

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF June 20-21, 2024

Prepared on May 21, 2024

ITEM NUMBER: 16

SUBJECT: Proposed Basin Plan Amendments to Incorporate Applicable Provisions of Statewide Plans and Policies

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ACTION: Adopt Proposed Resolution R3-2024-0003

SUMMARY

The Water Quality Control Plan for the Central Coastal Basin (Basin Plan)¹ forms the basis for regulatory actions taken by the California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) to protect waters of the state and to ensure compliance with applicable state and federal laws, including the California Water Code and the federal Clean Water Act. The Basin Plan establishes beneficial uses for surface waters and groundwater, water quality objectives to support beneficial uses, and describes the programs, projects, prohibitions, and other actions that are necessary to achieve water quality objectives. The Basin Plan also summarizes State Water Resources Control Board (State Water Board) and Central Coast Water Board plans and policies to protect water quality and describes statewide and regional surveillance and monitoring assessment programs. A change to the Basin Plan requires a Basin Plan amendment. This staff report summarizes proposed amendments to the Basin Plan to incorporate applicable provisions of statewide plans and policies, correct typographical errors and punctuation, and comply with Assembly Bill (AB) 434² web accessibility requirements.

The Basin Plan amendment project is presented to the Central Coast Water Board for consideration as Proposed Resolution R3-2024-0003 (Attachment 1). The Basin Plan amendments make non-regulatory revisions (i.e., without regulatory effect under California Code of Regulations (CCR), title 1, section 100, subdivision(a)) to the Basin

¹ The Basin Plan is available on the Basin Planning Program's website:

https://www.waterboards.ca.gov/centralcoast/water_issues/programs/basin_plan/

² California Legislative Information website, AB 434 State Web accessibility:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB434

Plan to improve and clarify its application and implementation and improve water quality protection.

DISCUSSION

Background

The Central Coast Water Board first adopted the Basin Plan in 1975 and has periodically amended it since. Amendments to the Basin Plan must undergo public review prior to adoption. They are adopted by the Central Coast Water Board and subsequently approved by the State Water Board, the California Office of Administrative Law, and often also by the United States Environmental Protection Agency. There have been three amendment projects approved since the approval of the currently published 2019 Basin Plan. Although these amendments are in effect, they have not been incorporated into the Basin Plan and are instead on the Basin Planning website as separate documents. To incorporate the amendments approved since publishing the 2019 Basin Plan, the Basin Plan must be reformatted to create a web accessible document.

California Water Code section 13240 requires that the Basin Plan be periodically reviewed; and as a result of such review, the Basin Plan may be revised. Similarly, the federal Clean Water Act section 303(c) requires a “triennial review” every three years for the purpose of reviewing applicable water quality standards. These reviews, last undertaken in 2021 and referred to as the 2021 Triennial Review, resulted in a prioritized list of proposed amendments to the Basin Plan that may be undertaken to improve Basin Plan clarity and usefulness. The 2021 Triennial Review included consideration of 47 proposals (suggestions for future Basin Plan amendments). Following both internal and external outreach to identify priority projects for future Basin Plan amendments and resources to develop the technical elements of the proposed amendments (e.g., staff or external entities), the Central Coast Water Board approved the Priority List of Proposed Basin Plan Amendments that contained eight proposals.

The Central Coast Water Board initiated this Basin Plan amendment to implement the 2021 Triennial Review’s³ prioritized Proposal 19: *Update Basin Plan to Include all Statewide Objectives*. Subsequently, Proposal 19 was combined to also include aspects of Proposal 3: *Add and Designate the Tribal Beneficial Uses (TBUs)*, namely adding the TBU definitions that were adopted by the State Water Board in the same provisions being incorporated by Proposal 19.⁴ Thereafter, the Basin Plan amendment was expanded to incorporate editorial aspects of Proposal 37: *Editorial Corrections and*

³ 2021 Triennial Review Report:

https://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan/triennial_review/docs/2021/item7_att1.pdf

⁴ These beneficial uses include Tribal Tradition and Culture (CUL); Tribal Subsistence Fishing (T-SUB); and another beneficial use, Subsistence Fishing (SUB). See, *Final Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal Subsistence Beneficial Uses and Mercury Provisions*:

https://www.waterboards.ca.gov/plans_policies/docs/2023/mercury-tribe.pdf

Minor Clarifications (Chapter 5), and Proposal 41: *Editorial Corrections and Minor Clarifications* (All Chapters).

