

APPENDIX A: BASIN PLAN AMENDMENT PROCESS

	STEP	TOOLS/GUIDE	TIMEFRAME
1	<p><u>Begin preparing Administrative Record</u> Establish:</p> <ul style="list-style-type: none"> ▪ Administrative Record (admin record) ▪ Chronological file ▪ Supporting documentation references ▪ Supporting data, organized ▪ Information considered and not relied upon ▪ California Environmental Quality Act (CEQA) references ▪ Natural Environment Study/Biological Assessment (NES/BA) references <p><i>Tip: Begin organizing all information related to the TMDL early so that compiling the “final” admin record will be easier.</i></p> <p><i>Tip: Have an “in-house” example for staff to review.</i></p>	<p>Administrative Procedures Manual (APM), beginning on page 19. Also, see website at: http://10.0.21.9/BasinPlanning/Training/BasinPlanningTraining.asp</p>	On-going
2	Determine if project will require a Basin Plan Amendment.	Regulatory Options flowchart- Impaired Waters Guidance	
3	Determine if your project meets the definition of project under CEQA.	CEQA PRC 15378 see website at: http://ceres.ca.gov/topic/environ_law/ceqa/guidelines/art20.html	Beginning of development – 2 months
4	<p><u>CEQA Scoping for project which meet the CEQA definition of “project”</u></p> <p><i>Note: Projects of statewide, regional, or area-wide significance are required to have CEQA Scoping. See website link for more information.</i></p> <p><i>Tip: Scoping meetings are to assist us in determining the scope and content of the environmental document. Scoping is helpful in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in the environmental document and in eliminating issues found not to be important from detailed study.</i></p> <p><u>Distribute CEQA Scoping Notice supervisor reviewed “package” for CEQA Scoping Meeting by doing the following:</u></p> <ul style="list-style-type: none"> ▪ Mail CEQA Scoping Meeting Notice to: <ol style="list-style-type: none"> (1) Any county or city that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county or city. (2) Any responsible agency. (3) Any public agency that has jurisdiction by law with respect to the project. (4) Any organization or individual who has filed a written request for the notice. (c) For any entity, organization, or individual that is required to be provided notice of a lead agency public meeting, the requirement for notice of a scoping meeting pursuant to subdivision (b) may be met 	<p>4a - CEQA scoping topics</p> <p>4b – Notice of CEQA scoping meeting example (Salton Sea)</p> <p>4c - notice of scoping 4-10-02</p> <p>4d - CEQA SCOPING FORM</p> <p>CEQA Scoping Meeting CEQA PRC 21083.9 see website at: http://ceres.ca.gov/ceqa/stat/chap2_6.html</p> <p>Functionally Equivalent Process CEQA PRC 21080.5 see website at: http://ceres.ca.gov/ceqa/stat/chap2_6.html</p>	Beginning of development – 2 months

