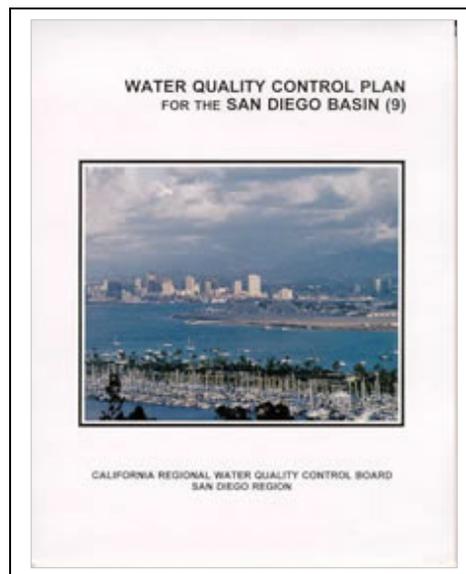


# **California Regional Water Quality Control Board San Diego Region**

**Amendment to the *Water Quality Control Plan for the San Diego Basin (9)* to Edit and Reformat Text, and Update Graphics  
(Basin Plan Issue No. 1);**

**and**

**A Revision to the *Water Quality Control Plan for the San Diego Basin (9)* to Reinstate Text on  
“Controllable Water Quality Factors”**



## **Technical Report**

**March 30, 2006**



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
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Documents are also available at <http://www.waterboards.ca.gov/sandiego>

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**Technical Report**

Adopted by the  
California Regional Water Quality Control Board  
San Diego Region  
on \_\_\_\_\_

Approved by the  
State Water Resources Control Board  
on \_\_\_\_\_  
and the  
Office of Administrative Law  
on \_\_\_\_\_  
and the  
United States Environmental Protection Agency  
on \_\_\_\_\_.

*Basin Plan Cover Photograph: San Diego Bay Skyline (1989) by Greig Peters*

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## LIST OF ACRONYMS AND ABBREVIATIONS

<b>Acronym or abbreviation</b>	<b>Description</b>
Basin Plan	<i>Water Quality Control Plan for the San Diego Basin (9)</i>
CEQA	California Environmental Quality Act
CWA	Clean Water Act
NPDES	National Pollutant Discharge and Elimination System
OAL	Office of Administrative Law
pdf	Portable document files
PRC	Public Resources Code
Regional Water Board(s)	California Regional Water Quality Control Boards
San Diego Water Board	California Regional Water Quality Control Board, San Diego Region
State Water Board	State Water Resources Control Board
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency

## **INTRODUCTION**

This technical report describes a proposed amendment to the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan), and a proposed revision to reinstate text on “controllable water quality factors.” This amendment and revision is the result of an investigation of Issue No. 1 on the “*Prioritized List of Basin Plan Issues for investigation from September 2004 to September 2007*” (Attachment 1 to Resolution No. R9-2004-0156). The prioritized list is the product of the San Diego Water Board’s Triennial Review of the Basin Plan, completed in September 2004. One of the important outcomes of this project will be an up-to-date electronic version of the Basin Plan published on the San Diego Water Board’s website.

The Basin Plan designates beneficial uses of the Region's surface and ground waters; designates water quality objectives for the reasonable protection of those uses; and establishes an implementation plan to achieve the objectives. The Basin Plan provides the foundation for regulatory activities of the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board).

The Water Code establishes the authority for adopting basin plans and the requirements for basin plan amendments (Water Code section 13240). Basin Plan amendments generally require the following four levels of administrative approval, depending on the scope of the amendment: (1) California Regional Water Quality Control Board (Regional Water Board), (2) State Water Resources Control Board (State Water Board), (3) Office of Administrative Law (OAL), and (4) United States Environmental Protection Agency (USEPA). After a formal public review and comment period, and production of written responses to comments, the Regional Water Board may adopt the amendment, which is then subject to approval by the State Water Board and the OAL. In addition, when regulatory changes are being proposed that affect surface water quality objectives, the USEPA must approve the amendment.

