

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – LOS ANGELES REGIONAL WATER BOARD
MARCH 19, 2013**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION (BASIN PLAN) TO REVISE THE TOTAL MAXIMUM DAILY LOADS FOR BACTERIA FOR (1) SANTA MONICA BAY BEACHES; (2) MARINA DEL REY HARBOR, MOTHERS' BEACH, AND BACK BASINS; (3) LOS ANGELES HARBOR, INNER CABRILLO BEACH, AND MAIN SHIP CHANNEL; (4) BALLONA CREEK, BALLONA ESTUARY, AND SEPULVEDA CHANNEL; AND (5) MALIBU CREEK AND LAGOON; AND TO AMEND CHAPTER 3 TO MODIFY THE IMPLEMENTATION PROVISIONS FOR WATER CONTACT RECREATION BACTERIA OBJECTIVES.

DISCUSSION

The Los Angeles Water Board revised the TMDLs for bacteria for (1) Santa Monica Bay Beaches; (2) Marina del Rey Harbor, Mothers' Beach, and Back Basins; (3) Los Angeles Harbor, Inner Cabrillo Beach, and Main Ship Channel; (4) Ballona Creek, Ballona Estuary, and Sepulveda Channel; and (5) Malibu Creek and Lagoon; and amended Chapter 3 to modify the Implementation Provisions for Water Contact Recreation Bacteria Objectives on June 7, 2012 as [Resolution Nos. R12-007](#), [R12-008](#), and [R12-009](#). The original TMDLs addressed Clean Water Act (CWA) section 303(d) listings for indicator bacteria in the Santa Monica Bay, Marina del Rey Harbor, Inner Cabrillo Beach and Main Ship Channel, Ballona Creek, and Malibu Creek watersheds.

The Santa Monica Bay Beaches Bacteria TMDL was adopted for dry weather by [Resolution No. 2002-004](#) on January 24, 2002 and for wet weather by [Resolution No. 2002-022](#) on December 12, 2002. Both the wet weather and dry weather TMDLs became effective on July 15, 2003. The Marina del Rey Harbor Bacteria TMDL was adopted by [Resolution No. 2003-012](#) on August 7, 2003, and became effective on March 18, 2004. The Inner Cabrillo Beach Bacteria TMDL was adopted by [Resolution No. 2004-011](#) on July 1, 2004, and became effective on March 10, 2005. The Ballona Creek Bacteria TMDL was adopted by [Resolution No. R06-011](#) on June 8, 2006, and became effective on April 27, 2007. The Malibu Creek and Lagoon Bacteria TMDL was adopted by [Resolution No. R04-019R](#) on December 13, 2004, and became effective on January 24, 2006. These TMDLs are hereinafter referred to as the "Bacteria TMDLs."

The goal of the Bacteria TMDLs is to address the impairment of water quality due to elevated bacteria densities. Recreating in waters with elevated bacterial indicator densities has long been associated with adverse human health effects. The Bacteria TMDLs established water quality targets and waste load and load allocations for sources of bacteria within the watersheds that are protective of the designated water contact recreation use, and each TMDL specifies a program of implementation.

The Bacteria TMDLs used innovative approaches, including the reference beach/antidegradation approach and the corresponding allowable exceedance day approach.

Each of the Bacteria TMDLs also included scheduled “reconsiderations” as part of their implementation program in order to re-evaluate the reference system used to calculate allowable exceedance days of bacteria objectives, as well as several other aspects of the TMDL. The TMDLs specify that the following technical aspects be reconsidered:

Santa Monica Bay Beaches Dry Weather Bacteria TMDL

- Reconsider TMDL to re-evaluate allowable winter dry weather exceedance days based on a consideration of additional data on bacterial indicator densities in the wave wash, a re-evaluation of the reference system selected to set allowable exceedance levels, and a re-evaluation of the reference year used in the calculation of allowable exceedance days.

Santa Monica Bay Beaches Wet Weather TMDL

- Refine allowable wet weather exceedance days based on a consideration of additional data on bacterial indicator densities in the wave wash and an evaluation of site-specific variability in exceedance levels,
- Re-evaluate the reference system selected to set allowable exceedance levels, including a reconsideration of whether the allowable number of exceedance days should be adjusted annually dependent on the rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system(s),
- Re-evaluate the reference year used in the calculation of allowable exceedance days, and
- Re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision.

Marina del Rey Harbor Bacteria TMDL

- Refine allowable winter dry-weather and wet-weather exceedance days based on a consideration of additional data on bacterial indicator densities, an evaluation of site-specific variability in exceedance levels, and an evaluation of the results of the study of relative bacterial loading from sources including but not limited to storm drains, boats, birds, and other nonpoint sources,
- Re-evaluate the reference system selected to set allowable exceedance levels, including a reconsideration of whether the allowable number of exceedance days should be adjusted annually dependent on the rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system(s), and if an appropriate reference system cannot be identified for this enclosed harbor, an evaluation using the “natural sources exclusion approach subject to antidegradation policies” rather than the “reference system/antidegradation” approach,
- Re-evaluate the reference year used in the calculation of allowable exceedance days, and
- Re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision.

Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL

- Refine allowable wet weather exceedance days based on a consideration of additional data on bacterial indicator densities in the wave wash and an evaluation of site-specific variability in exceedance levels,
- Re-evaluate the reference system selected to set allowable exceedance levels, including a reconsideration of whether the allowable number of exceedance days should be adjusted annually dependent on the rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system(s), and if an appropriate reference system cannot be identified for this enclosed harbor, an evaluation using the “natural sources exclusion approach subject to antidegradation policies” rather than the “reference system/antidegradation” approach,
- Re-evaluate the reference year used in the calculation of allowable exceedance days,
- Re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision,
- Evaluate the feasibility of a natural sources exclusion for the non-swimming portion of Inner Cabrillo Beach, and
- Re-evaluate the implementation schedule.

Ballona Creek Bacteria TMDL

- Re-assess the allowable winter dry-weather and wet-weather exceedance days based on a re-evaluation of the selected reference watershed and consideration of other reference watersheds that may better represent reaches of Ballona Creek and Estuary,
- Consider whether the allowable winter-dry weather and wet-weather exceedance days should be adjusted annually dependent on the rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system(s),
- Re-evaluate the reference year used in the calculation of allowable exceedance days,
- Re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision,
- Consider natural source exclusions for bacteria loading from Del Rey Lagoon and the Ballona Wetlands based on results of the source identification study, and
- Re-assess waste load allocations for Benedict Canyon Channel, Sepulveda Channel, and Centinela Creek based on results of the required compliance monitoring, and/or any voluntary beneficial use investigations.

Malibu Creek Bacteria TMDL

- Consider a natural source exclusion for bacteria loadings from birds in the Malibu Lagoon if all anthropogenic sources to the Lagoon have been controlled,

- Re-assess the allowable winter dry-weather and wet-weather exceedance days based on a consideration of additional data on bacterial indicator densities and an evaluation of site-specific variability in exceedance levels to determine whether existing water quality is better than water quality at the reference watershed,
- Re-assess the allowable winter dry-weather and wet-weather exceedance days based on a re-evaluation of the selected reference watershed and consideration of other reference watersheds that may better represent reaches of the Malibu Creek and Lagoon,
- Consider whether the allowable winter dry-weather and wet-weather exceedance days should be adjusted annually dependent on the rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system(s),
- Re-evaluate the reference year used in the calculation of allowable exceedance days, and
- Re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision.

As indicated above, the scope of the scheduled reconsiderations was not a general reconsideration of each and every element of the Bacteria TMDLs, but a re-examination of certain technical aspects specifically listed in the original TMDLs which, as recognized at the time of TMDL adoption, might need revision upon further data collection and analysis, study, or experience. Accordingly, the revisions approved by the Los Angeles Water Board were limited to the specific technical elements identified above. Newer information and studies were considered and the Los Angeles Water Board revisions are consistent with the 2012 U.S. EPA Recreation Water Criteria.

Upon reconsideration of the Santa Monica Bay Beaches Dry Weather Bacteria TMDL, Santa Monica Bay Beaches Wet Weather TMDL, Marina del Rey Harbor Bacteria TMDL, and Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL, Los Angeles Water Board Resolution No. R12-007 revises the TMDLs to adjust the allowable exceedance days in winter dry weather, removes the need for a calculation of a dry weather only geometric mean, and revises geometric mean calculations including allowing a six-week geometric mean calculation.

Upon reconsideration of the Ballona Creek Bacteria TMDL, Los Angeles Water Board Resolution No. R12-008 revises the TMDL to adjust the reference system, allowable exceedance days, time periods for allowable exceedance days, and the corresponding waste load allocations and load allocations based on three reference system studies coordinated by the Southern California Coastal Water Research Project (SCCWRP).

Upon reconsideration of the Malibu Creek Bacteria TMDL, Los Angeles Water Board Resolution No. R12-009 revises the TMDL to adjust the reference system, allowable exceedance days, time periods for allowable exceedance days, and the corresponding waste load allocations and load allocations based on three reference system studies coordinated by SCCWRP.

The detailed analysis supporting these revisions is contained in the TMDL reconsideration staff reports.

POLICY ISSUE

Should the State Water Board approve the amendments to the Basin Plan to revise the TMDLs for bacteria for (1) Santa Monica Bay Beaches; (2) Marina del Rey Harbor, Mothers' Beach, and Back Basins; (3) Los Angeles Harbor, Inner Cabrillo Beach, and Main Ship Channel; (4) Ballona Creek, Ballona Estuary, and Sepulveda Channel; and (5) Malibu Creek and Lagoon; and to amend Chapter 3 to modify the Implementation Provisions for Water Contact Recreation Bacteria Objectives?

FISCAL IMPACT

The Los Angeles Water Board and State Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

REGIONAL BOARD IMPACT

Yes, approval of this resolution will amend the Los Angeles Water Board's Basin Plan.

