



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
<http://dpw.lacounty.gov>



ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460
IN REPLY PLEASE
REFER TO FILE: **WM-9**

February 19, 2015

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

COMMENT LETTER – STATEWIDE BACTERIA OBJECTIVES – SCOPING COMMENTS

The County of Los Angeles and the Los Angeles County Flood Control District appreciate the opportunity to provide scoping comments for the proposed amendments to the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries and the Water Quality Control Plan for Ocean Waters to include updated water quality objectives for bacteria. Enclosed are our comments for your review and consideration.

If you have any questions, please contact me at (626) 458-4300 or ageorge@dpw.lacounty.gov or your staff may contact Mr. Paul Alva at (626) 458-4325 or pvalva@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

ANGELA R. GEORGE
Assistant Deputy Director
Watershed Management Division

EI:ba

P:\wmpub\Secretarial\2015 Documents\Letter\Bacteria Objectives Comments_cover.doc\C15040

Enc.

cc: Chief Executive Officer (Dorothea Park)
County Counsel (Judith Fries)

**COMMENTS OF THE COUNTY OF LOS ANGELES AND
THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT ON
THE PROPOSED AMENDMENTS TO WATER QUALITY CONTROL PLANS FOR
INLAND SURFACE WATERS, ENCLOSED BAYS, AND ESTUARIES AND
THE OCEAN WATERS OF CALIFORNIA FOR
STATEWIDE WATER CONTACT RECREATION BACTERIA OBJECTIVES**

The County of Los Angeles (County) and the Los Angeles County Flood Control District (LACFCD) appreciate the opportunity to provide scoping comments for the proposed amendments to the California Ocean Plan and the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays and Estuaries to include updated bacteria water quality objectives for water contact recreation. These comments are based on the State Water Resources Control Board's (State Water Board) January 2015 Informational Document. The County and the LACFCD commend the State Water Board for embarking on this effort to update the state's bacteria objectives to provide efficient and consistent implementation of the U.S. Environmental Protection Agency's (USEPA) 2012 recreational water quality criteria (2012 RWQC) recommendations. Except as noted below, the County and LACFCD generally concur with the scope of the proposed amendments and support staff's preliminary recommendations. We appreciate the State Water Board's consideration of these comments.

Element 2: Level of Public Protection for Illness Rate

As indicated in the Informational Document, the USEPA's 2012 RWQC recommendations include criteria based on two estimated illness rates – 32 and 36 per 1,000 primary contact recreators - the determination of which to use is left to states' discretion. The 2012 RWQC states:

“EPA recommends that states make a risk management decision regarding illness rate which will determine which set (based on illness rate selected) of criteria values are most appropriate for their waters. The designated use of primary contact recreation would be protected if either set of criteria ... is adopted into the state [water quality standards (WQS)] and approved by EPA.” (Office of Water 820-F-12-058)

State Water Board staff is currently recommending the use of the 32 per 1,000 illness rate for all waterbodies. While this is the most conservative approach, we are concerned that it is overly conservative and can unnecessarily drive up compliance costs. An alternate approach that incorporates criteria corresponding to the 36 per 1000 illness rate where appropriate, and allows the development of site-specific criteria (as allowed in the 2012 RWQC), can be equally protective of public health and, importantly, more cost-effective over time.

It is worth noting that USEPA's 2012 RWQC are based on studies conducted at coastal beaches, where the intensity of recreational use is high relative to that at urban flood control channels. As a result, the criteria corresponding to the 32 per 1,000 illness rate is overly conservative for waterbodies that have a low level of recreational use. Further,

the USEPA's recommended criteria are based on risk level at waterbodies predominantly impacted by traditional wastewater discharges, which can be a source of human fecal contamination. As acknowledged by USEPA, recreational waterbodies that are predominantly impacted by non-human fecal sources (such as stormwater discharges) have relatively lower public health risk than those impacted by wastewater discharges. This suggests that the criteria corresponding to the 36 per 1,000 illness rate can be appropriate for waterbodies that do not have a high level of recreational use and are not predominately impacted by sources of human fecal matter.

Further, it is important that these risk levels (32 or 36 per 1,000 as appropriate) be adopted as a standard which would guide the development of site-specific objectives. In other words, the State should allow the development of site-specific objectives for a waterbody, where appropriate, based on these risk levels. Having a fixed risk level would provide a consistent approach for the development of site-specific objectives across the State.

Therefore, we recommend that State Water Board staff consider an option where (1) the criteria associated with the 32 per 1,000 illness rate would be used for waterbodies that have high level of recreational use or those predominantly subjected to wastewater discharges, (2) the criteria associated with the 36 per 1,000 illness rate would be used for all other waterbodies having designated REC 1 use, and (3) these risk levels be used for the development of site-specific objectives where appropriate.

