

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
AUGUST 7, 2018**

ITEM 5

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ESTABLISHING PART 3 TO THE WATER QUALITY CONTROL PLAN FOR INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES OF CALIFORNIA—BACTERIA PROVISIONS AND A WATER QUALITY STANDARDS VARIANCE POLICY; AND AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR OCEAN WATERS OF CALIFORNIA—BACTERIA PROVISIONS AND A WATER QUALITY STANDARDS VARIANCE POLICY

DISCUSSION

State Water Resources Control Board (State Water Board) staff is proposing Part 3 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays and Estuaries of California—Bacteria Provisions and a Water Quality Standards Variance Policy (Part 3 of the ISWEBE) and an Amendment to the Water Quality Control Plan for Ocean Waters of California—Bacteria Provisions and a Water Quality Standards Variance Policy (Ocean Plan Amendment) (Part 3 of the ISWEBE and the Ocean Plan Amendment are hereafter collectively referred to as the Bacteria Provisions). The Bacteria Provisions are intended to protect human health by updating water quality objectives associated with recreational exposure to water containing fecal bacteria.

In 2012, pursuant to Clean Water Act section 304(a), the United States Environmental Protection Agency developed new bacteria water quality criteria recommendations for protecting primary contact recreation in coastal and non-coastal waters. The Bacteria Provisions' revised water quality objectives are based on those recommendations.

The Bacteria Provisions, if adopted, would apply to fresh, estuarine, and ocean waters and establish updated bacteria water quality objectives for the protection of the primary contact recreation (REC-1) beneficial use based on a risk protection level of 32 illnesses per 1,000 recreators. The Bacteria Provisions would establish: *Escherichia coli* (*E. coli*) as the sole indicator of pathogens in freshwater; enterococci as the sole indicator for saline inland surface waters, enclosed bays, and estuaries; and enterococci as one of the indicators in ocean waters. The Ocean Plan Amendment would retain the fecal coliform objective contained in the existing California Ocean Plan because recent California-specific epidemiological studies demonstrate that fecal coliform is a good indicator of fecal contamination and is a better indicator than enterococci of gastrointestinal illness during certain types of water exposure and environmental conditions. The Bacteria Provisions would supersede numeric, but not narrative, water quality bacteria objectives for the REC-1 beneficial use in the water quality control plans established by the Regional Water Quality Control Boards (Regional Water Boards) prior to the effective date of the Bacteria Provisions.

The Bacteria Provisions would also establish implementation approaches for bacteria control including reference beach and natural source exclusion approaches that may only be applied within the context of a total maximum daily load. Additionally, Part 3 of the ISWEBE (and not the Ocean Plan Amendment) describes implementation approaches that may be utilized to reflect whether the REC-1 beneficial use is appropriately designated. Those implementation approaches include a temporary high-flow suspension and a seasonal suspension of the REC-1 beneficial use, a definition for the limited water contact recreation (LREC-1) beneficial use, and the designation of the LREC-1 beneficial use.

The Bacteria Provisions also identify an existing mechanism under 40 Code of Federal Regulations section 131.14 for adopting water quality standards variances for any pollutant, not only bacteria.

From April through July of 2014, State Water Board staff held focused stakeholder group meetings with representatives from environmental organizations, southern and northern California stormwater agencies, county departments of public health, publicly owned treatment works, and water reuse agencies to receive early input on the scope of the project. State Water Board staff held scoping meetings on January 28, 2015, in Sacramento and on February 10, 2015, in Costa Mesa. A final scoping meeting was held on January 23, 2017, in Sacramento. Comments submitted during and after the scoping meetings were received and considered during the development of the Bacteria Provisions.

A Draft Staff Report, including Substitute Environmental Documentation (hereafter Staff Report) was prepared to accompany the Bacteria Provisions. A staff workshop was held on July 10, 2017, to receive input and comments on the Bacteria Provisions and Staff Report. The State Water Board held a public hearing on August 1, 2017, to receive oral comments on the Bacteria Provisions and Staff Report. The written public comment period was from June 30, 2017 to August 16, 2017. Thirty-three timely comment letters were received. Staff coordinated additional focused stakeholder group meetings on March 21, 2018, and throughout July 2018. The Staff Report, Bacteria Provisions, and responses to comments were subsequently revised and made available to the public prior to the board meeting at which the State Water Board would consider adopting the Bacteria Provisions.

Written responses to comments, the Bacteria Provisions, and Staff Report, as well as revisions to those documents, were distributed to the public and posted to the program webpage at: <http://www.waterboards.ca.gov/bacterialobjectives/>.

POLICY ISSUE

Should the State Water Board adopt the Bacteria Provisions and approve the Staff Report?

FISCAL IMPACT

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

REGIONAL BOARD IMPACT

Upon adoption, the Bacteria Provisions are not expected to significantly impact Regional Water Board workload. If the Bacteria Provisions are not adopted, the Regional Water Boards may need to individually amend their water quality control plans which would require significant resources and potential statewide inconsistency.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the Bacteria Provisions and approve the Staff Report.

State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 6 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses of listed water bodies by 2030 and to enhance consistency across the Water Boards.
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