

State of California
California Regional Water Quality Control Board, Los Angeles Region

RESOLUTION NO. R10-005

July 8, 2010

**Amendment to the *Water Quality Control Plan for the Los Angeles Region* to
Update the Bacteria Objectives for Freshwaters Designated for Water Contact Recreation
by Removing the Fecal Coliform Objective**

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. On October 25, 2001, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) adopted, by Resolution No. R01-018, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to update the bacteria objectives for water bodies designated for water contact recreation.
2. The 2001 updated bacteria objectives reflected those established in the California Code of Regulations, title 17, § 7958 "Bacteriological Standards" (Assembly Bill 411, Statutes of 1997) and U.S. EPA's recommended criteria pursuant to Federal Clean Water Act § 304(a), published in "Ambient Water Quality Criteria for Bacteria – 1986" (U.S. EPA, 1986).
3. In "Ambient Water Quality for Bacteria - 1986", the U.S. EPA recommended that *Escherichia coli* (*E. coli*) replace fecal coliform as an indicator of the presence of pathogens in fresh water. This recommendation was based on results of epidemiological studies which found that Enterococcus and *E. coli* (a subset of the fecal coliform group) were the indicators most strongly correlated with illnesses associated with swimming in sewage-contaminated water. These studies found that fecal coliform densities were only weakly correlated with the same illnesses.
4. During the 2001 update, the Regional Board added water quality objectives for *E. coli* in freshwater but did not remove the fecal coliform objective. Rather, the Board allowed a transition period for incorporation of *E. coli* objectives into water quality monitoring programs, and for collection of data on the new objective to establish an adequate monitoring database.
5. EPA sanctions such transition periods as indicated in the "Draft Implementation Guidance for 'Ambient Water Quality Criteria for Bacteria'" (U.S. EPA, 2002). In this guidance document, EPA recommends a single triennial review cycle as the duration of the transition period. However, the Regional Board's transition period has extended through three triennial review cycles.
6. Removal of the fecal coliform objectives for freshwaters designated for water contact recreation is part of the *re-evaluation of the application of bacteria objectives in determining compliance with water quality objectives* that was selected as a project to be addressed during the 2008-10 Triennial Review period per Resolution No. R10-001.

7. This amendment updates the freshwater bacteria objectives in the Basin Plan to maintain consistency with EPA's recommendation that *E. coli* replace fecal coliform as an indicator of the presence of pathogens in fresh water, and removes unnecessary permitting and monitoring requirements that arise from having water quality objectives for both indicators.
8. This amendment will have no impact on public health risk since the *E. coli* objective that is to remain as the sole bacterial indicator for freshwaters designated for water contact recreation was developed based on the same "acceptable" illness rate as the fecal coliform objective, which it replaces. Furthermore, epidemiological studies have shown that concentrations of *E. coli* are more strongly correlated with the incidence of health effects and, specifically, gastroenteritis, than concentrations of fecal coliform. This led EPA to conclude that *E. coli* is a more reliable indicator of risk to public health than fecal coliform.
9. Regional Board staff has prepared a staff report that describes the specific necessity and rationale for this revision to the bacteria objectives. The staff report titled "Proposed Amendment to the Water Quality Control Plan - Los Angeles Region to Update the Bacteria Objectives for Freshwaters Designated for Water Contact Recreation by Removing the Fecal Coliform Objective" is an integral part of this Regional Board action and was reviewed, considered, and accepted by the Regional Board before acting.
10. A CEQA Scoping meeting was conducted on April 19, 2010 at the Junipero Serra Building, 320 W. 4th Street, Los Angeles, California, to solicit input from the public and interested stakeholders in determining the appropriate scope and content of the CEQA analysis for the proposed amendment. This meeting fulfilled the requirements under CEQA (Public Resources Code, § 21083.9). A notice of the CEQA Scoping meeting was sent to interested parties on April 6, 2010.
11. The public has had a reasonable opportunity to participate in the review of the amendment to the Basin Plan. A draft of the Staff Report, the Tentative Resolution and proposed Basin Plan language, and the accompanying environmental checklist was released for public comment on April 22, 2010. A Notice of Hearing and Notice of Filing were published and circulated 45 days preceding Board action; this notice was published in the Los Angeles Times and the Ventura County Star on April 26, 2010. Regional Board staff responded to oral and written comments received from the public.
12. On July 8, 2010, prior to the Board's action on this resolution, a public hearing was held to consider adoption of the proposed revision to the freshwater bacteria objectives. Notice of the hearing was published in accordance with the requirements of Cal. Water Code §13244. This notice was published in the Los Angeles Times and Ventura County Star on April 26, 2010.
13. In amending the Basin Plan to update the freshwater bacteria objectives, the Regional Board considered the requirements set forth in sections 13240, 13241 and 13242 of the California Water Code.
14. The Regional Board has considered the factors set forth in Cal. Water Code §13241. Section 13241 at a minimum requires that water quality objectives ensure reasonable protection of beneficial uses.
 - (a) Beneficial uses of the fresh, inland surface waters of the Los Angeles Region are contained in Table 2-1 of the Water Quality Control Plan for the Coastal Watersheds of Los

