

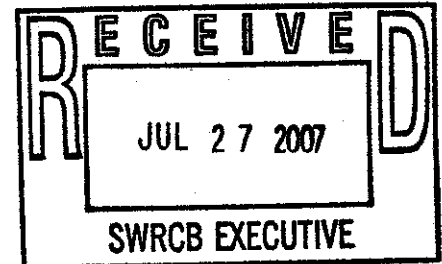


## California Stormwater Quality Association™

*Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation*

July 27, 2007

Song Her, Clerk to the Board  
Executive Office  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100



**Subject: Comment Letter – California Ocean Plan Amendments**

Dear Chair Doduc and Board members:

On behalf of the California Stormwater Quality Association (CASQA), thank you for the opportunity to provide comments on the Water Quality Control Plan for Ocean Waters of California (California Ocean Plan or Ocean Plan) scoping document. Thank you as well for conducting the recent scoping meeting in June to discuss the proposed amendments and the stakeholder meetings in 2006 to initiate discussions regarding the Appendix III amendments, the monitoring procedures. By having these meetings early in the process, Board staff are able to receive comments from the stakeholders, minimize the misinterpretations and allow us all to focus on the real issues and questions.

CASQA was formed in 1989 to recommend approaches to the State Water Resources Control Board (State Water Board) for stormwater quality management in California and, in particular, the development and implementation of stormwater permitting processes. CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout the state. Our membership provides stormwater quality management services to over 21 million people in California and includes almost every Phase I municipal program in the State as well as many Phase II municipal programs.

I am writing to you today to offer comments on the California Ocean Plan scoping document that was distributed in June 2007. Although there are several proposed amendments, CASQA's comments specifically address the Proposed Standard Monitoring Procedures (Issues 14, 15, 17, and 18), Plastic Debris Regulation (Issues 23), and one aspect of the Non-Substantive Administrative Changes (Issue 25). Our specific comments and recommendations are provided below and are based on our review of the scoping document and the clarification comments provided by State Water Board staff in the San Francisco scoping meeting that was held on June 26<sup>th</sup> in San Francisco.

**Appendix III: Proposed Standard Monitoring Procedures (Issues 14, 15, 17, 18)**

Attachment 1 to the scoping document includes the preliminary draft of the Ocean Plan Appendix III, the Proposed Standard Monitoring Procedures. Although the monitoring procedures have been undergoing review/modifications since mid 2006, Appendix III has been significantly revised within the scoping document such that the monitoring procedures now include a very comprehensive and prescriptive monitoring program for stormwater discharges. Of the four alternatives proposed, State Water Board staff recommend Alternative 3, which would “use a model monitoring approach providing flexibility in implementing standard monitoring procedures, with minimum requirements to provide consistent statewide ocean monitoring.”

While CASQA agrees in concept with the wording of Alternative 3, the “minimum requirements” seem to have been translated into fairly prescriptive requirements within Appendix III. In addition, it appears that Appendix III has been developed in support of Alternative 3, however it is unclear how Appendix III would be written in support of the other alternatives, such as Alternative 2, which would not include the amount of specificity that Alternative 3 has.

As currently drafted, the monitoring program described in Appendix III appears to have major monetary and resource ramifications on a number of CASQA Phase I and Phase II members and is unclear as to how it would supplement existing monitoring programs which have been in existence for up to 15 years. The proposed monitoring program also appears to shift baseline ocean assessment efforts from the State Water Board to the individual dischargers. While CASQA supports the staff recommendation as it pertains to the need for the use of a model monitoring approach, CASQA disagrees with the amount of specificity that is currently included in Appendix III. Although it may be appropriate for the model monitoring approach to identify the types of monitoring questions that should be answered and the structure of the program (core monitoring and regional monitoring), it should not include the size and number of outfalls to be monitored, the frequencies, and types of constituents unless they are presented as general guidelines that can be modified as needed based on existing monitoring programs.

Therefore, CASQA strongly recommends Alternative 2, which reads “Use a model monitoring approach providing flexibility in implementing standard monitoring procedures, but without minimum requirements” for the following reasons:

The Ocean Plan Model Monitoring Approach for Stormwater Should Reflect and Supplement the Model Program Developed by the Stormwater Monitoring Coalition in Southern California

CASQA does support the intent of the monitoring program in Appendix III to incorporate a model monitoring framework within the Ocean Plan for stormwater. However, the monitoring framework should reflect the *Model Monitoring Program for Municipal Separate Storm Sewers Systems in Southern California* (Model Program) so that the Ocean Plan based monitoring supplements many of the existing stormwater monitoring programs and provides an overarching framework to support permit compliance and stormwater management program implementation. The Model Program, which was funded, in part, by the State Water Board, was developed by the

Southern California Stormwater Monitoring Coalition (SMC), which included representatives from:

- Regional Water Quality Control Boards (Los Angeles, Santa Ana, San Diego)
- Municipal permittees (Counties of Ventura, Los Angeles, San Bernardino, Riverside, Orange, and San Diego)
- Heal the Bay
- Southern California Coastal Water Research Project (SCCWRP)

Many of these coastal communities would be directly affected by modifications to Appendix III.