A detailed discussion of the Basin Plan amendment and each revision is provided in the Proposed Basin Plan Amendment Project Report (Attachment 2).

Summary of Proposed Amendments

The Basin Plan amendment project is organized as follows:

1) incorporate applicable provisions of statewide water quality control plans and policies, 2) replace equation objects with images, 3) edit symbols, 4) correct typographical errors, 5) edit punctuation, and 6) reformat tables.

Additionally, to meet AB 434 requirements, the Basin Plan was transferred to a web accessible document template, which resulted in cosmetic changes (e.g., font size, layout, pagination) that do not constitute formal revisions requiring review and adoption by the Central Coast Water Board. The following sections provide additional details on the amendments:

1) Incorporate applicable provisions of statewide water quality control plans and policies:

Revisions to Basin Plan chapters 2, 3, 5, and appendices conform to and/or provide reference to current statewide plans and policies and therefore improve the clarity and usefulness of the Basin Plan. The State Water Board has adopted and/or amended statewide plans and policies that are not currently identified in the Basin Plan. These amendments incorporate the State Water Board adopted provisions and policies of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan), including Part 1-Trash Provisions, Part 2-Tribal Subsistence Beneficial Uses and Mercury Provisions, Part 3- Bacteria Provisions and Variance Policy, and the State Wetland Definition and Procedures. Similarly, the State Water Board has established the Water Quality Control Plan for Ocean Waters of California (Ocean Plan), for territorial marine waters of the state, which it revised in 2019.

These statewide provisions are already applicable to waters of the state within the Central Coast Region. However, incorporating these into the Basin Plan will ensure that permit writers, interested persons, and Tribes referring to the Basin Plan will be aware that these statewide provisions establish water quality objectives and beneficial use categories for waters of the state within the Central Coast Region and, in some cases, that they supersede the objectives in the 2019 version of the Basin Plan.

2) Replace equation objects with images:

Revisions to chapter 4 to replace equations with images of formatted equations to comply with web accessibility standards. Microsoft Word displays formatted mathematical expressions as equation objects that are incompatible with existing web accessibility software.

3) *Edit symbols:*

Revisions to chapters 2, 4, and 5 to create consistency in the use of certain symbols and comply with web accessibility standards.

4) *Correct typographical errors:*

Revisions to all chapters to correct errors or conform to office writing guidelines.

5) *Edit punctuation:*

Revisions to chapters 4, 5, and 6 to correct errors or create consistency between Basin Plan sections.

6) *Reformat tables:*

Revisions to all tables (chapters 1, 2, 3, 4, and 6) for web accessibility standards and consistent formatting, to edit symbols and punctuation, and to correct typographical errors. In two cases (Table 3-3 and Table 3-4) content was removed from tables as provided by the water quality objectives that supersede them. In two cases (Table 4.9.1 and Table 4.9.3) tables were reformatted to tables and paragraphs to comply with web accessibility requirements.

Environmental Documentation Summary

The Basin Plan amendments do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of the Basin Plan, and is therefore without regulatory effect under the CCR (title 1, section 100, subdivision (a)). The proposed action to amend the Basin Plan is not a “project” within the meaning of the California Environmental Quality Act (CEQA) because it will cause neither a direct physical change in the environment nor a reasonably foreseeable indirect physical change in the environment (Public Resources Code, section 21065; CCR, title 14, section 15378; Public Resources Code, section 21080.1). As a result, the non-regulatory revisions are not subject to CEQA and, therefore, not subject to the State Water Board’s certified regulatory program regulations for implementing CEQA (CCR, title 23, section 3720, subdivisions (b) and (c)(2)). However, consistent with the State Water Board’s CEQA implementation guidelines, the Central Coast Water Board prepared a CEQA Checklist (Attachment 3).

