology-based requirements pursuant to the Clean Water Act. The policy also requires implementation of a long-term control plan that serves as the water quality-based requirements of the Clean Water Act. The long-term control plan must consider the permittee's financial capability and provide for the attainment of water quality standards.

The Water Board applies the policy to the City and County of San Francisco's CSS. San Francisco substantially constructed wet weather control facilities prior to adoption of the CSO Control Policy. Accordingly, since construction was completed in 1997, the Water Board has issued permits to the City and County of San Francisco that require compliance with the provisions of the CSO Control Policy that apply to CSO controls: maintenance of the wet weather facilities to ensure continued maximization of storage and treatment; continued implementation of the Nine Minimum Controls, which constitute the technology-based requirements of the CSO Control Policy; post-construction monitoring to confirm the system's performance; and re-evaluation of the feasibility of reducing or eliminating discharges to sensitive areas.

We revised section 4.11.1 as follows (text in strikethrough will be removed and underlined text will be added):

4.11.1 CITY AND COUNTY OF SAN FRANCISCO

The City and County of San Francisco owns and operates the only combined sewer system in the San Francisco Bay Region. collects the wastewater in a San Francisco's combined sewer system. That is, the, domestic sewage, industrial wastewater, and stormwater runoff are all collected in the same pipes and treated at one of two all-weather secondary treatment plants – the Southeast Water Pollution Control Plant and the Oceanside Water Pollution Control Plant – or at the North Point Wet Weather Facility. (combined sewer). Such system is subject to overloading during severe storms. Most other communities in California have a separated sewer system: one set of pipes for domestic sewage and industrial wastes and another set for stormwater. The system was designed and constructed with several features intended to minimize combined sewer overflows. First, the system has a peak wet weather treatment capacity significantly in excess of dry weather flows. Second, the system design includes more than 200 million gallons of wet weather storage in large transport/storage (T/S) structures that surround San Francisco. These T/S structures hold back the wet weather flows generated by most storms until they can be routed to the treatment plants. During large storms, wet weather flows consisting mostly of stormwater are discharged through one of thirty-six permitted combined sewer discharge (CSD) outfalls. The T/S structures also include baffles and weirs to hold back solids and floating debris prior to discharge through a CSD outfall.

¹ A hyperlink to the CSO Control Policy (<http://cfpub.epa.gov/npdes/cso/cpolicy.cfm>) will be added to the online version of the Basin Plan.

~~San Francisco was one of the first municipalities in the nation to complete construction of comprehensive combined sewer overflow controls is near completion of the primary components of its wastewater facilities master plan. This construction program began in 1974 with the publication of the Master Plan Environmental Impact Statement and Report, jointly issued by San Francisco and the U.S. EPA, which described an. The integrated wastewater control system established by the master plan has been designed to provide control and treatment for both dry weather sewage and wet weather storm flows, and to achieve long-term average CSD frequencies mandated by the Water Board to protect beneficial uses. All dry weather flows currently receive secondary level treatment. At program completion in 1996, all wet weather flows including stormwater runoff will be captured and will receive a specified level of treatment depending on the size of the storm. Pollutant removal from stormwater will be approximately 60 percent system wide (measured as reduction in total suspended solids). San Francisco is one of the first municipalities in the nation to complete a comprehensive control program for a combined sewer system. The program was fully implemented in 1997 at a cost of approximately \$2 billion. The expenditures for completing the wastewater master plan is about \$1.45 billion.~~

~~The Southeast Water Pollution Control Plant is a major component of San Francisco's wastewater treatment system. The plant provides secondary level treatment for all dry weather domestic and industrial wastewater from the Bayside drainage area in San Francisco (approximately 75 percent of the total citywide flow). The Oceanside plant provides similar treatment on the Westside. The storage/transport around the periphery of the city store combined sewage for treatment after the storms subside. Additionally, northeast zone storm flows receive treatment at the Northpoint wet weather treatment plant.~~

