

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

**RESOLUTION NO. R12-XXX
June 7, 2012**

Amendment to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Loads for Bacteria in the Santa Monica Bay Beaches; the Marina del Rey Harbor Mothers' Beach and Back Basins; and the Los Angeles Harbor Inner Cabrillo Beach and Main Ship Channel and to Revise Implementation Provisions for Water Contact Recreation Bacteria Objectives

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

1. On January 24, 2002, the Regional Board adopted, by Resolution 2002-004, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a dry weather TMDL for bacteria in the Santa Monica Bay Beaches (hereinafter "Santa Monica Bay Beaches dry weather Bacteria TMDL").The TMDL included an implementation plan requiring reduction of bacteria loading to the Santa Monica Bay Beaches during dry weather by July 15, 2006 for summer dry weather, and by July 15, 2009 for winter dry weather.
2. On December 12, 2002, the Regional Board adopted, by Resolution 2002-022, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a wet weather TMDL for bacteria in the Santa Monica Bay Beaches (hereinafter "Santa Monica Bay Beaches wet weather Bacteria TMDL").The TMDL included an implementation plan requiring reduction of bacteria loading to the Santa Monica Bay Beaches during wet weather by July 15, 2013 for wet weather, or by July 15, 2021 for wet weather if an Integrated Water Resources Approach was followed.
3. The Santa Monica Bay Beaches dry weather Bacteria TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on September 19, 2002, the Office of Administrative Law (OAL) on December 9, 2002, and the United States Environmental Protection Agency (U. S. EPA) on June 19, 2003. The effective date of the Santa Monica Bay Beaches dry weather Bacteria TMDL established by Resolution No. 2002-004 was July 15, 2003, when the Certificate of Fee Exemption was filed with the California Department of Fish and Game.
4. The Santa Monica Bay Beaches wet weather Bacteria TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on March 19, 2003, the Office of Administrative Law (OAL) on May 20, 2003, and the United States Environmental Protection Agency (U. S. EPA) on June 19, 2003. The effective date of the Santa Monica Bay Beaches wet weather Bacteria TMDL established by Resolution No. 2002-022 was July 15, 2003, when the Certificate of Fee Exemption was filed with the California Department of Fish and Game.
5. On August 7, 2003, the Regional Board adopted, by Resolution 2003-012, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a TMDL for bacteria in Marina del Rey, Mothers' Beach and Back Basins (hereinafter "Marina del Rey Bacteria TMDL").The TMDL included an implementation plan requiring reduction

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of bacteria loading to Marina del Rey by March 18, 2007 for dry weather, and by March 18, 2014 for wet weather or by March 18, 2022 for wet weather if an Integrated Water Resources Approach was followed.

6. The Marina del Rey Beaches Bacteria TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on November 19, 2003, the Office of Administrative Law (OAL) on January 30, 2004, and the United States Environmental Protection Agency (U. S. EPA) on March 18, 2004. The effective date of the Marina del Rey Bacteria TMDL established by Resolution No. 2003-012 was March 18, 2004, when the U.S. EPA approved the TMDL.
7. On July 1, 2004, the Regional Board adopted, by Resolution 2004-011, an amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) incorporating a TMDL for bacteria in Inner Cabrillo Beach and Main Ship Channel (hereinafter “Inner Cabrillo Beach Bacteria TMDL”).The TMDL included an implementation plan requiring reduction of bacteria loading to Inner Cabrillo Beach by March 10, 2010 for dry and wet weather.
8. The Inner Cabrillo Beach Bacteria TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on October 21, 2004, the Office of Administrative Law (OAL) on January 5, 2005, and the United States Environmental Protection Agency (U. S. EPA) on March 10, 2005. The effective date of the Inner Cabrillo Beach Bacteria TMDL established by Resolution No. 2004-011 was March 10, 2005, when the U.S. EPA approved the TMDL.
9. Since the adoption and approval of these three TMDLs, responsible parties have collaborated and taken many actions to implement these TMDLs such as developing and implementing coordinated monitoring plans, conducting special studies and installing low flow diversions.
10. The Santa Monica Bay Beaches dry weather Bacteria TMDL includes a scheduled reconsideration. Specifically, pursuant to Table 7-4.3 of the TMDL, the Regional Board shall reconsider the TMDL to: (1) re-evaluate allowable winter dry weather exceedance days based on additional data on bacterial indicator densities in the wave wash; (2) re-evaluate the reference system selected to set allowable exceedance rates; and (3) re-evaluate the reference year used in the calculation of allowable exceedance rates.
11. The Santa Monica Bay Beaches wet weather Bacteria TMDL includes a scheduled reconsideration. Specifically, pursuant to Table 7-4.7 of the TMDL, the Regional Board shall reconsider the TMDL to: (1) refine the allowable wet-weather exceedances days based on additional data on bacterial indicator densities, and evaluation of site-specific variability in exceedance levels; (2) re-evaluate the reference system selected to set allowable exceedance rates including a reconsideration of whether the allowable number of exceedance days should be adjusted annually dependent on rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system; (3) re-evaluate the reference year used in the calculation of allowable exceedance rates and (4) re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision.
12. The Marina del Rey Bacteria TMDL includes a scheduled reconsideration. Specifically, pursuant to Table 7-5.3 of the TMDL, the Regional Board shall reconsider the TMDL to: (1) refine the allowable winter dry-weather and wet-weather exceedances days based on additional data on bacterial indicator densities, and evaluation of site-specific variability in exceedance levels and the results of a study of relative bacterial loading from sources including, but not limited to, storm drains, boats, birds, and other nonpoint sources; (2) re-

