

**Testimony Commenting on Areas of Special Biological Significance
State Water Resources Control Board Workshop
State of California**

**By
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On behalf of the Coalition for Practical Regulation
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Good morning. My name is Richard Watson. Today I am before you representing the Coalition for Practical Regulation (CPR), an ad hoc group of 41 cities within Los Angeles County that have come together to address water quality issues. CPR's address is 2175 Cherry Avenue, Signal Hill, CA 90806. I want to thank the Board for holding this workshop and for the opportunity to comment on the ASBS Waste Discharge Prohibition and exceptions to the prohibition.

General Comments

- CPR, like many others, is concerned with the unintended consequences of the State's current prohibition and exception approaches to regulating Areas of Special Biological Significance. We think that the language of the Ocean Plan is being misinterpreted. If not, it should be amended to avoid foolish and unnecessary regulation. Rainwater, itself, contains pollutants before it becomes stormwater runoff.
- Stormwater is already heavily regulated through NPDES Permits/Waste Discharge Requirements adopted by the State Board and the Regional Boards. These permits/WDRs already contain special conditions limiting stormwater and non-stormwater discharges to all receiving waters, including the ocean. If necessary, additional special conditions could be added to these WDRs.
- CPR is also concerned that recent discussions of ASBS do not appear to recognize the appropriate standard for compliance for municipal separate storm sewer systems (MS4s). In 1987, when some stormwater was designated as a point source, Congress mandated that MS4 stormwater discharges were to be controlled to the maximum extent practicable (MEP). Congress recognized that stormwater is different than traditional point sources and must be regulated differently.

Waste Discharge Requirements for Areas of Special Biological Significance (ASBS)

- CPR recommends amendment of the Ocean Plan to clearly state that **a stormwater point source discharge that is regulated by Waste Discharge Requirements is limited by special conditions, and is therefore allowed into an ASBS or a SWQPA.**
- The 2001 Ocean Plan includes a provision to allow the Regional Boards to approve Waste Discharge Requirements for limited-term activities that may result in temporary and short-term changes in existing water quality. Stormwater is a limited-term activity regulated by municipal NPDES Permits that are also adopted as Waste Discharge Requirements.
- All permitted stormwater discharges should be recognized as already being limited by special conditions and therefore not subject to prohibition or additional regulation under the Ocean Plan. The special conditions by which stormwater discharges are already limited satisfy PRC (Public Resources Code) requirements that point waste discharged into SWQPAs be prohibited or “limited by special conditions.” (PRC Section 36710(f))
- The RWQCBs have adopted at least 27 NPDES permits for discharges from MS4s located within the heavily urbanized areas of the State. In addition, the State Board has adopted a statewide permit for Caltrans. These permits require the permittees to develop and implement stormwater management plans designed to reduce the discharge of pollutants in stormwater to the maximum extent practicable (MEP).
- If the State Board concludes that the current language in the Ocean Plan does not allow stormwater discharges into ASBSs because stormwater can carry waste, it should amend Section III.E to add a new sub-section 2 recognizing the limited-term, episodic, and variable nature of stormwater and allowing stormwater discharges into ASBSs unless such discharges are shown to be adversely impacting water quality within an ASBS.

Conclusion

CPR believes that the Ocean Plan should be amended to recognize that stormwater discharges are limited-term activities and are already “limited by special conditions” in the Waste Discharge Requirements/NPDES permits under which they are now regulated and therefore allowed into State Water Quality Protection Areas, including Areas of Special Biological Significance.

Thank you for the opportunity to provide these comments on the ASBS Waste Discharge Prohibition and exceptions to the Prohibition.