The first comprehensive Basin Plan for the Region was adopted by the San Diego Water Board and approved by the State Water Resources Control Board (State Water Board) in March 1975. Subsequently, amendments were approved in 1978, 1979, 1980, 1981, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 2003, and 2006 to address changing water quality conditions, priorities, and programs.

### **Basin Plan Amendment**

The proposed Basin Plan amendment makes three types of changes: (1) editorial text changes; (2) graphic updates; and (3) corrections of identified errors. The editorial text changes include updates of indices, tables of contents, and page footers. This was done to improve consistency of the text language, and improve information accessibility to the reader. In addition, acronyms have been updated to reflect terms now in use. Acronym definitions have been edited throughout the text to remove redundancy.

Many of the graphics in the 1994 Basin Plan did not translate well to electronic and web-accessible versions of the Basin Plan. Therefore, the graphics in the 1994 version of the Basin Plan have been deleted, and new graphics, including photographs have been added.

A number of errors needing correction were found in the Basin Plan text. This Basin Plan amendment deletes identified errors and out-of-date text, and adds new text to correct and clarify the Basin Plan. The amendment edits and reformats text, and updates graphics in the Basin Plan, and includes no regulatory changes.

Basin Plan amendments are generally subject to the provisions of the California Environmental Quality Act (CEQA). The proposed amendment does not constitute a CEQA project because the amendment consists of non-substantive editorial changes only. The editorial changes are intended solely to improve the readability of the Basin Plan. There are no changes to beneficial uses, water quality objectives, or implementation plans.

### **Revision to Reinstate Text on “Controllable Water Quality Factors”**

Text on “Controllable Water Quality Factors” will be reinstated in the Basin Plan in Chapter 3, ‘Water Quality Objectives.’ This text can be found in the 1975 Basin Plan,<sup>1</sup> the 1978 amendments,<sup>2</sup> and the 1991 amendments<sup>3</sup> but was inadvertently omitted in the 1994 update of the Basin Plan. This revision is non-regulatory, and is authorized under Title 1 of the California Code of Regulations, section 100 (Office of Administrative Law regulations governing administrative rulemaking). This revision is not part of the proposed Basin Plan amendment.

### **Other Updates**

Three Basin Plan amendments have been adopted and fully approved since the Basin Plan was last published. These amendments, listed below, will be included in the electronic version of the Basin Plan published as a result of this project.

- Waste Discharge Requirement Waiver Policy for Certain Specific Types of Discharges. Resolution No. R9-2002-0186. Effective Date: August 19, 2003.
- Total Maximum Daily Load for Diazinon in Chollas Creek Watershed, San Diego County. Resolution No. R9-2002-0123. Effective Date: September 11, 2003.
- Total Maximum Daily Load for Dissolved Copper in Shelter Island Yacht Basin, San Diego Bay. Resolution No. R9-2005-0019. Effective Date: February 8, 2006.

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<sup>1</sup> The *Comprehensive Water Quality Control Plan for the San Diego Basin* dated July 1975, in the section entitled, Chapter 4 Water Quality Objectives, on page I-4-8.

<sup>2</sup> The *Comprehensive Water Quality Control Plan Report, 1978 Amendments, San Diego Basin (9)* dated March 1979, in the section entitled, Chapter 4 Water Quality Objectives, on page 21.

<sup>3</sup> Attachment No. 1 to Resolution No. 91-79, *A Resolution amending Resolution No. 90-55 adopting amendments to the Comprehensive Water Quality Control Plan for the San Diego Region*, in the section entitled, Chapter 4 Water Quality Objectives, Water Quality Objectives, on page 30.

- [Total Maximum Daily Loads for Total Nitrogen and Total Phosphorus in the Rainbow Creek Watershed, San Diego County. Resolution No. R9-2005-0036. Effective Date: March 22, 2006.](#)<sup>4</sup>

Appendix 1 of this technical report consists of Tentative Resolution No. R9-2006-0029 and attachments. Attachment A is the Basin Plan amendment, Attachment B is the section on “Controllable Water Quality Factors,” Appendix C is the “clean” version of the updated Basin Plan with updated text and graphics, and the ~~strikeout~~ and underline marks removed. Attachment D is the proposed Basin Plan amendment which shows changes to the text. The deletions are marked with ~~strikeout~~ and the additions are marked with underline.

