

July 26, 2007

Song Her, Clerk to the Board
Executive Office
State Water Resources Control Board
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SUBJECT: Comment Letter – California Ocean Plan Amendment (via email)

The following comments are submitted for the “Scoping Document Amendment of the Water Quality Control Plan, Ocean Waters of California, June 2007.”

1. Issue: 2: Fecal Coliform Standard for Shellfish

In considering this standard please note that it must be applied to only the limited areas designated for shellfish harvesting. There also can be seasonal limitations on harvesting imposed by local health departments that should be reviewed for inclusion in the standard.

2. Issue 13: Review Table B Water Quality Objectives

It is recommended that no action be taken at this time towards the development of a new radioactivity objective in Table B. It appears that the focus of this effort is on developing a radioactivity objective because the current objective, which is applicable to human health, might not provide protection for aquatic life and is also difficult to interpret. The scoping document seems to favor alternative #3, which is to adopt water quality objectives for aquatic life based on the standards proposed by the U.S. Department of Energy (DOE) in 10 CFR Part 834. It is our understanding that this proposed regulation was never adopted and it has been difficult to find the necessary background information in order to perform a comprehensive review of its applicability for inclusion in the Ocean Plan. Due to the complexity of this issue it is recommend that SWRCB staff defer addressing it until work can be done with the applicable stakeholders to develop an appropriate standard.

3. Issues 14 & 15: Regional Ambient Water Quality Monitoring, Standard Monitoring and Reporting Requirements.

It is recommended that the Ocean Plan follow the guidelines of the model monitoring provisions as outlined in alternative #2. This alternative allows for the maximum flexibility in applying the principles of the model monitoring provisions. It does not eliminate the ability to retain basic core monitoring functions, rather it provides for the best use of resources and efficiencies to implement the question driven basis that serves as the backbone of the model monitoring template. The City of San Diego has worked with the local RWQCB in implementing such a program and the combination of core monitoring, special studies and regional surveys is proving to provide much more useful information than previous monitoring efforts. A key to its success is the adaptive nature of the monitoring design. Setting minimum core requirements could eliminate resources that could be better applied to the adaptive monitoring efforts. Several specific concerns relative to the draft Appendix III that was attached to the scoping document are listed below:

- Appendix III, page 2 (QA): The QA section could be a bit of a problem as it says it **must** be comparable with QA requirements of SWAMP. The problem is that it seems SWAMP QA requirements have often been in a state of flux. Thus, a specific set of QA requirements needs to be defined per permit cycle.
- Appendix III, page 3 (MS4 designation): The introduction of the MS4 abbreviation appears incomplete, mostly by leaving out the word “Municipal” and not capitalizing other words. I think this should be more appropriately listed as “...Municipal Separate Storm System Permits (MS4s).”
Appendix III, page 8 (aquatic life toxicity): This starts out talking about effluent toxicity, but then includes a paragraph on core monitoring for sediment toxicity as well. Clarification is needed on when there may need to be sediment toxicity in addition to effluent toxicity testing
- Appendix III, page 13 (dilution and control water): In paragraph 3, the sentence concerning “dilution and control water” should be modified as it is often difficult or impossible to reliably designate an “unaffected area of the receiving waters.” Language that addresses this in the NPDES permits for the PLWTP and SBWRP are: *Control and dilution water should be receiving water or lab water as appropriate.* [e.g., such language allows the City to use filtered seawater obtained from the Scripps Institution of Oceanography for these purposes]
- Appendix III, page 13 (methods reference): The EPA reference listed at the bottom of the page for “Macroinvertebrate Field and Laboratory Methods...” appears to be mostly for freshwater systems. If so (i.e., need to check actual reference), this does not seem an appropriate reference for marine waters.

Issue 22. Suspended Solids Regulation in TABLE A

The secondary treatment standard for total suspended solids (TSS) that was promulgated by the USEPA, is a technologically based standard and as such does not recognize potential site specific issues with the receiving water environment. Later changes to the federal standards realized the potential need for the ability to consider site specific issues relative to ocean discharges, and a provision was included to allow for a modification to the TSS standard in the NPDES permits of ocean discharging facilities who could demonstrate that no negative impacts would occur by so doing.

In the absence of such a modification, all dischargers must meet the more restrictive federal standard requiring that the 30 day average discharge of TSS shall not exceed 30 mg/l and shall not be less than 85 percent removal.

In California, if such a modification is obtained, then the Ocean Plan standards become effective. So a technically derived limit for TSS in the Ocean Plan, that is reflective of the actual value necessary to protect the ocean, is more appropriate than simply reflecting the federal standard that is not related to any specific body of receiving water.

Consistency between the two requirements is not necessary to provide for protection of the ocean. There is no inconsistency in having a specific standard for ocean discharge of TSS that varies from the one size fits all technology based national standard. Therefore, before California simply mirrors this national standard, a technical basis for the change should be brought forward that demonstrates the inadequacy of the present Ocean Plan standard to protect the ocean environment. In the absence of such evidence it cannot be determined if the change is of any benefit. Work done by the National Research Council found TSS to be a low priority constituent of concern.

There is no need to continue to have a TSS standard for POTWs in the Ocean Plan if that standard simply restates the federal standard, which POTWs are already required to meet.

If the Table A TSS standard is to be reviewed, then several approaches should be considered, including:

- Consideration should be given to outfalls greater than 3 miles in length, where after initial dilution the concentration of TSS entering State waters is essentially equal to the background levels of TSS found in the natural ocean.

- Studies of TSS discharges and the effect on light transmittance, turbidity and other factors in the ocean environment should be evaluated to arrive at a true "ocean discharge standard."

Additionally, the time frames referenced in the scoping document to achieve compliance with such a change are not realistic. For a facility such as San Diego's Pt. Loma Wastewater Treatment Plant, it could take 10 years, at best, and in excess of a billion dollars to make such a secondary treatment modification.

Item 24: Acute Toxicity definition

The City generally supports State Board staff's preliminary recommendation to modify the acute toxicity definition in the Ocean Plan. This change should result in an improvement of the accuracy of TUa calculations in most cases. However, before such a change is fully implemented, further evaluation and discussion are needed on its effects under different test conditions or results. For example, our initial calculations suggest that the "new" definition proposed by the SWRCB may not be appropriate in instances where survival of the test organisms in 100% effluent samples exceeds survival in the control treatment. This is a common result for many toxicity tests unrelated to sample toxicity. Appropriate alternatives to address and resolve such issues and any potential problems should be fully explored before a new definition for acute toxicity is applied.

Thank you for the opportunity to review and comment on the issues being considered during the scoping process for future Ocean Plan amendments. Please contact myself at (858) 292-6401 or Alan Langworthy of my staff at (619) 758-2300 regarding any questions.

Sincerely,

Timothy C. Bertch Ph.D.
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City of San Diego