<p>by including the notice of a scoping meeting in the public meeting notice.</p> <ul style="list-style-type: none"> ▪ Post on web – at least 30 days ▪ Publish CEQA Scoping Notice in appropriate newspaper(s) for 1 day <p><i>Note: The Staff Attorney will review the CEQA Scoping Notice.</i></p> <p><i>Note: CEQA Notice of Preparation (NOP) is optional for the Functionally Equivalent Process. If not using the Functionally Equivalent process, a NOP will be required at this point in the process.</i></p>		
<p>5</p> <p>Check to see if endangered species present are in your area Keep this in mind as working through project phases – see box 7 for more detail.</p> <p><i>Note: California Department of Fish and Game has a Natural Diversity Database (NDDDB) Rarefind, which lists the locations of both federal and state endangered, threatened, fully protected and rare species. Primary contact should be made with California Department of Fish and Game and U.S. Fish and Wildlife Service regarding the potential of endangered, threatened, fully protected, and rare species being affected by the project.</i></p>	<p>NDDDB-Rarefind For more information see website at: http://www.dfg.ca.gov/endangered/special_animals.html</p>	<p>Beginning of development-2 months</p>
<p>6</p> <p><u>Project Analysis</u> Complete Phases 1-5 of “Impaired Water Process”</p> <ul style="list-style-type: none"> ▪ Phase 1 – Definition of project, pollutant(s)/waterbody(s), justification. ▪ Phase 2 – Compile existing information, identify data needs, develop study plans, and engage stakeholders. ▪ Phase 3 – Data collection and analyses ▪ Phase 4 – Project report(s) with data and analysis findings. May include impairment assessment, source and loading analysis, implementation alternatives ▪ Phase 5 – Develop recommendations for regulatory action, compile results/findings. 	<p>Impaired Waters Guidance, which includes: “General Guidance” for TMDLs and TMDL “specific pollutant” guidance</p>	<p>1-4 years depending on project</p>
<p>7</p> <p><u>If required because endangered species present</u></p> <ul style="list-style-type: none"> ▪ Prepare Agency Consultation information. ▪ Prepare Natural Environment Study/Biological Assessment for impacts to endangered species, threatened species or their habitat. ▪ Coordinate with California Dept. of Fish and Game for state species and U.S. Fish and Wildlife Service for federal species. ▪ If species are listed by both state and federal agencies, coordination with both agencies should occur at the same time. This informal consultation provides the opportunity to minimize impacts, come up with mitigation, etc. ▪ Formal consultation begins with a request from USEPA to U.S. Fish and Wildlife Service to begin the Section 7 process. The Section 7 process takes 135 days, plus. ▪ Hopefully, Calif. Dept of Fish and Game concurs with the mitigation proposed by us. Otherwise there is another process (2081/2080.1). ▪ Consultation may be required with other agencies depending on the project. 	<p>7a - Attachment3ANatEnvStudy 2-28-02</p> <p>7b - BA-usfws+format</p>	<p>8 months</p>
<p>8</p> <p><u>Complete Draft of Regional Board Agenda Item Package (Staff Report)</u> Includes:</p> <ul style="list-style-type: none"> ▪ Item Summary/Cover Sheets ▪ Resolution (findings and Basin Plan amendment language) ▪ Supporting Documentation (Project Analyses Reports) ▪ CEQA Documents (Checklist, alternatives analysis, mitigation) ▪ Draft Certificate of Fee Exemption or CEQA filing fee ▪ Public Notice/Notice of Filing/CEQA Scoping ▪ Natural Environmental Study/Biological assessment, if necessary 	<p>APM http://10.0.21.9/BasinPlanning/Training/BasinPlanningTraining.asp</p> <p>8a - Which TMDL Elements are Regulatory?</p> <p>State Board Basin Planning</p>	

<p><i>Tip: Write concise summary of regulatory provisions in advance of preparing the staff report as an "outline" for the entire item. Does not need to be submitted until admin record goes to State Board after Regional Board Adoption.</i></p> <p>Important...don't forget to include the following somewhere within your Supporting Documentation:</p> <ul style="list-style-type: none"> ▪ Describe existing conditions and desired results/goals of amendment ▪ Consider reasonable alternatives to proposed amendment (CEQA – Alternatives analysis section, put behind CEQA checklist) ▪ Describe mitigation measures to minimize any potential significant impacts ▪ Explain rationale for recommended alternative and necessity for regulatory provisions ▪ Consider economics, if necessary ▪ Consider anti-degradation, if applicable <p><i>Submit to your senior for internal review before proceeding to the next step.</i></p> <p><i>Note: Include in the findings how "hot" issues were addressed by the Regional Board staff and who raised it, to provide a heads up to State Board.</i></p> <p><i>Tip: Get another staff person to review your draft package before giving it your supervisor.</i></p> <p><i>Tip: In your files, mark the date of the TMDL as the date you sent it to Peer Review for example, or label Peer Review draft, for easier identification during the compilation of the Admin Record.</i></p> <p><i>Tip: Avoid using the Microsoft Word auto date feature! It can make it very difficult in the future to differentiate between different drafts. Making a .pdf file for this step may be a good way to "freeze" the documents.</i></p>	<p>Unit (Paul Lillebo) Guide</p>	
<p>9 <i>The following three actions may happen concurrently, but are suggested to occur 1,2,3 as shown below:</i></p> <p>1) <u>Regional Board Attorney review</u></p> <ul style="list-style-type: none"> ▪ Send email (follow with hard copy) to Regional Board attorney, including all attachments listed above in the Draft Regional Board Agenda Package. <p><i>Note: Staff Counsel will be provided with a review list</i></p> <p>2) <u>Request Basin Plan Unit pre-review and written response</u></p> <ul style="list-style-type: none"> ▪ Send email (follow with hard copy) to Basin Planning Unit requesting pre-review and wait to move onto next step until receive written response from Basin Planning Unit. Indicate desired turn around time to meet Region's schedule. <p><i>Tip: Copy the State Board Basin Planning Section Chief and State Board Standards Development Section Chief with a "heads up" email (see tip below).</i></p> <p>3) <u>Request Scientific State Peer Review</u></p> <p>Send email (follow with hard copy) to State Board Standards Development Section Unit Chief requesting Scientific State Peer Review.</p> <p><u>Include the following as attachments:</u></p> <ul style="list-style-type: none"> ▪ Letter (on letterhead) to State Board Standards Development 	<p>State Board Basin Planning Unit (Paul Lillebo) Guide</p> <p>External Scientific Peer Review Health and Safety Code §57004. See website at: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hs&group=56001-57000&file=57000-57012</p> <p>9a - "State and Regional Board Scientific Peer Review Process: Review and Update," from Gerald Bowes</p>	<p>1 month</p>