Human Right to Water

California Water Code section 106.3, subdivision (a) states that it is the policy of the State of California “that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes.” On January 26, 2017, the Central Coast Water Board adopted Resolution R3-2017-0004, which affirms the realization of the human right to water and the protection of human health as the Central Coast Water Board’s top priorities.

The Basin Plan amendment project is consistent with Resolution R3-2017-0004 because revisions clarify water quality control elements that are already in effect for the Central Coast Region and improve overall Basin Plan clarity. Revisions ensure that Tribes, staff, interested persons, and members of the public have a common

understanding of foundational information in the Basin Plan and all applicable statewide plans and policies, and the application and implementation of the Basin Plan, to provide the highest water quality reasonably possible for maximum benefit.

Environmental Justice

Environmental Justice principles call for the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income in the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies that affect every community's natural resources and the places people live, work, play, and learn. The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of all people, including Underrepresented Communities. Underrepresented Communities include but are not limited to Disadvantaged Communities (DACs), Severely Disadvantaged Communities (SDACs), Economically Distressed Areas (EDAs), Tribes, Environmentally Disadvantaged Communities (EnvDACs), and members of Fringe Communities.⁵ Furthermore, the Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities.

The Basin Plan amendment project is applicable to the entire Central Coast Region and all underrepresented communities therein. The revisions will add Tribal and subsistence fishing beneficial use definitions and associated water quality objectives to the Basin Plan as a first step in developing water quality standards for waters that will be designated Tribal beneficial uses in the future.

Public outreach included the release of public notices in English and Spanish on the Basin Planning program website and via email to the Basin Planning Triennial Review interested persons list, which contains third party programs for underrepresented communities. Staff also conducted targeted outreach to Tribes in the Central Coast Region and underrepresented communities (see additional details in the Outreach and

⁵ Disadvantaged Community: a community with an annual median household income that is less than 80% of the statewide annual median household income (Public Resources Code section 80002(e)); Severely Disadvantaged Community: a community with a median household income of less than 60% of the statewide average. (Public Resources Code section 80002(n)); Economically Distressed Area: a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less with an annual median household income that is less than 85% of the statewide median household income and with one or more of the following conditions as determined by the department: (1) financial hardship, (2) unemployment rate at least 2% higher than the statewide average, or (3) low population density. (Water Code section 79702(k)); Tribes: federally recognized Indian Tribes and California State Indian Tribes listed on the Native American Heritage Commission's California Tribal Consultation List; EnvDACs: CalEPA designates the top 25 percent scoring census tracts as DACs. Census tracts that score the highest five percent of pollution burden scores but do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data are also designated as DACs (refer to the CalEnviroScreen 3.0 Mapping Tool or Results Excel Sheet); Fringe Community: communities that do not meet the established DAC, SDAC, and EDA definitions but can show that they score in the top 25 percent of either the Pollution Burden or Population Characteristics score using the CalEnviroScreen 3.0.

Response to Comments section). In addition, a notice of public hearing was published in all major newspapers throughout the Central Coast region.

Climate Change

The Central Coast faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, the Central Coast Water Board has launched the Central Coast Water Board's Climate Action Initiative, which identifies how the Central Coast Water Board's work relates to climate change and prioritizes actions that improve water supply resiliency through water conservation and wastewater reuse and recycling; mitigate for and adapt to sea level rise and increased flooding; improve energy efficiency; and reduce greenhouse gas production. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.

The Basin Plan amendments will not have direct climate change impact benefits; however, amendments will increase the Basin Plan's usefulness as a regulatory tool to protect water quality and water supply resiliency, which will become increasingly difficult (and more important to implement) with the impacts of climate change.