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evaluate the reference system selected to set allowable exceedance rates including a reconsideration of whether the allowable number of exceedance days should be adjusted annually dependent on rainfall conditions and an evaluation of natural variability in exceedance levels in the reference system and evaluate using the ‘natural sources exclusion approach subject to antidegradation policies’ rather than the ‘reference system/antidegradation’ approach; (3) re-evaluate the reference year used in the calculation of allowable exceedance rates; and (4) re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision.

13. The Inner Cabrillo Beach Bacteria TMDL includes a scheduled reconsideration. Specifically, pursuant to Table 7-11.3 of the TMDL, the Regional Board shall reconsider the TMDL to: (1) refine the allowable exceedance days based on additional data on bacterial indicator densities; (2) re-evaluate the reference system selected to set allowable exceedance rates including a reconsideration of whether the allowable number of exceedance days should be adjusted annually dependent on rainfall conditions and an evaluation of natural variability in the reference system and evaluate using the ‘natural sources exclusion approach subject to antidegradation policies’ rather than the ‘reference system/antidegradation’ approach; (3) re-evaluate the reference year used in the calculation of allowable exceedance rates; (4) re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision; (5) evaluate the feasibility of a natural sources exclusion for the non-swimming portion of Inner Cabrillo Beach; and (6) re-evaluate the implementation schedule.
14. This reconsideration is not a general reconsideration of each and every element of these TMDLs, but a re-examination of certain technical issues which, as recognized at the time of TMDL adoption, might need revision upon further data collection and analysis, study, or experience as indicated in Tables 7-4.3, 7-4.7, 7-5.3, and 7-11.3.
15. The Regional Board recognizes that the science of fecal indicating bacteria and human health risk continues to advance. Over the course of the implementation of these TMDLs, the TMDLs may be re-considered to incorporate new information from technical or scientific studies, or to address revisions to water quality standards, such as adoption of revised water quality objectives based on recommendations from USEPA.
16. The Santa Monica Bay is located in Los Angeles County, California. The Santa Monica Bay Beaches dry weather Bacteria TMDL and Santa Monica Bay Beaches wet weather Bacteria TMDL addressed documented bacteriological water quality impairments at beaches from the Los Angeles/Ventura County line, to the northwest, to Outer Cabrillo Beach, just south of the Palos Verdes Peninsula.
17. Marina del Rey Harbor opens into Santa Monica Bay and is located south of Venice, north of Playa del Rey, and approximately 15 miles southwest of downtown Los Angeles. The Marina del Rey watershed is approximately 2.9 square miles. The Marina del Rey Bacteria TMDL addresses documented bacteriological water quality impairments at Mothers’ Beach and Back Basins of Marina del Rey Harbor.
18. The Cabrillo Beach area and the Los Angeles Harbor are in the southern part of Los Angeles County, within the City of Los Angeles and are part of the Dominguez watershed. Inner Cabrillo Beach and the Los Angeles Main Ship Channel open up into the Outer Los Angeles Harbor. The Los Angeles Harbor is approximately 25 miles south of downtown Los Angeles and lies between the Palos Verdes Peninsula and the mouth of the Los Angeles River. The

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Inner Cabrillo Beach Bacteria TMDL addresses documented bacteriological water quality impairments at Inner Cabrillo Beach and Main Ship Channel of the Los Angeles Harbor.

