

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2021-0013**

**AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE
SAN DIEGO BASIN TO MAKE NON-REGULATORY UPDATES**

WHEREAS:

1. On September 16, 2008, the State Water Resources Control Board (State Water Board) adopted [Resolution No. 2008-0070](#) approving the [Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality](#) (Sediment Quality Provisions). The Sediment Quality Provisions established a narrative sediment quality objective protecting benthic communities from direct exposure to toxic pollutants in sediment and a narrative sediment quality objective protecting human consumers of fish and shellfish from pollutants that bioaccumulate into tissue from sediment. Resolution No. 2008-0070 was approved by the Office of Administrative Law (OAL) on January 5, 2009, and by the United State Environmental Protection Agency (U.S. EPA) on August 25, 2009. The Sediment Quality Provisions were amended in April 2011 with the adoption on [Resolution No. 2011-0017](#) and June 2018 with the adoption of [Resolution No. 2018-0028](#); the most recent amendment become effective on March 11, 2019.

2. On May 2, 2017, the State Water Board adopted [Resolution No. 2017-0027](#), which approved [Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions](#) (Mercury Provisions). Resolution No. 2017-0027 provides a consistent regulatory approach throughout the state by setting mercury limits to protect the beneficial uses associated with the consumption of fish by both people and wildlife. Additionally, the State Water Board established three new beneficial use definitions for use by the State and Regional Water Boards in designating Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB) beneficial uses to inland surface waters, enclosed bays, or estuaries in the state. The Statewide Provisions supersede numeric water quality objectives for mercury for beneficial uses associated with the consumption of fish by both people and wildlife, with the exception of waterbodies or waterbody segments with site-specific mercury objectives. The implementation provisions do not apply to discharges to receiving waters for which a mercury total maximum daily load is established. Resolution No. 2017-0027 was approved by the Office of Administrative Law (OAL) on June 28, 2017, and by U.S. EPA on July 14, 2017.

3. On August 7, 2018, the State Water Board adopted [Resolution No. 2018-0038](#), adopting bacteria provisions and a water quality variance policy as (1) [Part 3 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California \(ISWEBE\)](#); and (2) an amendment to the [Water Quality Control Plan for Ocean Waters of California](#). The bacteria provisions established new statewide numeric water quality objectives for bacteria to protect water contact recreation (REC-1), based on the U.S. EPA 2012 Recreational Criteria. The statewide numeric objectives supersede any numeric water quality objective for bacteria for the REC-1 beneficial use contained in Regional Water Boards' water quality control plans, but they do not affect any existing narrative bacteria objectives. Resolution No. 2018-0038 was approved by the Office of Administrative Law on February 4, 2019, and U.S. EPA on March 22, 2019.
4. On December 8, 2020, the Regional Water Quality Control Board, San Diego Region (San Diego Water Board) adopted [Resolution No. R9-2020-0254](#). This Resolution amended the Water Quality Control Plan for the San Diego Basin (Basin Plan) to make non-regulatory updates to Chapters 2, 3, and 4.
5. Chapter 2 of the Basin Plan defines and designates the beneficial uses for all surface and ground waters in the San Diego Region. The proposed Basin Plan updates to Chapter 2 include: updating the Preservation of Biological Habitats of Special Significance (BIOL) beneficial use; adding three new beneficial uses for CUL, T-SUB, and SUB; and corrections, clarifications, and general formatting changes that improve the overall readability. The definitions for the new beneficial uses are the same as those previously established by the State Water Board when it adopted Resolution No. 2017-0027.
6. Designations of the new beneficial uses to specific waterbodies, where those uses are existing or attainable, will be considered under a future, separate Basin Plan amendment process. Input from California Native American Tribes and the subsistence fishing communities will be a vital part of the beneficial use designation process, and designations of CUL and T-SUB shall be verified by the appropriate California Native American Tribe.
7. Chapter 3 of the Basin Plan designates water quality objectives to all surface and ground waters in the San Diego Region. The proposed Basin Plan updates to Chapter 3 include: updating applicable statewide plans and policies, including the addition of a reference to the newly adopted Inland Surface Waters, Enclosed Bays and Estuaries Plan and incorporating the newly adopted statewide bacteria water quality objectives; and corrections, clarifications, and general formatting changes that improve overall readability.

8. Chapter 4 of the Basin Plan describes actions that are necessary to protect the beneficial uses described in Chapter 2; it also describes actions necessary to achieve the water quality objectives specified in Chapter 3 and describes the San Diego Water Board's implementation program. The proposed Basin Plan update to Chapter 4 includes updates to the Compliance and Enforcement Section and general formatting changes that improve overall readability.
9. The San Diego Water Board generally prepares "substitute environmental documents" (SEDs) for amendments to its Basin Plan that contain the required environmental documentation under the State's California Environmental Quality Act (CEQA) regulations (23 Cal. Code Regs. § 3777). However, the Basin Plan amendments adopted by Resolution No. R9-2020-0254 are wholly within the scope of the SED for the Statewide Provisions. No substantive changes or modifications to the Statewide Provisions were made, no substantial changes with respect to the circumstances under which the provisions apply occurred, and no new information triggered the need for supplemental or subsequent CEQA analysis. As such, the San Diego Water Board determined that this amendment did not require further environmental review pursuant to the certified regulatory program or CEQA (Pub. Resources Code § 21166; Cal. Code Regs., title 14, §§ 15162 & 15163). The State Water Board concurs with the San Diego Water Board's findings and determinations that this amendment is exempt from CEQA. Accordingly, the State's CEQA regulations do not apply to this action. (23 Cal. Code Regs. § 3720.)
10. The San Diego Water Board also adopted the Basin Plan amendment pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
11. In establishing water quality objectives contained in the Sediment Quality, Mercury, and Bacteria Provisions, the State Water Board considered the factors contained in Water Code section 13241. Since the amendments adopted by Resolution No. R9-2020-0254 are based on the Statewide Provisions, the San Diego Water Board determined that further consideration of these factors was not necessary. The State Water Board concurs with the San Diego Water Board's findings and determinations.
12. The Basin Plan amendment does not become effective until approved by the State Water Board and until regulatory provisions are approved by the Office of Administrative Law (OAL).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan Amendment adopted under San Diego Water Board Resolution No. R9-2020-0254.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan Amendment adopted under San Diego Water Board Resolution No. R9-2020-0254 and the administrative record to OAL for approval.

CERTIFICATION

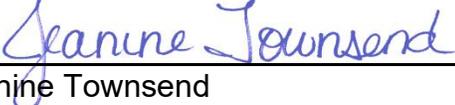
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 20, 2021.

AYE: Chair E. Joaquin Esquivel
Vice Chair Dorene D'Adamo
Board Member Tam M. Doduc
Board Member Sean Maguire
Board Member Laurel Firestone

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board