10	<p>Section Chief requesting peer review</p> <ul style="list-style-type: none"> ▪ Focus questions for the reviewers ▪ List of individuals and affiliations with the TMDL ▪ Project description (much like an executive summary) <p><i>Tip: Send a “heads up” email (include a <u>very</u> brief synopsis of project) to State Board Standards Development Section Chief about 2 weeks before you send him the official request so he has some notice about what type of Peer Reviewers to contact.</i></p> <p><i>Tip: Be very explicit in your list of individuals and affiliations with the TMDL so Peer Reviewers can be chosen appropriately (for example, if a certain lab analyzed all your results, name the lab because it is possible someone who works for that lab might be a State Certified Peer Reviewer on the side).</i></p> <p><i>Tip: This may be when you want to provide stakeholders with the opportunity for pre-public notice review.</i></p>		
	<p><u>Receive letter from State Board Standards Development Section naming specific Scientific Peer Reviewers</u> Send “package” to each Peer Reviewer including:</p> <ul style="list-style-type: none"> ▪ Letter (on Regional Board letterhead) describing desired outcome ▪ Supporting Documentation ▪ Item Summary/Cover Sheet ▪ Any supporting documents that might be useful to the reviewer ▪ Focus questions for the reviewer 	<p>10a - SSPR Request Cover</p> <p>10b – Focus Question example</p>	
11	<p><u>Receive Peer Review comments</u> Email Standards Development Section chief to let him/her know that comments from Peer Reviewers were received.</p>		8 weeks
12	<p><u>Revise documents with regards to comments received</u></p> <p><u>Respond to Peer Review</u></p> <ul style="list-style-type: none"> ▪ Make technical edits per Peer Review comments (include technical revisions in public notice version) ▪ Prepare new section of staff report with <i>specific responses</i> to all comments (set aside, save for Agenda Package to Board; does not need public review). The specific responses to comments can be addressed: <ol style="list-style-type: none"> 1) In Item Summary/Cover sheet as a section identified as “Response to Peer Review” and distinct from response to comments from public. <p style="text-align: center;">OR</p> <ol style="list-style-type: none"> 2) In a separate attachment in the Agenda Item Package. <p><u>Receive comments from attorney</u></p> <ul style="list-style-type: none"> ▪ Incorporate changes into draft as appropriate. <p><u>Receive comments from Basin Planning</u></p> <ul style="list-style-type: none"> ▪ Incorporate changes into draft as appropriate <p><i>Tip: Comments from attorney and Basin Planning Unit do not need to have specific responses as detailed under Peer Review section above.</i></p>	<p>12a – Region 7 example (direct response)</p> <p>12b – Region 3 example (as part of item summary sheet)</p>	4 weeks
13	<p><u>Complete Revised Draft of Agenda Item Package for INTERNAL (supervisor/EO) REVIEW including:</u></p> <ul style="list-style-type: none"> ▪ Item Summary/Cover Sheet ▪ Resolution and Amendment Language (get appropriate resolution number) 	See final examples under box 15	4-6 weeks

