

Ocean Plan Amendment

Issues and Recommendations



California is entering a period of permanent water stress driven by climate change, hydrologic uncertainty, and impacts from the Colorado River Compact expiring. Seawater desalination remains the only truly new, droughtproof water supply available in California. Yet, in the decade since adoption of the 2015 Ocean Plan Chapter M, no new ocean desalination projects have been proposed, and the only two approved projects have not matriculated to construction.

The upcoming Ocean Plan Amendment (OPA) represents a critical opportunity to realign permitting rules with best available science, current state water policy, and California's all of the above water supply strategy.

Policy Context

State Direction Is Clear...
Desalination must remain a viable, scalable option within a diversified water portfolio.

However, recent permitting interpretations and the *2023 Siting and Streamlining Report* risk reinforcing barriers in the 2015 OPA rather than reducing them, especially for regional scale projects.

What's Broken Today

- Absence of Agreement Among State Agencies to Sequence Permits And Accept Ceqa And Permitting Determinations
- De Facto Prohibition on Regional Scale Desalination
- Prescriptive Intake and Mitigation Rules not Grounded in Current Science
- Pre-Mitigation and Mitigation Requirements that are Infeasible and Unprecedented
- Limited Flexibility for New Technologies and Offshore Systems



Result: Investment Uncertainty, Lost Innovation, and Stalled Water Supply Resilience

CalDesal's Core Recommendation: Modernize Chapter M



Align with Adopted State Water Policy



Respect Local and Regional Water Planning Authority



Embrace Best Available Environmental Science



Enable Innovation, Flexibility, and Scalability

The Bottom Line

The 2015 OPA is unworkable and stymied technology implementation. California cannot meet future water reliability goals by excluding one of its most resilient supply options. The Ocean Plan Amendment must:

1 Enable, Not Preclude, Desalination at All Appropriate Scales

2 Replace Rigid Prescriptions with Science-Based Performance Standards

3 Restore Regulatory Certainty to Unlock Public, Private, and Hybrid Investment

CalDesal stands ready to collaborate with the State Water Board, agencies, tribes, environmental stakeholders, and communities to deliver a modernized, workable Ocean Plan that protects marine resources and secures California's water future.

Key Issues and Recommended OPA Reforms

1. Determination of Water Need and Cost

ISSUE: State permitting agencies are interpreting Chapter M as allowing independent judgments on project “need” and affordability, a standard applied to no other water resource.

RECOMMENDATION:

- Remove “Need” language from OPA and/or clarify that water need and cost determinations are made by local and regional agencies
- Explicitly prohibit state-level project ranking or “loading order” analysis

2. Project Scale, Technology & Design

ISSUE: Current provisions implicitly bias small, subsurface-intake projects and preclude regional solutions.

RECOMMENDATION:

- Explicitly authorize projects of any scale (small, regional, offshore)
- Allow surface or subsurface intakes, varied discharge methods, and proponent driven design

3. Mitigation Timing & Options

ISSUE: Pre-construction mitigation requirements are infeasible and unsupported by CEQA or Water Code precedent.

RECOMMENDATION:

- Categorically reject proposals that prohibit facilities from operating before mitigation performance targets are met
- Expand mitigation options to include artificial reefs and incremental crediting
- Put into effect functional fee-based mitigation programs (public or private) as authorized in 2015 OPA

4. Flow Augmentation for Brine Discharge

ISSUE: Flow augmentation is largely prohibited despite strong operational evidence.

RECOMMENDATION:

- Restore flow augmentation as a viable, site-specific discharge option
- Evaluate impacts through monitoring and performance standards, not blanket bans

5. Eliminate Unsupported “Shearing” Mitigation

ISSUE: Shearing impacts remain theoretical and are not required for other ocean discharges.

RECOMMENDATION:

- Flow augmentation should remain a dilution option as it effectively dilutes brine with less environmental effect in some instances
- Flow augmentation represents a lower cost brine dilution that, in some cases, results in less environmental impacts than other dilution options

6. Streamlined Permitting for Pilot Projects

ISSUE: Innovation is stalled without real-world testing pathways.

RECOMMENDATION:

- Create a streamlined permitting pathway for pilot projects (≤ 1 MGD, ≤ 24 months)
- Require monitoring and decommissioning plans

7. Offshore & Deep Sea Desalination

ISSUE: Chapter M lacks clarity for emerging offshore systems.

RECOMMENDATION:

- Support pilot testing and phased deployment
- Develop framework to authorize permitting of floating and deep-sea modular desalination technologies

8. Environmental Justice & Tribal Consultation

ISSUE: Process expectations risk becoming subjective and unworkable.

RECOMMENDATION:

- Define clear, achievable consultation steps – many of which already exist in other regulations, specifically tribal consultation required by CEQA
- Require transparency and documentation, not third-party approvals

