

## OCEAN POLLUTION REDUCTION ACT II

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Ocean Pollution Reduction Act II."

### SECTION 2. FINDINGS AND POLICY

In 1972, Congress passed the Federal Water Pollution Control Act Amendments, which required Publicly Owned Treatment Works to achieve secondary treatment capability by 1977.

In 1994, the Federal District Court for the Southern District of California determined that upgrading the City of San Diego's Point Loma Wastewater Treatment Plant to secondary treatment level would not be in the public interest, being excessively costly without producing additional environmental benefits.

The Point Loma Plant currently meets all the requirements of secondary treatment except for the removal of total suspended solids and biological oxygen demand.

At the direction of Congress, the Environmental Protection Agency (EPA) requested that the National Research Council advise the agency on ways to improve wastewater management in coastal urban areas. The resulting study, "*Managing Wastewater in Coastal Urban Areas*," produced several important findings, including:

- Biological oxygen demand discharged thru a well-designed outfall is generally of no ecological concern in open coastal waters.
- Total suspended solids can be adequately controlled by advanced primary treatment and high dilution outfalls.
- Over-control is particularly likely along ocean coasts, but nevertheless full secondary treatment is required regardless of cost or lack of benefits.

Past reviews by the City, the EPA, the State of California, and scientists affiliated with the Scripps Institution of Oceanography and the University of California at San Diego, as well as other organizations have concluded the Point Loma Plant does not have a significant adverse impact on the ocean environment.

The ocean outfall for the Point Loma Plant discharges effluent 4.5 miles from the coast at a depth of over 300 feet, one of the longest and deepest in the world.

Implementing full secondary treatment at the Point Loma Plant will cost approximately \$2.1 billion.

Implementing full secondary treatment is contrary to the national interest, in that it will compromise views from the Cabrillo National Monument and interfere with the Navy's use of adjacent property.

The City generates all the energy it needs to operate the Point Loma Plant onsite through co-generation. Implementing full secondary treatment will turn a "green" facility into one of the region's largest energy consumers, requiring the purchase of over \$17 million each year in electricity and producing more than 100,000 tons of greenhouse gas emissions annually.

Implementing full secondary treatment at the Point Loma Plant will require removal of 1,250,000 tons of earth from environmentally sensitive habitat immediately adjacent to the Point Loma Ecological Reserve.

Recognizing the unique situation surrounding the Point Loma Plant, Congress adopted the Ocean Pollution Reduction Act of 1994 (OPRA). OPRA allowed the Point Loma Plant to avoid conversion to full secondary treatment and instead operate under a modified permit according to standards contained in OPRA and section 301(h) of the Clean Water Act.

The City has complied with all requirements of OPRA and the results have been significant, including reduction in the discharge of total suspended solids and biological oxygen demand, advanced ocean monitoring, and construction of 45 million gallons per day of reclaimed water capacity at a cost of approximately \$340 million.

Successor legislation to OPRA will capitalize on the record of improvements initiated under OPRA and provide a framework for further enhancements to the City's water and wastewater systems, increased potable water reliability, and additional meaningful environmental protection.

The City has completed its Water Purification Demonstration Project showing that municipal wastewater can successfully be treated to levels suitable for potable reuse. The City completed its Recycled Water Study in 2012 describing how wastewater can be diverted from the Point Loma Plant to new treatment facilities to generate water suitable for potable reuse. Through the construction and operation of new treatment facilities, the City can reduce the total suspended solids discharged by the Point Loma Plant to the same or lower levels as would be achieved by implementing full secondary treatment, while creating an important new local source of water.

The City currently relies on imported water for over 85% of its water supply. A new local source of water can significantly reduce the environmental impacts of importing water to San Diego from the Colorado River and the California Bay-Delta by offsetting the City's demand for imported water.

Due to severe drought in California, the 2014 water allocation from the State Water Project is only 5% of normal, forcing water agencies to draw down water reserves, implement mandatory conservation measures, and search for new, dependable sources of water.

### SECTION 3. SAN DIEGO SECONDARY TREATMENT EQUIVALENCY.

Section 301(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1311(j)(5)) is amended to read as follows:

#### (5) SAN DIEGO SECONDARY TREATMENT EQUIVALENCY.

(A) IN GENERAL. Notwithstanding anything to the contrary in the Federal Water Pollution Control Act or the Coastal Zone Management Act, an application for the Point Loma Wastewater Treatment Plant shall be reviewed and processed as the equivalent of an application for a secondary treatment discharge pursuant to subsection (b)(1)(B) and section 402 of the Federal Water Pollution Control Act, provided that the application includes a commitment to:

- (i) maintain a deep ocean outfall from the Point Loma Wastewater Treatment Plant with a discharge depth of no less than 300 feet.
- (ii) discharge no more than 12,000 metric tons of total suspended solids per year commencing on December 31, 2015, no more than 11,500 metric tons of total suspended solids per year commencing on December 31, 2025, and no more than 9,942 metric tons of total suspended solids per year commencing on December 31, 2027.
- (iii) discharge no more than a concentration of 60 milligrams per liter of total suspended solids calculated as a thirty day average.
- (iv) remove no less than 80% of total suspended solids on a monthly average, and no less than 58% of biological oxygen demand on an annual average, from wastewater flow tributary to the Point Loma Plant. Wastewater flow is tributary to the Point Loma Plant if it is discharged into the applicant's wastewater system, or into any wastewater system connected to the applicant's wastewater system, excluding wastewater flow treated and discharged from facilities separately permitted under section 402.
- (v) meet all other effluent limitations of secondary treatment, as defined by the Administrator pursuant to section 304(d)(1), except for any effluent concentration limits for biological oxygen demand.
- (vi) comply with federal anti-degradation policy as determined by the Administrator.
- (vii) perform ocean monitoring that meets or exceeds the Administrator's requirements for section 301(h) dischargers.

(B) POTABLE REUSE. To be eligible to submit an application under this paragraph, the applicant must demonstrate to the satisfaction of the Administrator that to the extent

potable reuse is permitted by federal and state regulatory agencies, at least 83 million gallons per day of water suitable for potable reuse on an annual average will be produced by December 31, 2035, from wastewater in the applicant's wastewater system and wastewater systems connected to the applicant's wastewater system as of the date of this Act. The Administrator shall determine development milestones necessary to ensure compliance with this paragraph and include said milestones as conditions in each permit issued prior to December 31, 2035.

(C) PREVIOUS OCEAN MONITORING DATA. The applicant must demonstrate to the satisfaction of the Administrator that the applicant has performed monitoring that meets or exceeds the requirements for section 301(h) dischargers for at least the last 10 years.

(D) PENDING APPLICATIONS. Any application for the Point Loma Wastewater Treatment Plant pending on the effective date of this Act shall be reviewed and processed under this paragraph.

(E) SECONDARY TREATMENT. Nothing in this Act shall prevent the applicant from submitting an application for the Point Loma Wastewater Treatment Plant that complies with secondary treatment pursuant to subsection (b)(1)(B) and section 402

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