

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2011-0017**

**AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR ENCLOSED BAYS AND
ESTUARIES - PART 1 SEDIMENT QUALITY**

WHEREAS:

1. California Water Code section 13393 requires the State Water Resources Control Board (State Water Board) to develop sediment quality objectives (SQOs) for toxic pollutants for California's enclosed bays and estuaries.
2. On September 16, 2008, the State Water Board adopted [Resolution No. 2008-0070](#) approving the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality (Plan).
3. On August 25, 2009, the United States Environmental Protection Agency (U.S. EPA) approved the Plan in its entirety.
4. The Plan contains a narrative SQO protecting benthic communities from direct exposure to toxic pollutants in sediment and a narrative SQO protecting human consumers of fish and shellfish from pollutants that bioaccumulate into tissue from sediment.
5. On May 19, 2010, staff conducted a California Environmental Quality Act (CEQA) scoping meeting to inform the public on recent development efforts and plans for developing draft amendments to the Plan. Based upon comments received, staff redirected near-term efforts to focus on protecting resident finfish and wildlife.
6. Since the Plan became effective, State Water Board staff also identified non-substantive and other minor changes to be made to the Plan.
7. On January 28, 2011, State Water Board staff issued a Notice and circulated for public review and comment a [draft staff report, substitute environmental documentation](#); [CEQA Checklist](#) and [draft Economic Analysis](#). The Notice was circulated in multiple newspapers and electronically through State Water Board email distribution lists.
8. The draft staff report supports the following proposed amendments to the Plan:
 - a. A proposed narrative sediment quality objective that protects wildlife and resident finfish from the effects caused by exposure to pollutants in sediment;
 - b. A proposed process for implementing this narrative objective;
 - c. Proposed definitions added to the glossary in support of the narrative objective described above; and
 - d. Revisions to the Plan, Section II(B), to clarify that the proposed sediment quality objective and related implementation policy adopted in the Plan supersedes all applicable narrative water quality objectives and related implementation provisions in water quality control plans, unless the State Water Board approves basin plan amendments that incorporate new, more stringent narrative water quality objectives or implementation provisions.

9. Affected Regional Water Quality Control Boards and state and federal resource trustee agencies were consulted and apprised of the proposed amendments.
10. The process for implementing the resident finfish and wildlife SQO relies upon ecological risk assessment. Ecological risk assessment, which is used by U.S. EPA, California Department of Fish and Game and other resource trustee agencies, has been peer reviewed by U.S. EPA, as described in the draft staff report.
11. On March 15, 2011, the public written comment period for the proposed amendments closed.
12. On April 4, 2011, the State Water Board held a Public Hearing to receive oral comments on the proposed amendments.
13. In preparing the substitute environmental documents, the State Water Board has considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intends these documents to serve as a Tier 1 environmental review.
14. The State Water Board has considered the reasonably foreseeable consequences of adoption of the draft Plan; however, project-level impacts may need to be considered in any subsequent environmental analysis performed by lead agencies, pursuant to Public Resources Code section 21159.1.
15. Consistent with CEQA, the substitute environmental documents do not engage in speculation or conjecture but, rather, analyze the reasonably foreseeable environmental impacts related to methods of compliance with the draft amendments to the Plan, reasonably foreseeable mitigation measures to reduce those impacts, and reasonably feasible alternatives means of compliance that would avoid or reduce the identified impacts.
16. The proposed amendments, if adopted, could have a potentially significant adverse effect on the environment. However, there are feasible alternatives or feasible mitigation measures that, if employed, would reduce the potentially significant adverse impacts identified in the substitute environmental documents to less than significant levels. These alternatives or mitigation measures are within the responsibility and jurisdiction of other public agencies. When the SQOs are implemented on a project-specific basis, the agencies responsible for the project can and should incorporate the alternatives or mitigation measures into any subsequent project or project approvals.
17. From a program-level perspective, incorporation of the mitigation measures described in the substitute environmental documents will foreseeably reduce impacts to less than significant levels.
18. The substitute environmental documentation associated with the proposed amendments identifies broad mitigation approaches that should be considered at the project level.

19. The draft Plan will become effective upon approval by the Office of Administrative Law (OAL) and U.S. EPA. If, during the OAL approval process, OAL determines that minor, non-substantive modifications to the language of the draft plan are needed for clarity or consistency, the Executive Director or designee may make such changes consistent with the State Water Board's intent in adopting this draft Plan, and shall inform the State Water Board of any such changes.
20. Consistent with Water Code section 13240 and Clean Water Act section 303(c), the Plan will be periodically reviewed and the sediment quality objectives and the related implementation policies may be revised.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves and adopts the CEQA substitute environmental documentation, including all findings contained in the documentation, which was prepared in accordance with Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and directs the Executive Director or designee to sign the environmental checklist;
2. After considering the entire record, including oral testimony at the public hearing, hereby adopts the [proposed amendments](#) to the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality;
3. Directs staff to submit the administrative record to OAL and U.S. EPA for review and approval; and
4. If, during the OAL approval process, OAL determines that minor, non-substantive modifications to the language of the draft plan are needed for clarity or consistency, directs the Executive Director or designee to make such changes and inform the State Water Board of any such changes

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 6, 2011.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board