The Model Program presents five management questions that, when addressed, use adaptive triggers to expand a stormwater monitoring program in a logical and resource-protective way to move from assessment monitoring to source identification. The five management questions are:

1. “Are conditions in the receiving waters protective, or likely to be protective, of beneficial uses?”
2. “What is the extent and magnitude of the current or potential receiving water problems?”
3. “What is the relative urban runoff contribution to the receiving water problems?”
4. “What are the sources to urban runoff that contribute to receiving water problems?”
5. “Are conditions in the receiving waters getting better or worse?”

In addition, the goal of the Model Program is to achieve a basic degree of comparability across monitoring programs, while maintaining individual programs’ ability to adapt to site-specific and local concerns. This goal is entirely consistent with the purpose of Appendix III as conveyed within the Introduction.

While Appendix III attempts to include this type of a framework, the management questions should be reviewed and revised as needed to ensure that the frameworks are similar such that any Ocean Plan based monitoring would supplement existing efforts. CASQA would like to work with State Board staff to identify model monitoring questions and how they could supplement existing stormwater monitoring programs.

#### The Ocean Plan Model Monitoring Specificity is Inconsistent with Other State and Regional Water Board Water Quality Control Plans

The specificity proposed within Appendix III is somewhat counter to its’ stated purpose and appears to be inconsistent with other State Policies and Water Quality Control Plans (e.g., State Implementation Plan for Toxic Pollutants (SIP)).

Despite the fact that the introduction to Appendix III states that it is not “desirable to limit the flexibility of the Regional Water Boards in the monitoring of ocean waters”, Appendix III includes fairly prescriptive direction to the Regional Water Boards as to how they need to craft future NPDES permit conditions for stormwater discharge monitoring irrespective of existing monitoring programs. In addition, it goes on to state that the Regional Water Boards can deviate from the Appendix III procedures “only with the approval of the State Water Resources Control Board”. Thus, there appears to be limited flexibility.

The specificity of Appendix III (size and number of outfalls to be monitored, frequency of monitoring, lists of constituents to be monitored, etc.) is not found in other Regional Water Quality Control Plans or the fresh water equivalent to the Ocean Plan, the SIP. This specificity limits the flexibility of the Regional Water Boards and stormwater quality agencies to determine the appropriate and specific details of a monitoring program for ocean discharges in their regions and may run counter to existing monitoring programs instead of supplementing them.

Instead of including the specificity within the Ocean Plan, CASQA proposes that Appendix III establish a model monitoring approach and guidelines to ensure that the monitoring data is consistent, provides a high degree of quality, and supplements existing stormwater water quality monitoring programs. Regional Water Board staff can then work with the stormwater quality agencies to modify the existing water quality monitoring programs in order to implement the local Basin Plan as well as the Ocean Plan. CASQA would like to work with State Board staff to identify the model monitoring approach and guidelines.

The Ocean Plan Model Monitoring Should Be Consistent With and Supplement Existing Stormwater Monitoring Programs

For Phase I communities, Appendix III should provide an overarching model program framework, however, the Regional Water Boards and stormwater quality agencies should determine the location, frequency, and type of monitoring that needs to be conducted based on local water quality issues. Such an approach would allow the Regional Water Boards and stormwater quality agencies to optimize existing municipal stormwater monitoring programs without adding another layer of State directed monitoring.

In addition, consistent with the General Permit for the Discharge of Storm Water from Small MS4s (WQ Order No. 2003-0005-DWQ) (Phase II General Permit), water quality monitoring for Phase II communities should not be mandated, especially since the Phase II General Permit does not specifically require water quality monitoring. If the Regional Water Board determines that there is a justifiable need then they can require monitoring, however that is the local discretion of the Regional Water Boards.

*CASQA recommends Alternative 2: Use a model monitoring approach providing flexibility in implementing standard monitoring procedures, but without minimum requirements. In addition, State Water Board staff should modify Appendix III to identify what the requirements would be for Alternative 2.*

**Plastic Debris Regulation (Issue 23)**

State Water Board staff are proposing to amend the Ocean Plan to include a narrative objective to specifically address trash, including plastic debris. This amendment is being proposed since the Ocean Plan does not currently have water quality objectives that specifically address plastic debris or other trash and plastic debris has been identified as a significant concern in the ocean environment.

Of the three alternatives proposed in the Scoping Document, staff are recommending Alternative 2, which would amend the Ocean Plan narrative objectives to state that ocean water shall not contain trash including, but not limited to, plastic debris to the extent that it would cause nuisance or adversely affect beneficial uses, and require that all waste streams be essentially free of trash including plastic debris [emphasis added].

