

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

RESOLUTION NO. 2005-014
December 1, 2005

Amendment to the *Water Quality Control Plan for the Los Angeles Region* to Revise the Early Life Stage Implementation Provision of the Freshwater Ammonia Objectives for Inland Surface Waters (including enclosed bays, estuaries and wetlands) for Protection of Aquatic Life

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

1. The federal Clean Water Act (CWA) requires the State to develop water quality standards that consist of criteria sufficient to protect designated uses for each water body found within the State as well as comply with federal anti-degradation requirements in order to protect high quality waters. In California, the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) establishes the water quality standards process. The Porter-Cologne Act requires the Regional Water Quality Control Board, Los Angeles Region (Regional Board) to establish water quality objectives to protect beneficial uses within the Los Angeles Region. State and regional water quality objectives and beneficial uses serve as federal criteria and designated uses. These water quality objectives and beneficial uses along with the State's anti-degradation policy (State Water Resources Control Board Resolution No. 68-16) represent water quality standards.
2. The amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) was developed in accordance with sections 13240, 13241 and 13242 of the Porter-Cologne Water Quality Control Act (California Water Code, Division 7, Chapter 4, Article 3).
3. The amendment will revise Chapter 3 "Water Quality Objectives" of the Basin Plan and, specifically, the implementation provision included as part of the freshwater ammonia objectives relative to the protection of Early Life Stages (ELS) of fish in inland surface waters.
4. The current Basin Plan contains ammonia objectives to protect ELS of fish in inland surface waters supporting aquatic life. The current ammonia objectives were incorporated into the Basin Plan as part of a Basin Plan amendment adopted by the Regional Board on April 25, 2002. Existing ammonia objectives are based on U.S. Environmental Protection Agency (U.S. EPA) guidance entitled, "1999 Update of Ambient Water Quality Criteria for Ammonia."
5. This amendment is submitted as a result of the Regional Board's direction to staff during the April 25, 2002 board meeting adopting the existing ammonia objectives for staff to evaluate the adequacy of the SPWN (Spawning, Reproduction, and/or Early Development) beneficial use designation as a proxy for the presence of ELS.
6. The current amendment revises the ELS implementation provision included in the freshwater ammonia objectives that became effective in the summer of 2003, following approval of the

earlier ammonia Basin Plan amendment by the Office of Administrative Law (OAL) and U.S. EPA. Specifically the current amendment revises the implementation provision that states, “waterbodies with a Basin Plan designation of “SPWN” support high quality aquatic habitats suitable for reproduction and early development of fish and, therefore, these waterbodies are designated as Early Life Stage (ELS) present waters.”

7. At the direction of the Regional Board, Regional Board staff convened a Technical Advisory Committee (TAC), made up of experts in the field of fish biology and local fish populations. The purpose of the TAC was to discuss the most appropriate way to implement the ELS provision of the recently adopted freshwater ammonia objectives. The TAC met three times to discuss various implementation alternatives and key members of the TAC completed surveys to operationalize the recommended alternative.
8. The Regional Board recognizes that few fish species in the Los Angeles Region reproduce at temperatures less than 15 degrees Celsius. For major water bodies in the region, local experts know where these fish species are or have been present. Where these fish are present, the Regional Board assumes that ELS of these fish are present, unless obvious physical characteristics of the water body would preclude their presence in significant numbers. Where these fish are absent, the Regional Board concludes it is not necessary to apply the ELS present objective at low ambient water temperatures, since no local fish species are reproducing at these temperatures.
9. For all smaller water bodies, the Regional Board presumes that ELS are present, absent local knowledge to the contrary for these waters.
10. Where there is a site-specific ammonia objective for the water body, and the water body is not identified as ELS absent due to physical characteristics of the water body, separate implementation provisions to protect Early Life Stages of fish may apply, since the temperature threshold at which ELS are more sensitive than invertebrates may change based on these site-specific conditions. The potential for seasonality for all ELS present water bodies will be considered before the ELS provision is applied to water bodies with a site specific objective.
11. A National Consultation between U.S. EPA and U.S. Fish and Wildlife Service will take place in the next few years to determine if threatened and endangered (T&E) species are adequately protected by various U.S. EPA 304(a) criteria. If the outcome of this consultation results in the reconsideration of U.S. EPA’s recommended criteria for ammonia on which Region 4’s freshwater ammonia objectives are based, the Regional Board will reevaluate the existing ammonia objectives, including those applicable to Early Life Stages.
12. Re-assignment of water bodies to the ELS present or absent categories may be allowed provided that a water body specific assessment is conducted to justify re-assignment. Changes to the implementation provisions for the ammonia objectives, including the re-assignment of water bodies, must be approved through the Basin Plan Amendment process.
13. A complete list of water bodies subject to the 30-day average objective applicable to the “ELS absent” condition can be found in Attachment A, Table 1 hereto.
14. The Regional Board has considered the costs of implementing the amendment, and other factors, identified in California Water Code, section 13241. Water Code section 13241 only requires consideration of the enumerated factors when a water quality objective is being