Angeles and Ventura Counties (Basin Plan). These uses include the designated water contact recreation beneficial uses (REC-1 and LREC-1 uses) of inland surface waters that are protected by the freshwater bacteria objectives being updated.

(b) The environmental characteristics of the inland surface waters in the region are spelled out at length in the Basin Plan and have been considered in developing this amendment. The Los Angeles Region, over which the Regional Board has jurisdiction, includes the coastal drainages between Rincon Point (on the coast of western Ventura County) and the eastern Los Angeles County line, as well as the drainages of five coastal islands (Anacapa, San Nicolas, Santa Barbara, Santa Catalina, and San Clemente). There are ten designated watershed management areas (WMAs) in the Los Angeles Region. These generally encompass a single large watershed within which exist smaller subwatersheds. However, in some cases, the WMA may be a collection of several small, discrete coastal watersheds. The watershed management areas for the Los Angeles Region are listed below:

- Calleguas Creek Watershed
- Channel Islands Watershed Management Area (WMA)
- Dominguez Channel Watershed
- Los Angeles River Watershed
- Los Cerritos Channel Watershed
- Ventura Coastal Streams (WMA)
- San Gabriel River Watershed
- Santa Clara River Watershed
- Santa Monica Bay (WMA)
- Ventura River Watershed

The region covers 4,497 square miles of land overall and roughly 6,084 miles of streams, 17,488 acres of lakes, and 65,304 acres of wetlands. Land use varies considerably. In Ventura County, agriculture and open space exist alongside mixed urban, residential and commercial areas. In northern Los Angeles County, open space is steadily being transformed into residential communities. In southern Los Angeles County, land uses include mixed urban, residential, commercial and industrial.

Currently, 124 water bodies are listed as impaired by high levels of indicator bacteria. Each watershed management area of the Los Angeles Region contains some of these impaired water bodies. The impairments will be addressed by TMDLs that are currently in effect or under development. These TMDLs will be implemented through regulatory mechanisms available to the Regional Board, including but not limited to, NPDES permits, including those for urban runoff and stormwater discharges, waste discharge requirements (WDRs), prohibitions, conditional waivers, enforcement actions or other Regional Board orders. The proposed action will not impose any further requirements in these Regional Board actions.

(c) Water quality conditions that reasonably could be achieved through the coordinated control of all factors which affect water quality in the area have been considered. Implementation of the TMDLs currently in effect and of those under development will ensure that the Los Angeles Region's inland surface waters attain the REC-1 and LREC-1 water quality standards for indicator bacteria. Attainment of the REC-1 and LREC-1 water quality standards through the compliance options identified in the bacteria TMDLs is a reasonably achievable water quality condition for the region. However, to the extent that there would be

any conflict between the consideration of the factor in Water Code § 13241, subdivision (c), and the Federal Clean Water Act, the Clean Water Act would prevail.

(d) Economic considerations were considered. The removal of the fecal coliform objectives for freshwater from the Basin Plan will result in a removal of the associated monitoring and reporting requirements from Regional Board orders, and should therefore result in reduced bacteria water quality monitoring costs to the regulated community.

(e) The need for housing within the region has been considered, but the update to the freshwater bacteria objectives will have no impact on the development of housing in the Los Angeles Region. There are no implementation or compliance requirements associated with this action, and therefore no avenue through which any restrictions to housing development or supply may be imposed.