Comment Letter No. 2: Robert Feinbaum

Comment 2.1: “I believe that Operating Permits for advanced treatment systems are an unwise and unfair means for dealing with water quality issues. To my knowledge most counties in the Bay Region have followed Sonoma County in requiring Operating Permits. However, this has been done without scientific studies showing that advanced treatment systems are contributing to water pollution, and certainly without evidence that such systems are compromising the health or the water quality of any community in the Bay Area. In fact we know that the greatest problem with on-site systems comes from old systems that were badly designed and are now failing. From a water quality, as well as an equity, standpoint, it makes little sense to require permits for the safest systems, and ignore the most obvious potential source of water contamination. I suggest that the draft of on-site regulations be amended as follows:

- 1. Require studies that show on-site systems are causing water quality problems in a specific area before considering the imposition of Operating Permits for advanced systems. A listing by a state or federal agency that contamination from on-site systems is degrading water quality would also suffice.**
- 2. Recommend that on-site system owners hold a maintenance contract for their system or become certified to maintain their own system through attendance at a training class.**

- 3. Eliminate Operating Permits from the requirements for approval of an advanced system and require County health departments that wish to re-instate such permits, to show through well conducted studies, that contamination of a specific water body, or of the groundwater, is occurring due to on-site systems in the local area.”**

Staff Response

The commenter requests edits to the Basin Plan that would pre-empt local agency requirements concerning Operating Permits for advanced systems. We have not made changes to the Basin Plan amendment in response to these comments. Neither the OWTS Policy nor the Basin Plan amendment contains specific requirements for counties to require operating permits for any type of system. The following sections address the commenter’s specific suggestions and concerns.

The commenter requests that the Board discourage local agencies (e.g., county health departments) from requiring operating permits for advanced onsite wastewater treatment systems (OWTS) in their Local Area Management Plans (LAMPs) unless there is evidence that a specific system is causing contamination. In terms of the OWTS Policy, the commenter is referring to its requirements for Tier 2 systems. Tier 2 systems are non-standard systems which, due to specific hydrogeological or other local conditions, such as high water table or an area with high domestic well usage, generally require advanced or alternate treatment technologies. These systems will be regulated by local agencies under a Board-approved LAMP.

Our approach to addressing these alternative treatment systems remains the same under the OWTS Policy as it has been based on existing Basin Plan requirements. The difference is that, in the past, the Board had memoranda of understanding with the local agencies, rather than the Board-approved LAMPs that are now required by the OWTS Policy. What remains the same is that the local agency must have a plan in place to ensure that these alternative systems be sited and operated in a manner that protects water quality. Staff does not recommend that the Board proactively eliminate the need for operating permits, either in this Basin Plan amendment or future Board actions. Rather, it is up to the local agency to propose a program to ensure water quality protection. These programs may include requirements for operating permits, maintenance contracts or certification as appropriate.

Staff reviewed some of the existing programs that local agencies have adopted to regulate nonstandard OWTS. Nonstandard OWTS are typically defined to be any onsite system other than a conventional septic tank and subsurface leach field. Many counties do have ordinances that require operating permits. These permits generally require some level of inspection and testing of these systems to ensure they are working effectively. Local requirements (i.e., ordinances) for operating permits are the likely approach counties will continue to employ to comply with OWTS Policy requirements. Staff has supported this approach in the past and will evaluate this approach on a county by county basis as part of LAMP review.