revised or amended. Here, the Basin Plan amendment only revises the implementation of the existing ammonia objectives. Therefore, the Regional Board's analysis is somewhat limited. Moreover, the analysis is limited solely to the changes resulting from this amendment. Based on the limited nature of the revisions, the Basin Plan amendment will protect past, present, and probable future beneficial uses; accounts for the existing quality of the water bodies; and accounts for conditions that could reasonably be achieved by coordinated control of all discharges. The decrease in the ammonia objective if a water body is treated as ELS present is not great enough to require additional treatment (beyond minor adjustments to treatment plant operations) if POTWs have in place nitrification and denitrification (N/DN). The need for N/DN was prompted by the requirements of the 1994 Basin Plan ammonia objectives. Additionally, the 30-day average objective applicable to the "ELS present" condition is only more stringent than that applicable to the "ELS absent" condition at temperatures less than 15 degrees Celsius. In the Los Angeles region, water bodies only infrequently have temperatures less than 15 degrees Celsius. Therefore the economic cost of this amendment should not be significant.

15. The amendment results in no or *de minimis* potential for adverse effect, either individually or cumulatively, on wildlife.
16. The regulatory action proposed meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
17. The amendment is consistent with the State Antidegradation Policy (State Water Resources Control Board (SWRCB) Resolution No. 68-16), in that the changes to water quality objectives (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (40 CFR 131.12).
18. The basin planning process has been certified as 'functionally equivalent' to the California Environmental Quality Act requirements for preparing environmental documents and is, therefore, exempt from those requirements (Public Resources Code, Section 21000 et seq.). In performing the Regional Board's functionally equivalent environmental review, the "project" for purposes of the environmental document was solely the changes to the ELS implementation provision of the existing ammonia water quality objectives.
19. A CEQA Scoping meeting on this Basin Plan amendment was noticed on October 20, 2003 and held on November 3, 2003. The purpose of the meeting was to inform interested persons of proposed amendment and to solicit input on the appropriate scope and content of the Basin Plan amendment and its environmental documentation.
20. Regional Board staff prepared a staff report, describing the proposed amendment, and the proposed Basin Plan amendment language dated September 21, 2005, and sent the documents to all known interested persons to allow a 45-day public comment period in advance of the public hearing.
21. The staff report supporting the Basin Plan amendment, response to comments, and CEQA checklist are the Regional Board's substitute documents for purposes of CEQA. Together, the documents demonstrate that the project could not have a significant adverse impact on the environment.

22. The Regional Board held a public hearing on December 1, 2005, for the purpose of receiving testimony on the proposed Basin Plan amendment. Notice of the public hearing was sent to all known interested persons and published in accordance with California Water Code, section 13244.
23. The Basin Plan amendment must be submitted for review and approval by the State Water Resources Control Board (State Board) and the Office of Administrative Law (OAL). Once approved by the State Board, the amendment is submitted to OAL. The Basin Plan amendment will become effective for state law purposes upon approval by OAL. The amendment will also be forwarded to U.S. EPA so that it may be reviewed and approved, to the extent necessary, under the Clean Water Act. A Notice of Decision will be filed.

THEREFORE, be it resolved that

1. Pursuant to sections 13240, 13241, and 13242 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to the Water Quality Control Plan for the Los Angeles Region, to revise the Early Life Stage implementation provision of the freshwater ammonia objectives as set forth in Attachment A.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Board in accordance with the requirements of section 13245 of the California Water Code.
3. 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 U.S. EPA.
4. If during its approval process Regional Board staff, the State Board or OAL determines that minor, non-substantive corrections 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.
5. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

I, Jonathan Bishop, 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 December 1, 2005.

Jonathan Bishop
Executive Officer

Date