(f) The update to the freshwater bacteria objectives will have no impact on the need to develop and use recycled water in the Los Angeles Region. Removal of the fecal coliform objective will not impose any requirements for or restrictions on the development and use of recycled water.

15. Under Cal. Water Code § 13242, when adopting water quality objectives in the Basin Plan, a program of implementation for achieving the objectives must be included. This specific action involves the removal of a redundant water quality objective; therefore, a new program of implementation pursuant to § 13242 is not required.
16. Pursuant to Public Resources Code § 21080.5, the Resources Agency has approved the Regional Boards' basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code, § 21000 et seq.) requirements for preparing environmental documents (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3782). The Regional Board staff has prepared "substitute environmental documents" for this project that contain the required environmental documentation under the State Board's CEQA regulations. (23 Cal. Code Regs. § 3777.) The substitute environmental documents include the staff report, the environmental checklist, the comments and responses to comments, the basin plan amendment language, and this resolution. The amendment is the removal of a redundant objective, which will have no impact on public health risk, while removing an unnecessary regulatory and monitoring requirement for regulated entities. The CEQA checklist and other portions of the substitute environmental documents contain findings related to impacts.
17. The amendment is consistent with the State Antidegradation Policy (State Board Resolution No. 68-16), and the Federal Antidegradation Policy (40 CFR 131.12), in that it does not allow degradation of water quality and ensures that beneficial uses are fully protected.
18. Considering the record as a whole, this Basin Plan amendment will result in no effect, either individually or cumulatively, on wildlife resources.
19. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, § 11353, subdivision (b). Federal law and regulations require that states adopt water quality criteria that protect designated beneficial uses (40 CFR 131.11(a)(1)). Federal regulation further requires that states, in establishing criteria, establish numerical values based on Federal Clean Water Act §304(a) Guidance (40 CFR 131.11(b)(1)). The revised bacteria objectives for freshwaters are based on U.S. EPA's current guidance on


ambient water quality criteria for bacteria published pursuant to the requirements of Federal Clean Water Act §304(a) (U.S. EPA, 1986).

20. The Basin Plan amendment updating the freshwater bacteria objectives for the Los Angeles region must be submitted for review and approval by the State Board, OAL, and U.S. EPA. The Basin Plan amendment will become effective upon approval by OAL and U.S. EPA. A Notice of Decision will be filed following these approvals.
21. If during the State Board's approval process Regional Board staff, the State Board or State Board staff, or OAL determine that minor, non-substantive modifications to the language of the amendment are needed for clarity or consistency, the Executive Officer should make such changes consistent with the Regional Board's intent in adopting this TMDL, and should inform the Board of any such changes.

THEREFORE, be it resolved that:

1. Pursuant to § 13240 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendments to Chapter 3 of the Water Quality Control Plan for the Los Angeles Region to update the bacteria objectives for freshwaters designated as REC-1 and LREC-1 by removing the fecal coliform objectives, as set forth in Attachment A hereto.
2. The Regional Board is taking this action pursuant to Resolution No. R10-001 (Resolved Clause 1(a)), in which the Board identified the re-evaluation of how bacteria water quality objectives should be applied in compliance determination as a basin planning priority to be addressed during the 2008-2010 Triennial Review. Removal of the fecal coliform objectives for freshwaters designated for water contact recreation is one aspect of the re-evaluation.
3. The Regional Board hereby approves and adopts the CEQA substitute environmental documentation, which was prepared in accordance with Public Resources Code § 21159 and California Code of Regulations, title 14, § 15187, and directs the Executive Officer to sign the environmental checklist.
4. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Board in accordance with the requirements of § 13245 of the California Water Code.
5. The Regional Board requests that the State Board approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA.
6. If during the State Board's approval process, Regional Board staff, the State Board or State Board staff, or OAL determine that minor, non-substantive modifications to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes.
7. The Executive Officer is authorized to request a "No Effect Determination" from the Department of Fish and Game, or transmit payment of the applicable fee as may be required to the Department of Fish and Game.

I, Samuel Unger, Interim Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on July 8, 2010.



Samuel Unger, PE
Interim Executive Officer