State Water Resources Control Board

Linda S. Adams
Secretary for
Environmental Protection

Tam M. Doduc, Board Chair
1001 I Street • Sacramento, California 95814 • (916) 341-5455
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • http://www.waterboards.ca.gov

Arnold Schwarzenegger
Governor

NOTICE OF OPPORTUNITY TO COMMENT: PROPOSED APPROVAL OF AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION (BASIN PLAN) TO INCORPORATE IMPLEMENTATION PROVISIONS FOR INDICATOR BACTERIA WATER QUALITY OBJECTIVES TO ACCOUNT FOR LOADING FROM NATURAL, UNCONTROLLABLE SOURCES WITHIN THE CONTEXT OF A TOTAL MAXIMUM DAILY LOAD

NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board (State Water Board) will accept comments on the proposed approval of an amendment to the Basin Plan that incorporates implementation provisions for indicator bacteria water quality objectives to account for loading from natural, uncontrollable sources within the context of a total maximum daily load. The amendment, adopted by the San Diego Regional Water Quality Control Board (San Diego Water Board), the State Water Board agenda language, and draft resolution are available on the State Water Board's Web site at http://www.waterboards.ca.gov/water_issues/programs/tmdl/tmdl.shtml#rb9 or can be received by mail by contacting Nirmal Sandhar, at (916) 341-5571. The amendment was adopted by the San Diego Water Board on May 14, 2008, under Resolution No. R9-2008-0028. The State Water Board expects to consider approval of the amendment in the future. Notice of that meeting will be published separately.

Comment letters to the State Water Board **must be received by 12:00 noon on February 13, 2009**. After the deadline, State Water Board staff will not accept additional written comments unless the State Water Board determines that such comments should be accepted. Please send comments to: Jeanine Townsend, Clerk to the Board, by email at (commentletters@waterboards.ca.gov) (if less than 15 megabytes in total size), (916) 341-5620 (fax), or addressed to State Water Resources Control Board, 1001 I Street, Sacramento, CA 95814. Please also indicate in the subject line, "**Comment Letter – San Diego – Indicator Bacteria Water Quality Objectives**."

Please direct questions about this notice to Nirmal Sandhar, Division of Water Quality, at (916) 341-5571 (nsandhar@waterboards.ca.gov) or Sheila Vassey, Senior Staff Counsel, at (916) 341-5173 (svassey@waterboards.ca.gov).

January 15, 2009
Date

Jeanine Townsend
Clerk to the Board

D R A F T

STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
TBD

ITEM

SUBJECT

CONSIDERATION OF A RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION (BASIN PLAN) TO INCORPORATE IMPLEMENTATION PROVISIONS FOR INDICATOR BACTERIA WATER QUALITY OBJECTIVES TO ACCOUNT FOR LOADING FROM NATURAL UNCONTROLLABLE SOURCES WITHIN THE CONTEXT OF A TOTAL MAXIMUM DAILY LOAD

DISCUSSION

On May 14, 2008, the San Diego Regional Water Quality Control Board (San Diego Water Board) adopted Resolution No. R9-2008-0028 (Attachment) amending the Basin Plan to incorporate implementation provisions for indicator bacteria water quality objectives to account for loading from natural uncontrollable sources within the context of a Total Maximum Daily Load (TMDL). These revisions modify the implementation of the Water Quality Standards for bacteria and recreational beneficial uses. The Basin Plan authorizes the San Diego Water Board to use either a "reference system and antidegradation approach" or a "natural sources exclusion approach" during implementation of indicator bacteria water quality objectives for the contact water recreation (REC-1) and non-contact water recreation (REC-2) beneficial uses. The reference system and antidegradation approach or natural sources exclusion approach only apply to municipal separate storm sewer system (MS4) discharges, discharges from concentrated animal feeding operations, and nonpoint source discharges during implementation of indicator bacteria TMDLs.

Implementation of indicator bacteria water quality objectives using the reference system and antidegradation approach requires control of indicator bacteria from anthropogenic sources so that the bacteriological water quality that is achieved is consistent with that of a reference system. A reference system is a watershed and the beach to which the watershed discharges that is minimally impacted by anthropogenic activities that can affect bacterial densities in the water body. Under the reference system and antidegradation approach, a certain frequency of exceedances of the indicator bacteria water quality objectives is allowed. The allowed frequencies of exceedances are either the observed frequency of exceedances in the selected reference system or the targeted water body, whichever is less. In addition to incorporating these two approaches into the Basin Plan, the amendment clarifies and improves the readability of water quality objectives for indicator bacteria for protection of REC-1 and REC-2 beneficial uses.

The need for use of a reference system and antidegradation approach or natural sources exclusion approach was evaluated by looking at data from the mouth of San Onofre State Beach in northern San Diego County, as well as other beaches in Southern California. The data shows that exceedances of indicator bacteria water quality objectives frequently occur at beaches or in creeks that receive runoff from predominately undeveloped watersheds. This indicates that natural uncontrollable sources of indicator bacteria such as wildlife feces, bacterial resuspension from disturbed sediment, regrowth on the beach wrack, can cause exceedances

of indicator bacteria water quality objectives on their own, without contributions from anthropogenic sources.

