

California Regional Water Quality Control Board
North Coast Region

Executive Officer's Summary Report
8:30 A.M., Thursday, June 13, 2013
Santa Rosa, California

ITEM: 8

SUBJECT: Update on the Status of the Draft Amendment to Update Surface and Groundwater Water Quality Objectives (Alydda Mangelsdorf and Lauren Clyde)

BOARD ACTION: Informational item only.

BACKGROUND: Under direction of the North Coast Regional Water Quality Control Board, staff has developed a draft amendment to the *Water Quality Control Plan for the North Coast Region* (Basin Plan) to update specific water quality objectives (draft WQO Update Amendment) and implementation plans and polices. The project is divided into two phases. The primary goals of Phase I are to develop a narrative groundwater toxicity objective, to update the chemical constituent objectives for surface waters and ground waters, and to clarify the process the Regional Water Board uses when narrative objectives are translated into numeric limits for use in permits, orders, or other regulatory actions. Phase II of the project incorporates statewide polices for onsite waste treatment systems, the Recycled Water Policy, and establishes a policy for the discharges of waste to land. It also includes a proposed prohibition against the discharge of waste in violation of standards.

A chronology of the major milestones for the Draft Amendment follows:

- February 3, 2012: Draft WQO Update Amendment released for public review.
- March 2012: Multiple comments received from the cities of Santa Rosa and Arcata, Tri-TAC/CASA (a statewide technical advisory committee representing POTWs in conjunction with the California Association of Sanitation Agencies), and Humboldt BayKeeper.
- March 2012-February 2013: Staff undertook revisions to the Amendment to address the concerns of the stakeholders and USEPA.
- February 21, 2013: Draft Staff Report/Supplemental Environmental Document released for public review.

- April 8, 2013: Staff met with commenters to explain the changes made to the draft documents.
- April 15, 2013: Staff received additional comments from the City of Santa Rosa and Tri-TAC/CASA regarding the proposed Basin Plan Amendment.

ISSUES:

The comments received in April 2013 indicate that the City of Santa Rosa and Tri/TAC CASA continue to have issues of concern with the draft documents. Their issues are both of a programmatic and legal nature. The Planning Unit, in conjunction with legal staff and with the support of upper management, has decided to postpone a hearing before the Board on this item until certain additional work can be completed to address specific concerns. A team of planning and program staff are in the process of evaluating the program-related comments. Planning and legal staff are evaluating the legal issues.

**SIGNIFICANT
CHANGES:****2012 Proposed Amendment (Workshop)**

The two primary program goals for this amendment were to add a groundwater toxicity objective and eliminate confusion regarding the use of numeric chemical constituent criteria in permits and orders which are frequently more stringent than maximum containment levels (MCLs). USEPA, however, was concerned about losing specific reference to MCLs and relying solely on the narrative translation policy for the identification of appropriate numeric criteria. As such, staff proposed incorporation of Title 22 through the general chemical constituents objective; but proposed a Narrative WQO (translation) Policy as the vehicle for making more transparent staffs' use of other, more stringent, criteria when appropriate for the protection of sensitive beneficial uses.

Comments received in March 2012 raised concern about prospective incorporation which was the subject of a lawsuit in Region 5, at the time. (The lawsuit was settled in favor of the Water Board in November 2012). Commenters also raised concern about adding the groundwater toxicity objective. Further, they voiced concern about several of the steps laid out in the narrative translation policy. Most fundamentally, commenters raised objections to the characterization of the proposed language as clarifying and making more transparent a long-standing, existing approach taken by program staff. Commenters viewed, instead, the language representing new requirements and needing thorough analysis under CEQA and Section 13241 of Porter Cologne.

2013 Draft Amendment (Proposed Adoption Hearing)

In response to the comments received in 2012, staff made several changes to the draft amendment primarily associated with prospective incorporation of Title 22 and MCLs. This was accomplished by removing the proposed General Chemical Constituents objective, within which incorporation of Title 22 was proposed, relying instead on the existing narrative objective for chemical constituents. The existing narrative objective was revised to protect all beneficial uses, as required under federal and state law. A stronger demonstration of the proposed language as representing current regulatory conditions was provided. These changes were incorporated into a revised document released on February 21, 2013.

Technical and legal staff met with USEPA representatives and developed consensus on the proposed approach whereby outdated numeric chemical constituent objectives would be replaced with a narrative objective and narrative translation policy. As a national trend, USEPA has generally been pushing for the development of numeric objectives rather than narrative. However, they recognized, in this case, that MCLs are often less protective than other numeric criteria and the narrative translation policy more clearly derives the criteria most appropriate for the protection of sensitive beneficial uses.

Technical staff also met with commenters to explain the proposed revisions and further defend the language as clarifying a long-standing, existing approach to numeric criteria development in permits and cleanup orders.

Staff estimates an 8-month delay in bringing the proposed amendment before the Board for consideration. The project team will be revising the proposed basin plan language and staff report, including the environmental analysis. Staff will also be discussing the efficacy of incorporating other proposed revisions into Chapter 3 of the Basin Plan.

RECOMMENDATION: This item is only informational in nature and will be scheduled for Board action at a later date.