STAFF RECOMMENDATION

That the State Water Board:

1. Approves the amendments to the Basin Plan adopted under Los Angeles Water Board Resolution Nos. R12-007, R12-008, and R12-009.
2. Authorizes the Executive Director or designee to submit the amendments adopted under Los Angeles Water Board Resolution Nos. R12-007, R12-008, and R12-009 as approved, and the administrative record for this action to the Office of Administrative Law and the TMDL revisions to the U.S. EPA for approval.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030. In particular, approval of this item will assist in fulfilling Objective 1.1 to implement a statewide strategy to efficiently prepare, adopt, and implement TMDLs, which result in water bodies meeting water quality standards, and adopt and begin implementation of TMDLs for all 2006-listed water bodies by 2019.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLAN FOR THE LOS ANGELES REGION (BASIN PLAN) TO REVISE THE TOTAL MAXIMUM DAILY LOADS FOR BACTERIA FOR (1) SANTA MONICA BAY BEACHES; (2) MARINA DEL REY HARBOR, MOTHERS' BEACH, AND BACK BASINS; (3) LOS ANGELES HARBOR, INNER CABRILLO BEACH, AND MAIN SHIP CHANNEL; (4) BALLONA CREEK, BALLONA ESTUARY, AND SEPULVEDA CHANNEL; AND (5) MALIBU CREEK AND LAGOON; AND TO AMEND CHAPTER 3 TO MODIFY THE IMPLEMENTATION PROVISIONS FOR WATER CONTACT RECREATION BACTERIA OBJECTIVES

WHEREAS:

1. On June 7, 2012, the Regional Water Quality Control Board for the Los Angeles Region (Los Angeles Water Board) adopted [Resolution Nos. R12-007](#), [R12-008](#), and [R12-009](#) (Attachment III), amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan amendments), to revise the Total Maximum Daily Loads for bacteria for (1) Santa Monica Bay Beaches; (2) Marina del Rey Harbor, Mothers' Beach, and Back Basins; (3) Los Angeles Harbor, Inner Cabrillo Beach, and Main Ship Channel; (4) Ballona Creek, Ballona Estuary, and Sepulveda Channel; and (5) Malibu Creek and Lagoon; and to amend Chapter 3 to modify the Implementation Provisions for Water Contact Recreation Bacteria Objectives.
2. The Los Angeles Water Board previously prepared California Environmental Quality Act (CEQA) "substitute environmental documents" for the establishment of the original TMDLs adopted by Los Angeles Water Board [Resolution Nos. 2002-004](#), [2002-022](#), [2003-012](#), [2004-011](#), [R06-011](#), and [R04-019R](#). These documents contained the required environmental documentation under the State Water Board's regulations for the implementation of CEQA, as set forth in the California Code of Regulations, Title 23, section 3775 through 3781. The Los Angeles Water Board found that the Basin Plan amendments adopted by Resolution Nos. R12-007, R12-008, and R12-009 did not alter the environmental analysis that was previously prepared for the establishment of these TMDLs because the TMDL revisions will not result in different implementation actions than those previously analyzed, or different effects upon the environment. Moreover, no additional reasonably foreseeable methods of compliance warrant environmental analysis pursuant to Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187. As such, the Los Angeles Water Board found that the Basin Plan amendments are consistent with the prior CEQA documentation and determined that no subsequent environmental documents shall be prepared consistent with California Code of Regulations, Title 14, section 15162. The State Water Board concurs with the Los Angeles Water Board's findings and determinations.
3. The Los Angeles Water Board also adopted these Basin Plan amendments pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).

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4. The Los Angeles Water Board found the Basin Plan amendments are consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California ([State Water Board Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12), in that they do not allow degradation of water quality, but require restoration of water quality and attainment of water quality standards during dry weather and wet weather.
5. The State Water Board finds that the Basin Plan amendments are in conformance with Water Code section 13240, which specifies that regional water quality control boards may revise basin plans, and section 13242, which requires a program of implementation for achieving water quality objectives. The State Water Board also finds that the TMDL revisions, as reflected in the Basin Plan amendments, are consistent with the requirements of section 303(d) of the federal Clean Water Act.
6. These Basin Plan amendments do not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The TMDL revisions must also receive approval from the U.S. Environmental Protection Agency (U.S. EPA).
7. Los Angeles Water Board staff determined that minor, non-substantive changes to the language of the Basin Plan amendment adopted by Resolution R12-008 were necessary to correct minor clerical errors or to improve clarity and consistency. The Los Angeles Water Board's Executive Officer made these minor non-substantive changes in a [memorandum](#) dated January 24, 2013. The memorandum contains correcting language to the Basin Plan amendment in order to correct typographical errors.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendments adopted under Los Angeles Water Board Resolution Nos. R12-007, R12-008, and R12-009.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendments adopted under Los Angeles Water Board Resolution Nos. R12-007, R12-008, and R12-009 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the TMDL revisions.

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 March 19, 2013.

Jeanine Townsend
Clerk to the Board