We disagree with the comment’s premise that regulators should obtain evidence of harm caused by a specific system prior to imposing regulations (such as requiring an Operating Permit for an advanced system) intended to prevent or minimize the potential harm. The commenter argues that, since he is not aware of scientific studies showing that advanced OWTS are harming water quality, regulatory agencies should not require an operating permit for such systems. We believe that local agencies should not have to wait until nonstandard (including advanced) treatment systems fail and impact water quality (which would be the result of implementing the comment’s

suggestions 1 and 3) before imposing requirements for the proper operation and maintenance of those systems. The reason the OWTS Policy identifies a set of minimum standards for local agencies to use to approve the use of non-standard systems is *because* these types of systems are typically only used in areas where there is a higher potential for impacts often based on hydrogeological conditions such as shallow soils, shallow water table, poorly drained soils, or fractured bedrock. We agree that old, badly designed and failing systems are a concern. Local agencies, while they may not require operating permits, are not ignoring standard septic systems, especially those that are poorly maintained or failing, as suggested in the comment. The OWTS Policy also addresses OWTS that are contributing to water bodies not meeting bacterial water quality objectives. Tier 4 of the OWTS Policy specifically addresses these failing systems and Tier 3 addresses Impaired Area requirements. We expect local agencies to address all water quality problems associated with OWTS.

Comment Letter No. 3: Solano County Department of Resource Management

Comment 3.1: “The San Francisco Bay Regional Water Quality Control Board needs to act expeditiously to develop a general WDR or Order, including an Order for a Conditional Waiver, for small “boutique” wineries and small food processors to facilitate approval of their waste discharge. It has been ongoing practice for Solano County Environmental Health to work closely with staff from the San Francisco Bay Regional Water Quality Control Board to permit waste discharge from small wineries and small food processors. Based on the state’s OWTS policy, Solano County Environmental Health no longer has authority over high strength wastes, meaning that the San Francisco Bay Regional Water Quality Control Board will have sole authority over approval of their discharge. It is recommended that you evaluate the Central Valley Regional Water Quality Control Board’s, Order #R5-2009-0097 as a potential model to follow.”

We appreciate the comment from Solano County. The OWTS Policy conditional waiver will apply to onsite systems for small food processing facilities that treat wastewater of less than 900 mg/L BOD, but we agree that there is a need to develop a permitting mechanism for the types of discharges mentioned by the commenter. We appreciate the recommendation to model our permitting approach after the Central Valley Regional Water Board’s 2009 order, and we will review this example as we evaluate our permitting needs for facilities not covered by the State Water Board’s OWTS Policy waiver.

We plan to bring a general WDR to the Board to address winery wastes, and reissuance of permits to address confined animal facilities such as dairies will likely address some cheese-making facilities. To date in our Region, there have not been enough other types of food processing facilities to justify development of a general WDR. However, we will continue to evaluate this issue, and we can develop a general WDR in the future if necessary.

PART II
STAFF-INITIATED CHANGES TO DRAFT STAFF REPORT
AND BASIN PLAN AMENDMENT

We encountered a reference in Chapter 5 of the Basin Plan (Plans and Policies) to a rescinded policy that should have been deleted from the Basin Plan when the policy was rescinded. Regional Water Board Resolution No. 77-1 (Policy with Respect to Water Reclamation in California) was rescinded as part of the adoption of Regional Water Board Resolution No. 94-086 (Policy on the Use of Wastewater to Create, Restore, and/or Enhance Wetlands). However, the reference to Resolution No. 77-1 has never been removed from the Basin Plan. The continued reference to Resolution No. 77-1 without mentioning its rescission leaves the reader with the erroneous impression that Resolution 77-1 is still in force. Therefore, we will remove the reference to Resolution No. 77-1 from the Basin Plan by making the following edit (text in ~~strikeout~~ will be removed and underlined text will be added). This is an editorial change with no substantive effect on any policy, standard or prohibition.

In Chapter 5, in the Section 5.2.11 Wetlands

**USE OF WASTEWATER TO CREATE, RESTORE, AND ENHANCE
MARSHLANDS — ~~RESOLUTION NOS. 77-1 AND 94-086~~**

Th~~ese~~ resolutions describes the Water Board's policy regarding the use of wastewater to create, restore, maintain, and enhance marshlands. In general, the policy supports the use of wastewater to support new wetland habitat, under the condition that beneficial uses established are fully protected.

Additionally, we made minor editorial and formatting revisions to the tentative resolution and the proposed Basin Plan amendment.