While the “essentially free” narrative objective may be a difficult standard to interpret and meet, CASQA supports the staff recommendation for Alternative 2 with conditions and for the following reasons:

Narrative Objective “Essentially Free” is Protective of Beneficial Uses While “Zero Discharge” Is Overly Stringent

CASQA understands the rationale for including a narrative objective to address plastic debris and trash within the Ocean Plan and appreciates that staff understand the inherent difficulties associated with Alternative 3, which represents an absolute prohibition of trash, or zero discharge. While zero discharge of trash is a good goal for stormwater programs, it is simply not possible to achieve in many situations given the open nature of the municipal storm drain system and the fact that, no matter how many BMPs are employed they are not 100% effective, and trash can potentially enter into the ocean through pathways other than the storm drain. Thus, reducing trash to zero is too stringent of a standard that may not provide a significantly increased environmental benefit greater than what the “essentially free” standard with conditions would provide.

Municipal Stormwater Programs Are Already Addressing Trash and Plastic Debris but More Statewide Assistance is Necessary

Throughout the state, municipal stormwater programs are already actively addressing trash and debris problems within their communities using a variety of source and treatment controls such as the following:

<b>Source Controls</b>	<b>Treatment Controls</b>
Solid Waste Programs	Catch Basin Screens and Inserts
Catch Basin Stenciling	Netting Systems and Booms
Street and Parking Lot Sweeping	Continuous Deflection Separator Units
Drainage Facility Maintenance	Full Capture Vortex Separation Systems
Watershed Cleanup Days	Mechanical Screen Systems
Public Education and Outreach Programs	

Although most of the stormwater programs and BMPs have been in place for some time and a significant amount of materials have been diverted from the storm drain system, additional source controls need to be employed at the true source(s) of the trash and debris problem to prevent the materials from entering the public right of way. For example, facilities and utilities (e.g., rail lines) that handle pre-production plastic pellets (“nurdles”) should be required to

implement appropriate source controls at their facilities to ensure that these materials do not leave the facility. Therefore, CASQA recommends that the State Water Board identify other source control mechanisms that would greatly assist in reducing the amount of trash and debris that enters the waterways.

The Narrative Objective Should Be Consistent with Existing Trash TMDLs

In addition to the source and treatment control requirements, many communities in the Los Angeles area have been subject to trash Total Maximum Daily Loads (TMDLs) for the last few years. The trash TMDLs in Los Angeles County require an incremental reduction of manmade debris down to 5 mm in size for runoff generated by storms up to and including the one year, one hour event. Although the Alternative 2 narrative objective is generally supported by CASQA, it is imperative that the objective include some guidance or conditions as to how it should be interpreted so that it is consistent with existing trash TMDLs and is not interpreted inconsistently throughout the state. This is critical since many stormwater agencies are already taking substantial steps to comply with these TMDLs.

*CASQA recommends Alternative 2 with conditions such that is consistent with trash TMDLs already in place and identify other mechanisms to reduce trash/plastic debris at the originating sources.*

**Non-Substantive Administrative Changes (Issue 25)**

Although the scoping document identifies several changes that are deemed to be “non-substantive administrative changes”, CASQA is concerned about the deletion of Section III (F) (1).

Section III (F) (1) states “The Regional Water Board shall revise the waste discharge requirements for existing discharges as necessary to achieve compliance with the Plan and shall also establish a time schedule for such compliance”. This provision is necessary in order to allow the Regional Water Boards the ability to establish time schedules for any new requirements that existing permittees must meet. Without this provision, permittees would, apparently, have to meet all new requirements immediately.

Within the scoping document it states that State Water Board staff are proposing to delete Section III (F) (1) because “it is no longer necessary and it is confusing”. CASQA would like to request additional clarification regarding this conclusion and the deletion of this provision.

*CASQA recommends that State Water Board staff provide additional clarification as to why this provision is proposed for deletion and how existing Permittees would be provided the necessary time to come into compliance with new provisions.*

Again, thank you for the opportunity to submit our comments on the proposed Ocean Plan amendments. We welcome the opportunity to work further with you to develop a monitoring program that will lead to successful implementation of the Ocean Plan. Please feel free to

CASQA Comment Letter – California Ocean Plan Amendments

contact me at (916) 808-1434 or Geoff Brosseau, our Executive Director at (650) 365-8620 if you have any questions or would like to discuss this further.

Sincerely,

A handwritten signature in black ink that reads "Bill O. Busath". The signature is written in a cursive, flowing style.

Bill Busath, Chair  
California Stormwater Quality Association

cc: Tam Doduc, Chair, State Water Board  
Gary Wolff, Vice Chair, State Water Board  
Art Baggett, State Water Board  
Charles R. Hoppin, State Water Board  
Frances Spivey-Weber, State Water Board  
Dorothy R. Rice, State Water Board  
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