19. The Regional Board’s goal in establishing these TMDLs is to reduce the risk of illness associated with swimming in waters contaminated with elevated levels of bacteria. Local and national epidemiological studies compel the conclusion that there is a causal relationship between adverse health effects, such as gastroenteritis, and recreational water quality, as measured by bacteria indicator densities.
20. On October 25, 2001, the Regional Board adopted, by Resolution No. R01-018, an amendment to the Basin Plan to update the bacteria objectives for water bodies designated for water contact recreation.
21. The 2001 updated bacteria objectives included geometric mean limits for bacterial densities.
22. The 2001 updated bacteria objective included ‘Implementation Provisions for Water Contact Recreation Bacteria Objectives’ which stated that geometric means “...should be calculated based on a statistically sufficient number of samples (generally not less than 5 samples equally spaced over a 30-day period.”
23. The ‘Implementation Provisions for Water Contact Recreation Bacteria Objectives’ do not preclude the calculation of a geometric mean over a period greater than 30 days, such as a seasonal geometric mean period.
24. Use of a longer data period in the calculation of geometric means does not change any target, or allocation in any TMDL and does not represent a need for significantly greater or smaller reductions in bacterial densities and will not require a greater or lesser implementation actions on the part of TMDL responsible parties.
25. Regional Board staff has prepared a detailed technical document that analyzes and describes the specific necessity and rationale for this revision of these TMDLs and the revision to the Implementation Provisions for Water Contact Recreation Bacteria Objectives. The technical document entitled "Reconsideration of Certain Technical Matters of the Santa Monica Bay Beaches Bacteria TMDLs; the Marina del Rey Harbor Mothers’ Beach and Back Basins Bacteria TMDL; and the Los Angeles Harbor Inner Cabrillo Beach and Main Ship Channel Bacteria TMDL" is an integral part of this Regional Board action and was reviewed, considered, and accepted by the Regional Board before acting.
26. Upon reconsideration of the Santa Monica Bay Beaches dry weather BacteriaTMDL, Santa Monica Bay Beaches wet weather Bacteria TMDL, Marina del Rey Bacteria TMDL and Inner Cabrillo Beach Bacteria TMDL, this amendment revises the TMDLs to adjust the allowable exceedance days in winter dry weather, removes the need for a calculation of a dry weather only geometric mean, revises geometric mean calculations including allowing a six-week geometric mean calculation. The technical document provides the detailed analysis supporting these revisions as well as analysis of other technical matters to be reconsidered as specified in the TMDLs, such as annually adjusted exceedance days dependent on the rainfall conditions, the reference year (critical condition), revision of the geometric mean calculation, and application of natural source exclusions.
27. This amendment combines the Santa Monica Bay Beaches dry weather Bacteria TMDL and the Santa Monica Bay Beaches wet weather Bacteria TMDL into the Santa Monica Bay Bacteria TMDL (hereinafter “Santa Monica Bay Beaches Bacteria TMDL”).

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28. On June 7, 2012, prior to the Regional Board's action on this resolution, a public hearing was conducted on the revisions to these TMDLs. Notice of the hearing for this revision of these TMDLs was published in accordance with the requirements of Water Code Section 13244. This notice was published in the Los Angeles Times and the Ventura County Star on March 23, 2012.
29. The public has had reasonable opportunity to participate in review of the amendment to the Basin Plan. A draft of the revisions of the Santa Monica Bay Beaches Bacteria TMDL, Marina del Rey Bacteria TMDL and Inner Cabrillo Beach Bacteria TMDL was released for public comment on March 23, 2012; a Notice of Hearing was published and circulated 76 days preceding Regional Board action; Regional Board staff responded to oral and written comments received from the public; and the Regional Board held a public hearing on June 7, 2012 to consider adoption of the revised TMDL.
30. In amending the Basin Plan, the Regional Board considered the factors set forth in sections 13240 and 13242 of the California Water Code.
31. Neither TMDLs nor their targets or other components are water quality objectives, and thus their establishment or revision does not implicate California Water Code section 13241.
32. This amendment is consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16), and the federal Antidegradation Policy (40 CFR 131.12), in that it does not allow degradation of water quality, but requires restoration of water quality and attainment of water quality standards.
33. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Boards' basin planning process as a "certified regulatory program" that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) requirements for preparing environmental documents. (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3782.)
34. The Regional Board previously prepared "substitute environmental documents" for the establishment of the Santa Monica Bay Beaches dry weather Bacteria TMDL, and the Santa Monica Bay Beaches wet weather Bacteria TMDL adopted by Resolutions No. 2002-004 and 2002-022, which were filed with the Resources Agency on July 15, 2003. Those documents contained the required environmental documentation under the State Water Board's CEQA regulations (23 Cal. Code Regs § 3777.) The project itself was the establishment of the TMDLs. In preparing the previous substitute environmental documents, the Regional Board considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intended those documents to serve as a tier 1 environmental review.
35. The Regional Board previously prepared "substitute environmental documents" for the establishment of Marina del Rey Bacteria TMDL adopted by Resolution No. 2003-012, which was filed with the Resources Agency on February 20, 2004. Those documents contained the required environmental documentation under the State Water Board's CEQA regulations (23 Cal. Code Regs § 3777.) The project itself was the establishment of the TMDL. In preparing the previous substitute environmental documents, the Regional Board considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intended those documents to serve as a tier 1 environmental review.