14	<ul style="list-style-type: none"> ▪ Supporting Documentation ▪ CEQA Documents (CEQA checklist, Alternatives Analysis and Certificate of Fee Exemption for De Minimus Finding) ▪ Public Notice/Notice of Filing/CEQA Scoping Notice ▪ Natural Environment Study for Endangered Species or habitats – <i>if necessary</i>. <p><i>Tip: Get a coworker to review your agenda item package, checking for errors, consistency, etc. before you give it to your supervisor.</i></p>		
	<p><u>Distribute above supervisor reviewed “package” for public notice by doing the following:</u></p> <p><i>Note: Make sure staff attorney reviews notice before releasing for public notice.</i></p> <ul style="list-style-type: none"> ▪ Mail public notice to potential interested parties (including USEPA contact, Governor’s Office of Planning & Research -State Clearinghouse (15 copies) and other agencies contacts not on the State Clearinghouse list, USFWS – see CEQA website), include project description, time and location of hearing or comment submittal with CEQA scoping information, web location and contact info necessary to request additional information. ▪ Post on web – at least 45 days ▪ Publish public notice in appropriate newspaper(s) for 1 day (unless recommending Prohibition, then 3 consecutive days) ▪ Place distribution lists, interested parties list, and proof of publication from the published notice into Admin Record <p><i>Logical outgrowth rule: If hearing notice states that changes may be considered consistent with the amendment’s general purpose, Board need not re-notice before adopting changes that are logical outgrowths of the amendment.</i></p>	<p>Governor’s Office of Planning and Research (State Clearinghouse) website: http://www.opr.ca.gov/clearinghouse/Clearinghouse.shtml</p>	
15	<p><u>Receive all public comments and revise/finalize Agenda Item Package including</u></p> <ul style="list-style-type: none"> ▪ Item Summary/Cover Sheet, to include changes and explanations of response to all comments (scientific peer review + any public comment) ▪ Resolution and Amendment Language ▪ Supporting Documentation ▪ CEQA Documents (CEQA checklist, Alternatives Analysis and Certificate of Fee Exemption for De Minimus Finding) ▪ Public Notice/Notice of Filing/CEQA scoping 	<p>See specific regions for examples (can we have the regions have a holding place on their websites for completed TMDLs with all attachments?)</p>	4 weeks
16	<p><u>Distribute Final Agenda Item Package</u></p> <ul style="list-style-type: none"> ▪ Distribute public agenda/hearing notice and availability of final recommended Basin Plan Amendment to IPL list, according to your Regional Board’s protocol. Make sure to keep a copy of the mail-out list for your records. 		
17	<p><u>Prepare Presentation to Regional Board-</u></p> <ul style="list-style-type: none"> ▪ Prepare PowerPoint presentation. <p><i>Tip: Practice at least once with a peer or senior and make sure to have backup slides at the end of your presentation to help defend contentious issues.</i></p>		2 weeks
18	<p><u>Present Amendment to Regional Board</u></p>		
19	<p><u>After Regional Board Adopts Basin Plan Amendment (Regional Board to do list)</u></p> <ul style="list-style-type: none"> ▪ Type up minutes of hearing and submit to admin record. ▪ Submit Press release to EO the morning after the Board meeting. ▪ Get EO to sign the Adopted resolution (if Board asked for changes, 		

