



RBOC
Protecting your boating interests.™

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July 10, 2020

via e-mail to: Michael.Hanks@waterboards.ca.gov

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RE: Comment Letter – 2020-2025 Nonpoint Source Program Implementation Plan

Dear Members, State Water Resources Control Board –

This is to provide the initial comments of Recreational Boaters of California together with our national partner BoatU.S., on the Draft 2020-2025 Nonpoint Source Program Implementation Plan. If the public comment period is extended as requested, we will provide more extensive comments.

Recreational Boaters of California [RBOC] is the nonprofit advocacy organization that promotes the protection, enhancement and responsible use of the state’s waterways. BoatU.S. is the nation’s largest membership association of recreational boaters with over 740,000 members nationwide and over 71,000 members in the state of California.

Boating and the boating industry represent a significant recreational resource and an important part of California’s economy. Together, we have been engaged continually over many years to protect the environment as the state, and regional boards have addressed impaired water bodies, have developed basin plans, and have developed new standards including anti-fouling paints for boat hulls.

We acknowledge the significance of the proposed 2020-2025 Nonpoint Source Program Implementation Plan, as it presents the general goals and objectives of the co-lead agencies for addressing nonpoint source pollution over the timeframe of July 2020 to June 2025.

It is important to note that the plan is being developed at a unique time for all Californians during the unprecedented COVID-19 pandemic, with stay-at-home orders and other necessarily impacting personal and business activities including recreational boating and our related industries. The protection of public health and safety is paramount, and demands the dedication of resources and effort that limit the ability of the public stakeholders to give the draft the time and attention it deserves. We urge forbearance.

It is also essential that stakeholders be engaged in the consideration of comprehensive plans such as this proposal, especially when they will have significant impacts. To the best of our knowledge, this has not occurred with the current proposal: members of the boating community have not been contacted, boating and boating industry organizations have not been consulted. Individual subscribers to the State Water Board’s email notifications were not notified.



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Therefore, RBOC and BoatU.S. request that the July 13 comment deadline be extended for a reasonable period of time and that the State Water Board engage with boater and boating industry stakeholders in a meaningful dialogue.

In addition to this request, there are a number of substantive issues and concerns that RBOC and BoatU.S. have identified in the brief period of time we have been aware of the draft. These preliminary issues and concerns include:

California 2020 – 2025 Nonpoint Source Program Implementation Plan

Metals in coastal environments come from anti-fouling paints (copper), zinc anodes and historical mining activity [mercury] and urban runoff. Copper antifouling paints are designed to leach copper to prevent marine organisms from attaching to boat hulls; however, copper can have negative impacts on aquatic organisms. Negative impacts include gill and nervous system damage in fish, effects on reproduction, and mortality in invertebrates that make up the base of the food chain.

The implementation Plan for Nonpoint Source Topic G Coastal makes no reference to Northern California.

The site-specific studies in San Francisco Bay twenty years ago proved that while copper levels in that water body greatly exceeded the California Toxics Rule, no negative impacts on aquatic organisms were observed.

Testing that has been done at a few sites in Southern California indicates no negative impacts on aquatic organisms. Before a policy is implemented in a haphazard patchwork throughout the state, we request a statewide Water Effects Ratio [WER] Policy and a comprehensive plan for site-specific testing so that we can properly evaluate all coastal water bodies in Southern California. This is a goal outlined in the February 2019 Executive Director's report:

February 2019
Executive Director's Report
Water Effects Ratios

2018-05-18 The project will establish criteria for developing site specific objectives for metals based on the water effect ratios for a specific water body. Staff will prepare a proposed Water Effects Ratio Policy at a future date.

Goal 4: Reduce NPS discharges from biocides from boats in the Marina del Rey Harbor

Background: The Revision of Marina del Rey Harbor Toxic Pollutants TMDL became effective on October 16, 2015. Dissolved copper in the water column (through discharge of dissolved copper from boats) was identified as one of the main nonpoint sources of copper. The load allocations for discharges of dissolved copper from boats is an 85% reduction. Compliance with the load allocations may be demonstrated by three means: 1) meeting numeric targets of copper in the water column; 2) demonstrating that 85% of boats in the harbor are using copper free hull paints, or 3) another acceptable means as approved by the Executive Officer of the Los Angeles Water Board that would result in attainment of copper numeric targets in the water column, such as demonstrating that 100% of boats in the harbor are using hull paint that discharges 85% less copper than the baseline load. The compliance date of load allocations for the discharge of dissolved copper from boats is March 22, 2024.

Los Angeles County is conducting site-specific studies in Marina Del Rey using the water effects ratio. It is probable that the WER will show no negative impacts on aquatic organisms.



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If this is the case, then the 85% load reduction becomes moot. Again, we need a statewide Water Effects Ratio [WER] Policy and a comprehensive plan for site-specific testing.

The RWQCB uses a steady state model that does not use tidal information or basin dimensions to predict environmental copper concentrations. That is the methodology that yields an 85% load reduction for Marina Del Rey.

The California Department of Pesticide Regulations [DPR] made regulatory decisions based on Predicted Environmental Concentrations of Copper using the MAMPEC model. As a result, DPR has approved anti-fouling paints containing low-leach-rate copper that they expect to achieve a sufficient copper load reduction.

These disparate approaches yield predictions that differ more than 300% from one another causing uncertainty for boaters and marina operators. Again, we need a statewide Water Effects Ratio (WER) Policy and a comprehensive plan for site-specific testing.

There are additional issues we have preliminarily identified. For instance, throughout the plan, objectives and milestones identify specific dates that are overly ambitious and, in today's pandemic, unachievable.

RBOC and BoatU.S. remain committed to the protection and enhancement of the state's waterways. Sound science and site-specific testing are the critical path forward.

Thank you for this opportunity to submit our public comments. If you have any questions, please feel free to contact either one of us our RBOC's advocate, Jerry Desmond, at 916.441.4166, jerry@desmondlobbyfirm.com.

Sincerely,

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