Element 7: Mixing Zones for Point Sources

Federal regulation states that "States may, at their discretion, include in their state standards, policies generally affecting their application and implementation, such as mixing zones, low flows and variances..." CFR section 131.13. As stated in the Informational Document, there is currently no statewide policy on the application of mixing zones for bacteria discharges. At the same time, State Water Board staff is currently recommending "No action" on this issue, which would maintain the status quo where the decision of when and how to apply mixing zones is left to each Regional Board. This status quo approach has resulted in widely different applications of bacteria standards across the state.

In the Los Angeles region, the practical application of mixing zones has been limited to traditional wastewater discharges, not stormwater discharges. To ensure statewide consistency as well as its application to other discharge types, such as stormwater, the State Water Board should establish a policy on the application of mixing zones in the context of bacteria objectives. The policy should allow the bacteria limits, especially for waterbodies with assimilative capacity such as ocean waters, to be calculated taking into account dilution for all discharge types. We recommend pursuing Alternative 2 of the Informational Document, which states:

"Allow mixing zones in a small area near an outfall. The mixing zone would allow the existing bacteria limits to be calculated taking into account dilution, if appropriate."

Element 11: Allow for a Variance, Seasonal Suspension or Limited REC 1

The County and the LACFCD strongly support the use of a variance, whether based on seasonal suspension, Limited REC 1 designation, or another condition. The concept of variance is crucial to water quality regulations that are not only protective of public health, but also based on common sense. As such, instead of allowing their use, we urge the State Water Board to *encourage* the use of variances where appropriate. We recommend modifying Alternative 3 in the Informational Document as follows:

~~“Allow~~Encourage the use of a variance, seasonal suspension or Limited REC 1.”

Further, the water quality objectives for Limited REC 1 should be different from those of REC 1. The Los Angeles Region has water quality objectives for bacteria for Limited REC 1 and we recommend that they be maintained. The State Water Board should also consider adopting the Los Angeles Region's criteria for Limited REC 1 to apply statewide as part of these amendments.

New Element: Re-opening TMDLs and Permits

The Informational Scoping Document currently stays silent on the application of statewide bacteria objectives. The County and the LACFCD recommend that a new element be added regarding the application of the newly proposed statewide objectives, and their replacement of existing bacteria objectives contained in regional water quality control plans.

Specifically, where bacteria water quality objectives are used in State and Regional Water Board water quality regulatory actions, the State Water Board through the proposed amendments should indicate that once statewide bacteria objectives are adopted, such objectives would replace any other bacteria objectives or standards that might otherwise be used by the State or Regional Water Boards in their water quality programs. Further, the State Water Board should direct the Regional Boards to re-open existing bacteria TMDLs and municipal stormwater permits within a finite amount of time.

New Element: Allow the Use of QMRA to Develop Site-Specific Criteria

In its 2012 RWQC document, the USEPA indicated that the source of microbial contamination is an important factor to be considered in determining human health risk in recreational waters. The risk to humans by fecal contamination from non-human sources has been shown to be less than those from human sources. Consequently, the USEPA has provided scientific tools, such as quantitative microbial risk assessment (QMRA), for developing alternative site-specific bacteria criteria for waterbodies that are predominantly impacted by non-human fecal sources.

State Water Board staff's position on the issue of site-specific criteria is unclear. The Informational Document states that “[s]ite-specific criteria could be developed for specific waters, but it would require potentially costly studies.” However, the

development of site-specific objectives is not included in the options considered, nor is it addressed elsewhere in the Informational Document. As discussed above, the cost of complying with overly conservative standards could be much higher than the cost of developing site-specific objectives.

In southern California, many stormwater agencies as well as regulatory agencies, including the Los Angeles Regional Board and USEPA Region 9, have shown interest in utilizing QMRA to develop site-specific bacteria criteria for sites where sources are characterized predominantly as non-human. It is important that the State Water Board recognize and allow the use of QMRA for purposes of site-specific criteria development in California. Accordingly, we recommend the addition of a new element on QMRA to the proposed statewide water contact recreation bacteria objectives amendments.

New Element: Evaluate the REC-2 designations and objectives

In California, water quality standards for recreational uses include both REC 1 and REC 2 designations and associated water quality objectives. For example, in Los Angeles Region, all REC 1 designated waterbodies also have REC 2 designations and use similar type of indicators, such as fecal coliform. Therefore, the scope of the proposed amendments should be expanded to include bacteria objectives for REC 2; otherwise municipalities will continue to be required to monitor for fecal coliform, despite a lack of scientific basis for applying fecal coliform objectives to REC 2 uses. The Santa Ana Regional Board, for example, recently removed REC 2 objectives from its Basin Plan by citing a lack of scientific evidence for having REC 2 objectives. To maintain statewide consistency, the State Water Board should expand the scope of the proposed amendments to address REC 2.