<p>make changes prior to getting EO's signature), CEQA checklist, Dept. of Fish and Game Exemption and Public Notice.</p> <ul style="list-style-type: none"> ▪ IF the Board made any changes to any of the documents, make sure to save/file a copy of the document that was presented to them and a separate copy of the final version that the EO signs (<i>Tip: .pdf a copy of each so you have a final copy that won't have inadvertent changes in it</i>) <p><i>Tip: If your region desires, get an electronic copy of resolution added to website</i></p>		
<p>20 <u>Prepare Administrative Record</u> Add, to existing Admin Record up to this point:</p> <ul style="list-style-type: none"> ▪ Meeting Agenda ▪ Agenda Item ▪ Board Presentation ▪ Meeting transcripts (ask admin staff to obtain) ▪ Public comment submittals ▪ Change sheets ▪ Final resolution (signed copy by EO) ▪ Basin Plan Amendment (signed copy by EO) ▪ CEQA Documents (CEQA checklist, Alternatives Analysis and Certificate of Fee Exemption for De Minimus Finding, signed copy by EO) ▪ Response to new comments raised during the Board hearing ▪ Any addendum sheet, making a change/addition to the TMDL that does not affect the resolution and explanation of why changes were made. <p><i>Note: Make sure that signatures are on the items which require them, attachments are included if listed as included, and that letterheads are fully copied.</i></p> <p><u>Prepare Admin Record Index.</u></p> <ul style="list-style-type: none"> ▪ Copies to be paginated, with no blank pages. ▪ Complete Index with pagination (index runs from oldest to newest info... that is, tells how the "story unfolded"). ▪ Copy completed Admin Record (3 copies required - 1 for Reg. Board, 2 to Basin Planning). ▪ Compare all copies of the Admin Record to ensure that pages were not added or deleted during copying; pagination is in order, etc. <p><u>Preparing for Submittal of Admin Record</u></p> <ul style="list-style-type: none"> ▪ Place admin record in a three-ring binder, with Regional Board letterhead as the cover sheet in the binder. Make sure to label spine of binder as well. ▪ Write a "Clear and Concise Summary of Regulations" ▪ Prepare two (2) copies of the "interested parties" mailing list on self-adhesive labels. ▪ Write "transmittal memo" to Basin Planning ▪ Pdf a signed copy of the resolution and amendment language ▪ Pdf the TMDL support document ▪ Prepare electronic IPL list <p><i>Note: Do not include any correspondence from State or Regional Board attorneys in the Admin Record. This is confidential based on the attorney/client privilege.</i></p>	<p>20a - ADMINRECORDINDEXe wRiverSiltir8-9-02</p> <p>20b - Minor correction memo</p> <p>20c – Concise summary example</p> <p>20d – Transmittal memo example</p> <p>Per APM http://10.0.21.9/BasinPlanning/Training/BasinPlanningTraining.asp</p>	<p>6 - 8 weeks. Need time to receive the transcript and to make changes and respond to comments raised during the Board meeting.</p>
<p>21 <u>Check Admin Record</u></p> <ul style="list-style-type: none"> ▪ Have a qualified record specialist check the Admin Record for completeness. Check that any regulatory provisions added late in the process - at the hearing - are justified in the record. 		<p>2 days</p>