## CHAPTER-SPECIFIC UPDATES

The following updates, revisions, and deletions to the Basin Plan chapters are proposed.

### Chapter 3 – Water Quality Objectives

#### ***Reinstated text on “Controllable Water Quality Factors”***

A section entitled, “Controllable Water Quality Factors” is added to Chapter 3, Water Quality Objectives with the following text added:

*“Controllable water quality factors shall conform to the water quality objectives contained herein. When other factors result in the degradation of water quality beyond the levels or limits established herein as water quality objectives, then controllable factors shall not cause any degradation of water quality.”*

*Controllable water quality factors are those actions, conditions, or circumstances resulting from man’s activities that may influence the quality of the waters of the State and that may be reasonably controlled.”*

### Chapter 4 - Implementation

#### ***Update the section on “Ground Water Dewatering”***

The language in this section was updated to reference and describe two National Pollutant Discharge Elimination System (NPDES) orders adopted after 1994. Order No. 2000-90 entitled, “*General Waste Discharge Requirements for Temporary Groundwater Extraction and Similar Waste Discharges to San Diego Bay and Storm Drains or other Conveyance Systems Tributary Thereto*” adopted on June 14, 2000, replaced Order No. 91-31. Order No. 2001-96 entitled, “*General Waste Discharge Requirements for Groundwater Extraction Waste Discharges from Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region except for San Diego Bay*” adopted

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<sup>4</sup> [The Rainbow Creek TMDLs were fully approved after the release of the February 27, 2006 public review draft Technical Report. Therefore, Appendix 1, Attachments C and D, to the draft Technical Report did not include this TMDL amendment. When published, the new electronic version of the Basin Plan amendment will include the Rainbow Creek TMDL amendment.](#)

on October 10, 2001, replaced Order No. 91-10. This revision is needed to correct out-of-date information and to ensure readers are informed about the latest requirements to protect water quality. This update is a non-regulatory administrative change because it does not impose new requirements on dischargers, but rather clarifies existing regulatory requirements and descriptions.

## **Chapter 5 – Plans and Policies**

### ***Update the section entitled, “New Regional Board Resolutions”***

The text in this section was updated to add Resolution No. R9-2005-0019, the Total Maximum Daily Load for dissolved copper in the Shelter Island Yacht Basin, San Diego Bay. This resolution was adopted February 9, 2005.

## **SCIENTIFIC PEER REVIEW**

The scientific basis of any Basin Plan amendment must undergo external scientific peer review before adoption by the State or Regional Water Board [Health and Safety Code section 57004]. The scientific basis is the foundation of a rule that is premised upon, or derived upon, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment. This Basin Plan amendment does not trigger the requirement for scientific peer review because it is not premised upon, or derived upon, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.

## **NECESSITY OF REGULATORY PROVISIONS**

The OAL is responsible for reviewing administrative regulations proposed by State agencies for compliance with standards set forth in California's Administrative Procedure Act, Government Code section 11340 *et seq.*, for transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations. Following State Water Board approval of this Basin Plan amendment, any regulatory portions of the amendment must be approved by OAL [Government Code section 11352]. The State Water Board must include in its submittal to OAL a summary of the necessity<sup>5</sup> for the regulatory provision.

This Basin Plan amendment meets the “necessity standard” of Government Code section 11353(b). The amendment is necessary because the San Diego Water Board must have clear, current, and unambiguous information in the Basin Plan for the purposes of carrying out its regulatory activities, informing the public of regional water quality goals and requirements, and establishing the basis for cooperative watershed management.

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<sup>5</sup> “Necessity” means the record of the rulemaking which demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, provision of law that the regulation implements, interprets, or makes, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion [Government Code section 11349(a)].