

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF JULY 16-17, 2020

Prepared on June 23, 2020

ITEM NUMBER: 14

SUBJECT: Amendment to the Water Quality Control Plan for the Central Coastal Basin to Improve and Clarify Waste Discharge Prohibition Language

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ACTION: Adopt Proposed Resolution No. R3-2020-0035

SUMMARY

This staff report summarizes proposed changes to the waste discharge prohibition language in the Water Quality Control Plan for the Central Coastal Basin (Basin Plan). The Basin Plan may be amended in accordance with California Water Code (CWC) section 13240. The proposed amendments to the Basin Plan are a combination of substantive and non-substantive (i.e., editorial) amendments.

Existing Basin Plan waste discharge prohibitions identify waste discharge activities that are not permitted within the region due to their potential impact on waters of the state.¹ Staff propose changes to the Basin Plan through Basin Plan amendments to improve and clarify waste discharge prohibition language to:

- Establish prohibitions on unauthorized discharges in all waters of the state;
- Consolidate the existing land disturbance prohibition;
- Add a map of the Monterey Bay prohibition zone (editorial); and
- Consolidate existing domestic animal waste prohibitions (editorial).

¹ California Water Code section 13050(e) defines waters of the state as any surface water or groundwater, including saline waters, within the boundary of the state.

These proposed amendments will enhance the Central Coast Water Board's enforcement ability to better protect against and mitigate for unauthorized waste discharges. California Water Code section 13243 provides that a Regional Board, in a water quality control plan, may specify certain conditions or areas where the discharge of waste, or certain types of waste is not permitted. The proposed Basin Plan amendments are presented to the Board for consideration in Resolution No. R3-2020-0035 (Attachment 1).

DISCUSSION

Background

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) first adopted the Basin Plan in 1975. The Basin Plan forms the basis for regulatory actions taken by the Central Coast Water Board to protect waters of the state and to assure compliance with portions of the California Water Code and the federal Clean Water Act.

The Basin Plan establishes designated beneficial uses for surface waters and groundwaters and the water quality objectives which must be maintained to support those beneficial uses. The Basin Plan describes the programs, projects, prohibitions, and other actions that are necessary to achieve water quality objectives and summarizes California State Water Resources Control Board (State Water Board) and Central Coast Water Board plans and policies to protect water quality. Lastly, the Basin Plan describes statewide and regional surveillance and monitoring assessment programs.

The objectives of the proposed Basin Plan amendments are consistent with the mission of the State Water Board and the requirements of the federal Clean Water Act and the California Water Code to preserve, enhance, and restore the quality of water in the Central Coastal Region. The main objective of the proposed amendments to the Basin Plan prohibition language is to improve effectiveness of water quality protection by increased clarity and accuracy of language in the Basin Plan. In addition, the editorial changes will improve the accuracy and usefulness of the Basin Plan.

As part of the water quality planning process, the Basin Plan is periodically reviewed in a "triennial review." The Central Coast Water Board's most recent triennial review of the Basin Plan was in 2017. The proposed Basin Plan amendments to improve and clarify waste discharge prohibition language were previously outlined in the 2017 triennial review and given a priority of three out of 21 issues.

A detailed discussion of each proposed amendment is provided in the Project Report (Attachment 2). The Project Report includes the rationale and justification for each proposed amendment based on facts, studies, or expert opinion as required by California Government Code section 11349(a).

Summary of Proposed Amendments

Amendment to establish prohibitions on unauthorized discharges in all waters of the state. This amendment will add five new prohibitions applicable to all state waters within the Central Coast region in section 5.4.1 of the Basin Plan. These new prohibitions were modeled on prohibitions currently in the San Diego Regional Water Board's Basin Plan. This amendment will also remove some existing prohibitions for specific inland waters that will be superseded by the new prohibitions and therefore be unnecessary.

Amendment to the existing land disturbance prohibition. This amendment will revise the existing land disturbance prohibition in section 4.8.5.1 of the Basin Plan to prohibit the discharge of sand, silt, clay, or other inorganic or organic earthen materials into waters of the state from any activity in a manner that unreasonably affects beneficial uses or creates a condition of pollution or nuisance.

Amendment to add a map of the Monterey Bay prohibition zone (editorial). This amendment will add a new graphic map to clarify the extent of the existing Monterey Bay prohibition zone, an area where waste discharges are prohibited. The new map will be added to section 5.4.3 of the Basin Plan.

Amendment to consolidate existing domestic animal waste prohibitions (editorial). This amendment will clarify the Basin Plan by gathering all existing domestic animal waste prohibitions into one section of the Basin Plan, section 5.4.2.