	<ul style="list-style-type: none"> Write Blue sheet addendum, if needed. 	
22	<p><u>Send Admin Record to State Board</u> Overnight package to State Board with transmittal memo.</p> <ul style="list-style-type: none"> Expect acknowledgement of receipt from SB staff, a tentative scheduling for State Board action. Send hard copy of this transmittal memo to USEPA When acknowledgement of receipt from specific State Board staff is received, email pdf copy of resolution and amendment language, pdf TMDL support document and the electronic IPL list. <p><i>Tip: When corresponding with the Basin Planning Unit regarding various issues, best to confirm the outcomes of the conversations by summarizing them in email, so as to provide clear lines of communication.</i></p>	Basin Planning Unit has 60 days to review.
23	<p><u>SB Hearing Process steps</u></p> <ul style="list-style-type: none"> Review State Board Agenda Item for completeness and accuracy. Let Basin Planning Unit know if the TMDL was controversial. Review amendment and Project Report prior to attending State Board Workshop and State Board Hearing. Notify your staff attorney of when the Workshop and Hearing are planned, and ask him/her to be there. Prepare to answer questions from the Board and the public. Early responses would have been faxed to you. Prepare to respond to the written responses or assist State Board staff in responding. Prepare abbreviated presentation—less than 5 minutes in length. (Do not read to the Board.) Contact Basin Planning the night before or morning of both meetings to find out if there have been written responses. You may have to respond to those letters/comments at the Workshop or Meeting. 	6 - 8 weeks. Need time to receive the transcript and to make changes and respond to comments raised during the Board meeting.
24	<p><u>Office of Administrative Law (OAL) Process</u></p> <ul style="list-style-type: none"> State Board will submit one copy of the Admin Record to OAL. OAL will have 30 working days to review the record. Request that State Board staff let you know when they deliver the record to OAL. Mark your calendars to be available the last week before the 30 working days end, as that is usually when you will be contacted by OAL or State Board staff for changes to the Admin Record. You will be required to make those changes (if non-substantive) in the remaining time (prior to the end of the 30 day period). Deemed approved if no action in 30 days 	30 working days.
25	<p><u>EPA Process</u></p> <ul style="list-style-type: none"> State Board will submit the Project Report, response to comments, and a copy of the implementing basin plan amendment with approving documentation (SB, OAL) to EPA. USEPA has 60 days to approve. You may be asked to make some non-substantive changes to the Project Report. 	60 days
	AFTER FINAL APPROVAL	
26	<p><u>File Certificate of Fee Exemption or pay fee to Dept. of Fish and Game</u></p> <ul style="list-style-type: none"> Send the Certificate of Fee Exemption to the director of Fish and Game (currently Robert Hight) along with the CEQA checklist finding no adverse impact on the environment. <p>Robert Hight Director of California Department of Fish and Game 1416 Ninth Street, 12th floor</p>	

	<p>Sacramento, CA 95814</p> <p>Phone: 916-653-7667</p>		
27	<p><u>File Notice of Decision with Secretary of Resources and Governor's Office of Planning and Research (State Clearinghouse). Remember to include the CEQA filing fee, if your project had significant affects on the environment.</u></p> <ul style="list-style-type: none"> Send within 30 days after the Basin Plan amendment is approved by the final approver (be it OAL or EPA). The Secretary of Resources is currently Mary Nichols. <p>Mary D. Nichols Secretary of the California Resources Agency 1416 Ninth Street, Suite 1311 Sacramento, CA 95814</p> <p>Phone: 916-653-5656</p> <ul style="list-style-type: none"> Send within 30 days after the Basin Plan amendment is approved by the final approver (be it OAL or EPA). <p>Governor's Office of Planning & Research State Clearinghouse 1400 10th Street Sacramento, CA 95814</p> <p>Phone: (916) 445-0613</p> <p>CEQA Filing Fee is currently \$850.00 Obtain copy of CEQA Compliance by visiting State Clearinghouse website.</p>	<p>27a - Notice of Decision</p> <p>27b - SCHcoverletter NOD.</p> <p>http://www.ceqanet.ca.gov/queryform.asp?</p>	
28	<p><u>Revise the Basin Plan</u></p> <p>Follow internal procedures for physically modifying the Basin Plan</p>		
29	<p><u>Implement!!!!</u></p>		

Purple notes (e.g. 4a) can be found at the ftp site under <ftp://10.0.21.8/BasinPlanningWorkgroup/Supporting Documents>

General Recommendations

- If a TMDL has to be “reheard” before the Regional Board for any circumstance, it is possible that the public comment period can be less than 45 days.
- Keep in mind the APA standards of review throughout preparation of the Staff Report: Clarity, Necessity, Consistency, Authority, Reference, and Non-duplication.
- When citing Personal Communication, cite the date and time of the conversation and a description of what was discussed. If certain data was discussed in the conversation, please include that as part of the “personal communication” as well.
- For ease of finding different drafts, consider pdf’ing drafts/finals (e.g. Peer Review version, Public Comment version, Regional Board Agenda version, etc.).
- Items mentioned in green font are optional.

Acronyms List

APA	Administrative Procedures Act
APM	Administrative Procedures Manual
BA	Biological Assessment
CEQA	California Environmental Quality Act
EO	Executive Officer
IPL	Interested Parties List
NDDDB	Natural Diversity Database
NES	Natural Environmental Study
OAL	Office of Administrative Law
RB	Regional Board
SB	State Board
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency