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36. The Regional Board previously prepared “substitute environmental documents” for the establishment of the Inner Cabrillo Beach TMDL adopted by Resolution No. 2004-011, which was filed with the Resources Agency on March 10,2005. Those documents contained the required environmental documentation under the State Water Board’s CEQA regulations (23 Cal. Code Regs § 3777.) The project itself was the establishment of the TMDL. In preparing the previous substitute environmental documents, the Regional Board considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intended those documents to serve as a tier 1 environmental review.
37. This TMDL revision does not alter the environmental analysis that was previously prepared for the establishment of these TMDLs because the TMDL revisions will not result in different implementation actions than those previously analyzed, or different effects upon the environment. Moreover, no additional reasonably foreseeable methods of compliance warrant environmental analysis pursuant to Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187. As such, this amendment is consistent with the prior CEQA documentation.
38. Further, consistent with California Code of Regulations, title 14, section 15162, the Regional Board has determined that no subsequent environmental documents shall be prepared because these TMDL revisions do not involve new significant environmental effects, a substantial increase in the severity of previously identified significant effects, or mitigation measures or alternatives that are considerably different from those analyzed in the previous substitute environmental documentation.
39. The regulatory action meets the “Necessity” standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). Federal regulations require that TMDLs be incorporated into the water quality management plan. The Regional Board’s Basin Plan is the Regional Board’s component of the water quality management plan, and the Basin Plan is how the Regional Board takes quasi-legislative, planning actions. Moreover, the TMDL is a program of implementation for existing water quality objectives, and is, therefore, appropriately a component of the Basin Plan under Water Code section 13242. The necessity of revising the Santa Monica Bay Beaches Dry Weather Bacteria TMDL, Santa Monica Bay Beaches Wet Weather Bacteria TMDL, Marina del Rey Bacteria TMDL and Inner Cabrillo Beach Bacteria TMDL is established in Tables 7-4.3, 7-4.7, 7-5.3, and 7-11.3 and the TMDL staff reports.
40. The Basin Plan amendments revising the Santa Monica Bay Beaches dry weather Bacteria TMDL, Santa Monica Bay Beaches wet weather Bacteria TMDL, Marina del Rey Bacteria TMDL and Inner Cabrillo Beach Bacteria TMDL must be submitted for review and approval by the State Water Board, the State OAL, and the U.S. EPA. The Basin Plan amendments will become effective upon approval by OAL and U.S. EPA.
41. If during its approval process, Regional Board staff, the State Water Board or State Water Board staff, or OAL determine 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 Regional Board of any such changes.

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THEREFORE, be it resolved that pursuant to sections 13240 and 13242 of the Water Code, the Regional Board hereby amends the Basin Plan as follows:

1. Pursuant to Sections 13240 and 13242 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the four amendments to Chapter 7 of the Water Quality Control Plan for the Los Angeles Region, as set forth in Attachment A hereto, to revise the Santa Monica Bay Beaches dry weather Bacteria TMDL and the Santa Monica Bay Beaches wet weather Bacteria TMDL.
2. Pursuant to Sections 13240 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 Chapter 7 of the Water Quality Control Plan for the Los Angeles Region, as set forth in Attachment B hereto, to revise the Marina del Rey Bacteria TMDL.
3. Pursuant to Sections 13240 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 Chapter 7 of the Water Quality Control Plan for the Los Angeles Region, as set forth in Attachment C hereto, to revise the Inner Cabrillo Beach Bacteria TMDL.
4. Pursuant to Sections 13240 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 Chapter 3 of the Water Quality Control Plan for the Los Angeles Region, as set forth in Attachment D hereto, to revise the Implementation Provisions for Water Contact Recreation Bacteria Objectives.
5. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.
6. The Regional Board requests that the State Water Board approve the Basin Plan amendments 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.
7. If during its approval process, Regional Board staff, the State Water Board or State Water Board staff, or OAL determine 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 Regional Board of any such changes.

I, Samuel Unger, 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 June 7, 2012.

Samuel Unger
Executive Officer

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