

SCOPING DOCUMENT



Amendment of The Water Quality Control Plan Ocean Waters of California

STATE WATER QUALITY PROTECTION AREAS AND MARINE PROTECTED AREAS IMPLEMENTING STATE WATER BOARD RESOLUTIONS 2010-0057 and 2011-0013

The purpose of this document and the public scoping process is to seek input from public agencies and members of the public on the scope and content of the substitute environmental documentation that will be prepared in support of the amendment.

REGULATORY BACKGROUND

The Water Code, Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 requires the State Water Resources Control Board (State Water Board) to formulate and adopt a water quality control plan for the ocean waters of the state known as the California Ocean Plan (Ocean Plan). The Ocean Plan sets forth a program of implementation (including waste discharge limitations and monitoring) to ensure that water quality objectives are met. The State Water Board adopted the Ocean Plan in 1972, and has since periodically revised the Plan. The Ocean Plan was most recently amended in 2009.

Federal law [Section 303(c) (1) of the Clean Water Act (CWA)] and State law [Section 13170.2(b) of the California Water Code (CWC)] require that ocean water quality standards be reviewed at least once every three years. The purpose of the triennial review of the Ocean Plan is to guarantee the continued adequacy of water quality standards. In accordance with State Water Board direction in Resolution 2011-0013 http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2011/rs2011_0013.pdf, regarding the California Ocean Plan 2011-2013 Triennial Review Work Plan, staff is required to develop amendments to address higher priority issues.

PROPOSED PROJECT

The project is the State Water Board adoption of a proposed amendment to the Ocean Plan to address State Water Quality Protection Areas (SWQPAs) and Marine Protected Areas (MPAs). The proposed amendment will be based on the approach set forth in State Water Board Resolution 2010-0057, http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2010/rs2010_0057.pdf. The proposed amendment was identified as a very high priority issue in the 2011-2013 Triennial Review Work Plan

PROJECT DESCRIPTION

The Marine Managed Areas Improvement Act defines a marine managed area (MMA) as a named, discrete geographic marine or estuarine area along the California coast designated by law or administrative action, and intended to protect, conserve, or otherwise manage a variety of resources and their uses. An MPA is a marine or estuarine area set aside to protect and conserve marine life and habitat. MPAs, including marine reserves, marine parks and marine conservation areas are a type of MMA. The Marine Life Protection Act requires the redesign of California's system of MPAs to function as a network for improving the protection of marine life, habitats, and marine ecosystems. The California Fish & Game Commission has adopted many MPAs in the Central Coast, North Central Coast, and the South Coast. Additional MPAs are under consideration for the North Coast.

Another type of MMA is a SWQPA. A SWQPA is defined in the Public Resources Code as "a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board..." Areas of special biological significance (ASBS) are SWQPAs that require special protections. The Public Resources Code requires that point source waste and thermal discharges be prohibited or limited by special conditions in a SWQPA.

The Ocean Plan requires protection of species or biological communities in ASBS, and also prohibits waste discharges in ASBS. Discharges near an ASBS shall be at a sufficient distance to assure natural water quality. Appendix IV of the 2009 Ocean Plan provides procedures for the nomination and designation of ASBS. The Ocean Plan contains no specific requirements for other SWQPAs that are not ASBS.

State Water Board staff and other scientists appointed by the Director of the Department of Fish and Game participated in the MLPA Master Plan Science Advisory Team (SAT). The SAT provided guidance to the MLPA Blue Ribbon Task Force on water quality issues associated with MPAs, as well as other issues. The SAT acknowledges that marine water quality will play a role in the success of MPAs. The SAT has recommended that MPAs be sited so as to avoid areas of poor or threatened water quality, such as areas near power plant intake, areas receiving storm runoff from developed watersheds, and areas near municipal sewage or industrial wastewater outfalls. Of these three water quality threats, the SAT identified effluent from municipal sewage and industrial wastewater outfalls as the least concern. Nevertheless, effluent still may pose a risk. To address this risk, the SAT has suggested that the Regional Water Quality Control Boards (Regional Water Boards) could recommend to the State Water Board the designation of additional SWQPAs over existing MPAs, or identify as a priority and complete the identification and allocation of total maximum daily loads that could restore water quality in MPAs.

All existing municipal sewage and industrial wastewater outfalls are currently regulated under NPDES permits issued by the Regional Water Boards to implement water quality standards and other regulatory requirements of the Ocean Plan and other plans and policies. Existing wastewater outfalls represent an important public service and substantial infrastructure, and when discharges comply with NPDES permits, water quality should not be harmed. Compliance with Ocean Plan standards assures protection of marine water quality in the State's near coastal

waters (from mean high tide out to three nautical miles from shore) everywhere outside of the zone of initial dilution (ZID) of those outfalls.

The State Water Board directed staff in Resolution No. 2010-0057 and Resolution No. 2011-0013 to present a proposed amendment to the Ocean Plan. This project, if approved by the State Water Board, will amend the 2009 California Ocean Plan to include criteria to be considered when establishing SWQPAs at existing MPAs. Based on direction provided by the Board, staff proposes that no new wastewater outfalls should be established within any new SWQPAs that are designated as MPAs. Furthermore, staff proposes that the amendment to the Ocean Plan clarify that no new or modified limitations, substantive conditions, or prohibitions (beyond those in existing law, regulations and water quality control plans) will be imposed upon existing municipal wastewater discharge outfalls based on the new designation of MPAs, other than State Marine Reserves.

Pursuant to the direction contained in Resolution No. 2010-0057, staff proposes to develop conditions to protect water quality in future SWQPAs that are not ASBS that would address storm water and nonpoint sources. These conditions have not been developed yet. However, example of possible regulatory requirements for future SWQPAs designated by the State Water Board that are not ASBS are: (1) receiving waters at the point of discharge may not exceed background concentrations of constituents; (2) receiving waters at the point of discharge would not be allowed to exceed Ocean Plan objectives; and/or (3) runoff would be required to meet effluent targets set at instantaneous maximum objectives at the "end-of-pipe." In any case, a SWQPA would be required to maintain, at a minimum, existing water quality conditions to avoid degradation of the existing quality of affected waters.

State Water Board staff is not proposing that the proposed Ocean Plan amendment under this project include the designation of any new SWQPAs.