For indicator bacteria TMDLs incorporating the reference system and antidegradation approach or natural sources exclusion approach, wasteload and load allocations calculated for municipal and nonpoint source dischargers will include allowances for natural uncontrollable sources of indicator bacteria. The reference system and antidegradation approach and natural sources exclusion approach are designed to allow the San Diego Water Board to develop and implement TMDLs that result in exceedances of indicator bacteria water quality objectives that equate to the natural uncontrollable loading of Indicator bacteria. In this manner, the reference system and antidegradation approach and natural sources exclusion approach address circumstances where natural uncontrollable sources of indicator bacteria are the cause of exceedances of indicator bacteria water quality objectives. As such, these approaches provide that MS4 and nonpoint source dischargers subject to indicator bacteria TMDLs will not be required to control indicator bacteria from natural uncontrollable sources. However, the Basin Plan amendment does not obviate the need for MS4 and nonpoint source dischargers to control indicator bacteria from anthropogenic sources.

In addition to incorporation of the reference system and antidegradation approach and natural sources exclusion approach into the Basin Plan, this amendment clarifies and improves the readability of the water quality objectives for indicator bacteria for protection of the REC-1 and REC-2 beneficial uses, as found in Chapter 3 (Water Quality Objectives of the Basin Plan). This includes the following changes: (1) Clarification of the text on indicator bacteria water quality objectives in the section on Inland Surface Waters, Enclosed Bays and Estuaries, Coastal Lagoons and Ground Water, by rewriting the section, and (2) Addition of graphics and updates to the indices, tables of contents, and page footers. These updates improve the readability of the section.

POLICY ISSUE

Should the State Water Resources Control Board (State Water Board) approve the amendment to the Basin Plan to incorporate implementation provisions for indicator bacteria water quality objectives to account for loading from natural uncontrollable sources within the context of a total maximum daily load?

FISCAL IMPACT

San Diego 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 San Diego Water Board's Basin Plan.

STAFF RECOMMENDATION

That the State Water Board:

1. Approve the amendment to the Basin Plan adopted under San Diego Water Board Resolution No. R9-2008-0028.

2. Authorize the Executive Director or designee to submit the amendment adopted under San Diego Water Board Resolution No. R9-2008-0028 to the Office of Administrative Law for approval of the regulatory provisions and to the U.S. Environmental Protection Agency for approval of the Water Quality Standards revisions.

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 Action 1 to prepare, adopt, and take steps to carry out TMDLs, designed to meet water quality standards, for all impaired water bodies on the 2006 list.

D R A F T

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2009-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN DIEGO REGION (BASIN PLAN) TO INCORPORATE IMPLEMENTATION PROVISIONS FOR INDICATOR BACTERIA WATER QUALITY OBJECTIVES TO ACCOUNT FOR LOADING FROM NATURAL UNCONTROLLABLE SOURCES WITHIN THE CONTEXT OF A TOTAL MAXIMUM DAILY LOAD

WHEREAS:

1. On May 14, 2008, the San Diego Regional Water Quality Control Board (San Diego Water Board) adopted Resolution No. R9-2008-0028 (Attachment) amending the Basin Plan to incorporate implementation provisions for indicator bacteria water quality objectives to account for loading from natural, uncontrollable sources within the context of a total maximum daily load (TMDL).

2. The San Diego Water Board found that the analysis contained in the Final Project Report, including the California Environmental Quality Act (CEQA) Checklist, the staff report, and the responses to comments complies with the requirements of the State Water Resources Control Board's (State Water Board's) certified regulatory CEQA process, as set forth in the California Code of Regulations, Title 23, section 3775 et seq.

3. The San Diego Water Board found the Basin Plan amendment would not have a significant adverse effect on the environment and is 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 CFR part 131.12).

4. The State Water Board finds that the Basin Plan amendment is in conformance with the California Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans.

5. The purpose of this Basin Plan is to avoid potential negative effects associated with requiring dischargers to control natural sources of indicator bacteria. Natural sources of indicator bacteria can be accounted for when implementing water quality objectives within the context of TMDLs by using either a "reference system and anti-degradation approach" or a "natural sources exclusion approach."

6. A reference system is a watershed and the beach to which the watershed discharges that is minimally impacted by anthropogenic activities that can affect indicator bacteria densities in the water body.

7. Implementation of indicator bacteria water quality objectives using the "natural sources exclusion approach" requires that dischargers: (1) control all anthropogenic sources of indicator bacteria to a water body, (2) demonstrate that all anthropogenic sources of indicator bacteria to a water body are controlled, and (3) demonstrate that the remaining indicator bacteria densities do not indicate a health risk.

8. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL) and the water quality standards are approved by the U.S. Environmental Protection Agency (U.S. EPA).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under San Diego Water Board Resolution No. R9-2008-0028.

2. Authorizes the Executive Director or designee to submit the amendment adopted under San Diego Water Board Resolution No. R9-2008-0028 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the Water Quality Standards 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 (TBD).

Jeanine Townsend
Clerk to the Board