

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION--DIVISION OF WATER QUALITY
JANUARY 20, 2005

ITEM 13

SUBJECT

CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENT TO THE CALIFORNIA OCEAN PLAN (OCEAN PLAN): WATER CONTACT BACTERIAL STANDARDS

DISCUSSION

The State Water Resources Control Board (SWRCB) held a public scoping meeting regarding four potential Ocean Plan amendments on January 23 and February 3, 2004. During the February SWRCB workshop, the Board directed staff to conduct a new Triennial Review to determine if there are additional issues that should be reviewed for potential revision of the Ocean Plan. A public hearing was held for the Triennial Review on May 24, 2004. Based on comments received during the scoping meetings and public hearing, SWRCB staff is proposing an amendment to the Ocean Plan regarding water contact bacterial standards as the first issue to be considered for this Triennial Review.

Chapter II, Section B of the 2001 Ocean Plan contains total and fecal coliform water-contact objectives. Chapter III, Section D contains a bacterial assessment and remedial action that requires the measurement of enterococcus bacteria at all stations where total and fecal coliform bacteria are sampled. Like the coliform bacteria, enterococcus bacteria are normally found in the gastrointestinal tract of warm-blooded animals.

In 1986, the U.S. Environmental Protection Agency (USEPA) published Clean Water Act (CWA) section 304(a) criteria guidance that recommended that states adopt an enterococcus standard for marine waters, based on epidemiological studies conducted in East Coast waters. These East Coast studies supported enterococcus as a superior indicator of adverse human health effects as compared to total and fecal coliform bacteria. SWRCB staff has had concerns that the correlations developed in the USEPA studies would not be applicable to the cooler California waters.

In 2000, the CWA was amended to require states with coastal recreation waters to adopt water quality standards for pathogens and pathogen indicators for which USEPA has section 304(a) criteria guidance. In its 2000 Draft Implementation Guidance for Ambient Water Quality Criteria for Bacteria, USEPA strongly encouraged states that have not already done so to adopt its 1986 recommendations and to make the transition to its recommended indicator organisms during triennial review cycles occurring in Fiscal Years 2000-2002. USEPA published the Final Rule in the Federal Register on November 16, 2004 in which it proposed to establish water quality criteria for bacteria for coastal recreation waters in specified states and territories that have not adopted its CWA section 304(a) criteria guidance. Of the 35 states and territories that

have coastal or Great Lakes recreational waters, 10 have adopted USEPA's recommended criteria. California, with the exception of coastal waters under the jurisdiction of the Los Angeles Regional Water Quality Control Board, is included in the Rule, which became effective December 16, 2004. However, USEPA is strongly urging SWRCB to proceed with SWRCB's adoption of water-contact bacterial standards for California. If adopted, California's coastal waters will be excluded from the Final Rule; only bays and estuaries will be included.

The proposed Ocean Plan amendment (Attachment) would do the following:

1. add an enterococcus geometric mean and single sample standard to the Ocean Plan. These standards are identical to USEPA's enterococcus criteria; as of December 16, 2004, the USEPA criteria apply to ocean, bay, and estuarine waters in California. Total coliform, fecal coliform, and enterococcus would be monitored at all stations within a zone bounded by the shoreline and a distance of 1,000 feet from the shoreline or the 30-foot depth contour, whichever is further from the shoreline, and in areas outside this zone used for water contact recreation as determined by the appropriate Regional Water Quality Control Board (Regional Board), and all kelp beds.
2. add single sample maximum standards for total and fecal coliform and for enterococcus, and require additional monitoring if any of these standards are violated;
3. require monitoring for only total coliform at offshore stations; and
4. strongly encourage use of the geometric mean bacterial objectives as the principal tool for assessing whether a water is impaired.

POLICY ISSUE

Should the SWRCB adopt the proposed Ocean Plan amendment to:

1. revise the bacterial water quality objectives for ocean waters in Chapter II, Section B of the Ocean Plan as shown in the Attachment?
2. approve the draft Final Functional Equivalent Document (FED) as part of the Attachment to the resolution?
3. authorize the SWRCB Executive Director to sign the Certificate of Fee Exemption?
4. authorize the SWRCB staff to submit the amended Ocean Plan to the Office of Administrative Law and the USEPA for final approval?

FISCAL IMPACT

Regional Boards' and SWRCB staff work associated with or resulting from this action can be accomplished within budgeted resources.

RWQCB IMPACT

Yes – all coastal Regional Boards.

STAFF RECOMMENDATION

That the SWRCB:

1. revises the bacterial water quality objectives for ocean waters in Chapter II, Section B of the Ocean Plan as shown in the Attachment.
2. approves the draft Final FED as part of the Attachment to the resolution.
3. authorizes the SWRCB Executive Director to sign the Certificate of Fee Exemption.
4. authorizes the SWRCB staff to submit the amended Ocean Plan to the Office of Administrative Law and the USEPA for final approval.

D R A F T

December 27, 2004

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2005-

ADOPTION OF THE PROPOSED AMENDMENT TO THE CALIFORNIA OCEAN PLAN (OCEAN PLAN)

WHEREAS:

1. The Ocean Plan was adopted by the State Water Resources Control Board (SWRCB) in 1972 and amended in 1978, 1983, 1988, 1990, 1997, and 2001.
2. The SWRCB is responsible for reviewing Ocean Plan water quality standards and for modifying and adopting standards in accordance with Section 303(c)(1) of the federal Clean Water Act and Section 13170.2 of the California Water Code (CWC).
3. The SWRCB held scoping meetings regarding four potential Ocean Plan amendments on January 23, 2004 and February 3, 2004.
4. The SWRCB held a public hearing for the Triennial Review of the Ocean Plan on May 24, 2004 to receive additional public comment for potential revisions of the Ocean Plan.
5. SWRCB staff is proposing an amendment to the Ocean Plan regarding water contact bacterial standards as the first issue to be considered for this Triennial Review.
6. The SWRCB prepared and circulated a draft Functional Equivalent Document (FED) in accordance with the provisions of the California Environmental Quality Act and Title 14, California Code of Regulations 15251(g).
7. The SWRCB held a public hearing in Sacramento on October 6, 2004. The SWRCB determined that the bacterial issue needed more consideration and deferred a decision until the January 2005 workshop.
8. On December 16, 2004, the U.S. Environmental Protection Agency (USEPA) adopted the Water Quality Standards for Coastal and Great Lakes Recreation Waters; Final Rule. This rule establishes enterococcus criteria for California's coastal waters, including bays and estuaries.
9. The SWRCB staff has prepared a draft Final FED, an Attachment to this resolution, which includes the specific proposed amendment to the Ocean Plan and responses to the comments received at the hearing. The proposed amendments are identical to USEPA's geometric mean and single sample maximum criteria.
10. Amendments to the Ocean Plan do not become effective until approved by the Office of Administrative Law (OAL) and USEPA.

THEREFORE BE IT RESOLVED THAT:

The SWRCB:

1. revises the bacterial water quality objectives for ocean waters in Chapter II, Section B of the Ocean Plan as shown in the Attachment.
2. approves the draft Final FED as part of the Attachment to the resolution.
3. authorizes the SWRCB Executive Director to sign the Certificate of Fee Exemption.
4. authorizes the SWRCB staff to submit the amended Ocean Plan to OAL and USEPA for final approval.

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 January 20, 2005.

Debbie Irvin
Clerk to the Board