

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
OCTOBER 16, 2012**

ITEM 10

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION TO AMEND THE CALIFORNIA OCEAN PLAN ADDRESSING THE IMPLEMENTATION OF STATE WATER BOARD RESOLUTIONS 2010-0057 AND 2011-0013, STATE WATER QUALITY PROTECTION AREAS AND MARINE PROTECTED AREAS.

DISCUSSION

The California Ocean Plan (Ocean Plan) establishes water quality standards for California's ocean waters and provides the basis for regulation of wastes discharged into the state's near-coastal ocean waters. The Ocean Plan applies to point and nonpoint source discharges. Section 13170.2 of the California Water Code directs the State Water Resource Control Board (State Water Board) to formulate and adopt a water quality control plan for ocean waters of California.

The proposed Resolution and amendments were initiated in response to State Water Board [Resolution 2010-0057](#), adopted on November 16, 2010, which directs staff to develop an approach for establishing State Water Quality Protection Areas (SWQPA) that are not intended to be designated as Areas of Special Biological Significance (ASBS). State Water Board [Resolution 2011-0013](#), adopting the most recent California Ocean Plan Triennial Review Workplan, assigned this issue a very high priority. A public scoping meeting was held on July 8, 2011. A public hearing was held on May 1, 2012, and a subsequent public workshop was held on August 22, 2012 to solicit further comments on changes to the draft Substitute Environmental Document (SED) and proposed amendments.

The Marine Life Protection Act requires the evaluation and redesign of California's system of Marine Protected Areas (MPAs) to function as a network for reasons that include improving the protection of marine life, habitats, and marine ecosystems. The California Fish and Game Commission has now adopted MPAs in the Central Coast, North Central Coast, and the South Coast; additional MPAs are in the process of being designated on the North Coast.

The Ocean Plan does not currently contain specific requirements for establishing SWQPAs that are not designated as ASBS nor does the Ocean Plan contain requirements that address MPAs. The proposed amendments to the Ocean Plan would, if adopted:

- Establish a second category of SWQPAs that would be less restrictive than the provisions associated with existing SWQPA – ASBS while providing a higher level of protection than the California Ocean Plan provisions that apply to all ocean waters of the state. This new category would be identified as SWQPAs – General Protection.
- Establish provisions for siting and designating SWQPAs – General Protection in state marine parks and state marine conservation areas.

- Establish provisions and prohibitions that protect water quality in SWQPAs – General Protection from certain types of existing and future point and nonpoint source discharges while allowing some low threat discharges to continue without additional conditions.

The proposed amendment would not affect existing Ocean Plan provisions protecting ASBSs or designate and adopt new SWQPAs. Designation of specific areas as SWQPAs could be subject to future consideration by the State Water Board under a separate process.

POLICY ISSUE

1. Should the State Water Board adopt the proposed California Ocean Plan amendments addressing the implementation of State Water Board Resolution 2010-0057 and 2011-0013 for State Water Quality Protection Areas and Marine Protected Areas?
2. Should the State Water Board approve the Staff Report and SED for the proposed amendments?

FISCAL IMPACT

There is no fiscal impact from the proposed amendment, since the proposed amendment does not designate any new SWQPAs or alter or affect existing Ocean Plan provisions protecting ASBS.

REGIONAL BOARD IMPACT

Yes, the proposed Resolution and amendment impacts all coastal Regional Water Quality Control Boards.

STAFF RECOMMENDATION

That the State Water Board:

1. Adopt the proposed resolution approving the Ocean Plan Amendment addressing implementation of State Water Board Resolutions 2010-0057 and 2011-0013 for State Water Quality ASBS.
2. Approve the Staff Report and SED for the proposed amendments.

State Water Board action on this item will assist the Water Boards in reaching Goals 4 and 6 of the Strategic Plan Update: 2008-2012, to comprehensively address water quality protection and restoration, and to enhance consistency across the Water Boards.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2012-

ADOPTING THE CALIFORNIA OCEAN PLAN AMENDMENT IMPLEMENTING STATE WATER BOARD RESOLUTIONS 2010-0057 AND 2011-0013 REGARDING STATE WATER QUALITY PROTECTION AREAS AND MARINE PROTECTED AREAS

WHEREAS:

1. The State Water Resources Control Board (State Water Board) adopted the California Ocean Plan (Ocean Plan) in 1972 and revised it in 1978, 1983, 1988, 1990, 1997, 2001, 2005 and 2009.
2. The State Water Board is responsible for reviewing Ocean Plan water quality standards and for modifying and adopting standards in accordance with Section 303 (c)(1) of the federal Clean Water Act and section 13170.2(b) of the California Water Code.
3. On November 16, 2010, the State Water Board adopted [Resolution No. 2010-0057](#), Marine Protected Areas and State Water Quality Protection Areas. The Resolution directed State Water Board staff to propose amendments to the Ocean Plan to address designation of new State Water Quality Protection Areas and to clarify requirements for existing discharges relative to Marine Protected Areas.
4. On March 15, 2011, the State Water Board adopted the Triennial Review Workplan 2011-2013, in [Resolution No. 2011-0013](#), which included under Issue 1 direction to staff to propose an amendment to the Ocean Plan addressing State Water Quality Protection Areas and Marine Protected Areas.
5. On July 8, 2011, the State Water Board held a scoping meeting regarding potential Ocean Plan Amendments to solicit input from public agencies and members of the public on the scope and content of the substitute environmental documentation to be prepared in support of the amendment.
6. On May 1, 2012, the State Water Board conducted a public hearing. Twenty-four written public comments were received and reviewed. Staff considered comments and input from Board Members and the public and drafted revisions to the proposed amendments and draft SED, which were circulated on February 28, 2012.
7. On August 22, 2012, the State Water Board conducted a public workshop to consider changes proposed by staff in response to comments received. A written comment period from July 31, 2012 through August 31, 2012, allowed for submission of comments on the changes from the earlier draft documents.
8. The State Water Board prepared and circulated a draft Substitute Environmental Document (SED) in accordance with the provisions of the California Environmental Quality Act and title 14, California Code of Regulations section 15251(g) and in compliance with State Water Board regulations governing certified regulatory programs. (See Cal. Code Regs., tit. 23, § 3777) The SED consists of the draft SED dated January 6, 2012, and updated on February 23 and July 25, 2012, and responses to

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comments on the draft SED and the proposed project. Together, these documents constitute the required environmental documentation under CEQA. (See Cal. Code Regs., tit. 14, §§ 15250, 15252; Cal. Code of Regs., tit. 23, § 3777.)

9. The State Water Board has considered the SED, which analyzes the project, alternatives to the project and reasonably foreseeable methods of compliance with the proposed amendments and concludes that the project will not result in adverse environmental impacts.
10. These amendments to the Ocean Plan do not become effective until approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. After considering the entire record, including oral comments at the public hearing, adopts the [State Water Quality Protection Areas and Marine Protected Areas amendment to the Ocean Plan](#).
2. Approves the [final SED](#), which includes the [responses to comments](#), and directs the Executive Director or designee to transmit the Notice of Decision to the Secretary of Resources.
3. Authorizes the Executive Director or designee to submit the amended Ocean Plan to OAL for review and approval.
4. Directs the Executive Director or designee to make minor, non-substantive modifications to the language of the amendment, if OAL determines during its approval process that such changes are needed, and inform the State Water Board of any such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on October 16, 2012.

Jeanine Townsend
Clerk to the Board