OUTREACH AND RESPONSE TO COMMENTS

Staff conducted extensive public outreach throughout the amendment process.

Tribal Outreach

The Basin Plan amendment process included informal and formal outreach efforts to Tribes in the Central Coast Region.

Specific outreach included the following:

- In 2023, and prior to formal outreach for this specific project, staff contacted known Tribal representatives of the Santa Ynez Band of Chumas Indians, the Ohlone/Costanoan-Esselen Nation, and Amah Mutsun Tribal Band to provide information regarding the Basin Plan, Tribal Beneficial Uses, the amendment process and timeline, and to further build relationships. This resulted in six virtual meetings and one meeting over the phone with interested Tribal representatives regarding the upcoming Basin Plan amendments.
- On February 8, 2024, staff mailed a certified letter to all Tribes that requested to be informed through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the Tribe (pursuant to Public Resources Code section 21080.3.1(d) and California Assembly Bill 52). The letter provided notice of the proposed Basin Plan amendments project, including incorporating the Tribal Beneficial Use definitions into the Basin Plan, and opportunity for consultation. The letter included a website link directing Tribal representatives to the Proposed Basin Plan Amendments Project Report, draft Proposed Resolution, and CEQA Checklist. No formal consultation or participation was requested for this project.

- On February 8, 2024, staff also mailed a letter via email and USPS to all other Tribal contacts in the Central Coast Region, noticing the project (consistent with the requirements and intent of California Assembly Bill 2108 to coordinate with environmental justice communities such that there is equitable engagement with potentially impacted communities regarding Water Board planning and policy processes). Similarly to the certified letter, this letter provided notice of the proposed Basin Plan amendments project, including incorporating the Tribal Beneficial Use definitions into the Basin Plan, and opportunity for participation. The letter included a website link directing Tribal representatives to the Proposed Basin Plan Amendments Project Report, draft Proposed Resolution, and CEQA Checklist. No requests for coordination were received in response to this effort.

Underrepresented Communities Outreach

The Basin Plan amendment process included formal outreach efforts to underrepresented communities in the Central Coast Region. On February 8, 2024, a letter noticing the revisions and opportunity for participation, consistent with California Assembly Bill 2108, was sent via email to the Central Coast Water Board's Racial Equity and Environmental Justice interested persons list. The notice included a website link directing interested persons to the Proposed Basin Plan Amendment Project Report, draft proposed Resolution, and CEQA Checklist. Staff did not receive any requests for participation in response to this outreach.

Opportunities for Public Comment

The Proposed Basin Plan Amendments Project Report documents were available for public comment over a 45-day public period, from February 16, 2024, to April 3, 2024. A notice of opportunity for public comment in English and Spanish was emailed to interested person subscribed to the Basin Planning/Triennial Review interested parties list and posted on the Basin Planning program website. The notice of opportunity to comment (Attachments 4 and 5) included a website link directing interested persons to the draft Proposed Basin Plan Amendments Project Report, draft Proposed Resolution, and CEQA Checklist. No public comment letters were received during the public comment period.

CONCLUSION

The Basin Plan amendments will improve and clarify the application and implementation of the water quality standards in the Basin Plan and improve water quality protection. The Basin Plan amendments make necessary revisions to the Basin Plan for accuracy and web accessibility and will fulfill one prioritized proposal from the 2021 Triennial Review, as well as aspects from Proposals 3, 37, and 41 from the 2021 Triennial Review secondary list.

RECOMMENDATION

Adopt proposed Resolution R3-2024-0003.

ATTACHMENTS

1. Proposed Resolution R3-2024-0003
2. Proposed Basin Plan Amendments Project Report
3. CEQA Checklist
4. Notice of Opportunity to Comment (English) – February 16, 2024
5. Notice of Opportunity to Comment (Spanish) – February 16, 2024

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