Draft Resolution

The proposed resolution includes the findings describing the process, descriptions, and rationale for the proposed amendments to the Basin Plan. The resolution also contains a strikeout/underline version of the portions of the Basin Plan where the proposed amendments will be incorporated.

Environmental Summary

The California Natural Resources Agency has certified the basin planning process as an exempt regulatory program (Public Resources Code section 21080.5), and therefore an environmental impact report or negative declaration is not required for this project. Rather, exempt regulatory programs must prepare Substitute Environmental Documentation (SED) consisting of this staff report and the Project Report (Attachment 2), which includes the CEQA Environmental Checklist form.

As discussed in the Project Report and the CEQA Environmental Checklist, there are no potentially significant environmental impacts from the implementation of these Basin Plan amendments. Therefore, an analysis of alternatives is not needed to lessen or mitigate impacts. The finding of no environmental impacts is because these Basin Plan amendments will not result in any physical change, nor will they affect any other plan, regulation, or policy. In this case, the proposed Basin Plan amendments do not require the installation of pollution control equipment, or compliance with a performance standard or treatment requirement. No implementation plan is proposed because no

actions are required to comply with the proposed Basin Plan amendments. Thus, these amendments would have no environmental or economic impacts.

Climate Change

The Central Coast faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, Central Coast Water Board staff has launched the Central Coast Water Board's Climate Action Initiative, which identifies how our work relates to climate change and prioritizes actions that promote adaptation and mitigation to improve resilience and protect beneficial uses. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.

The proposed Basin Plan amendments will not have climate change impacts. However, these amendments may help the Central Coast Water Board's ability to better prevent and enforce on potential climate change-related impacts. For example, these amendments may help the Central Coast Water Board's ability to take enforcement action on sediment discharges associated with extreme weather events when dischargers do not apply reasonable controls. Basin Planning staff will continue to work with other staff to evaluate the need for a future Basin Plan amendment to anticipate climate change actions to better protect water quality.

Human Right to Water

California Water Code section 106.3, subdivision (a) states: It is a policy of the State of California "that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes." On January 26, 2017, the Central Coast Water Board adopted Resolution No. R3-2017-0004 resolving to continue to consider the human right to water when revising water quality control plans and directing Central Coast Water Board staff to prioritize regulatory programs and activities to prevent and/or address discharges that could threaten human health.

The proposed amendments are consistent with Resolution No. R3-2017-0004 and include prohibitions of waste discharges that are more protective of water quality than the existing prohibitions. This may serve to better protect the municipal and domestic supply (MUN) drinking water beneficial use and improve drinking water quality for those that depend on surface water or groundwater as their drinking water source.

Disadvantaged Communities

The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of people of all ethnicities, cultures, backgrounds and income levels, including disadvantaged communities (DACs). Additionally, the Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities.

The proposed Basin Plan amendments will be applicable to the entire Central Coast region, which includes several disadvantaged communities. The proposed amendments will serve to prevent water quality degradation and could improve the water quality for some disadvantaged communities.

COMMENTS

Staff conducted stakeholder outreach throughout the Basin Plan amendment process.

In July 2018, a certified letter regarding tribal cultural resources consultation was sent to tribes, pursuant to Public Resources Code section 21080.3.1 and California Assembly Bill 52. No tribal consultations were requested for these proposed Basin Plan amendments.

Staff released a notice of CEQA stakeholder scoping meeting and availability of scoping document on October 17, 2018 (Attachment 3). Staff conducted a CEQA stakeholder scoping meeting on November 15, 2018, which was attended by six individuals representing city, county, and agricultural interests.

A notice of public hearing and opportunity for public comment (Attachment 4) was published for three days in five newspapers with general circulation throughout the Central Coast Region on or before January 24, 2020. This notice was also sent to approximately 350 electronic (email) subscribers to the Basin Planning & Triennial Review interested parties list, in addition to other regulatory agencies. The notice included internet web links directing interested persons to the draft Project Report, draft resolution, and proposed revisions to the Basin Plan. The written comment period was from January 16, 2020 to March 16, 2020.

No written comment letters were received during the comment period.

CONCLUSION

These proposed amendments to the prohibition sections of the Basin Plan will improve the effectiveness of water quality protection. In addition, these amendments are necessary and will fulfill a high priority issue from the 2017 triennial review of the Basin Plan. Staff recommends adoption of Resolution No. R3-2020-0035.

RECOMMENDATION

Adopt Resolution No. R3-2020-0035.

ATTACHMENTS

1. Resolution No. R3-2020-0035, including Attachment A, a strikeout/underline version of the Basin Plan showing all proposed amendments.
2. Project Report including the CEQA Checklist.
3. Notice of CEQA Scoping Meeting – October 17, 2018.
4. Notice of Public Hearing and Opportunity to Comment – January 16, 2020.