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ELECTRONIC MAIL

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

Dear Ms. Townsend:

Public Comment
Bacteria Provisions
Deadline: 8/16/17 by 12 noon



COMMENT LETTER – BACTERIA PROVISIONS

The City of Los Angeles (City) Sanitation (LASAN) appreciates the opportunity to provide public comments to the State Water Resources Control Board (State Water Board) on the following:

- Proposed Part 3 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California – Bacteria Provisions and a Water Quality Standards Variance Policy
- Proposed Amendment to the Water Quality Control Plan for Ocean Waters of California – Bacteria Provisions and a Water Quality Standards Variance Policy (Bacteria Provisions).

The water quality of our beaches and rivers is one of our highest priorities, and the City's efforts to reduce and eliminate discharges of bacteria began well before bacteria total maximum daily loads (TMDLs) were adopted in the Los Angeles region. The City began diverting dry-weather flows from several storm drains into the sanitary sewer system in the early 1990s. Working with Los Angeles County and the City of Santa Monica, the City has led the way in planning and implementing over twenty-three (23) low-flow diversion structures (LFDs) along Santa Monica Bay beaches. At Inner Cabrillo Beach, the City has spent over \$20M for capital improvements and beach remediation projects, making it one of the most heavily invested-in beaches in California. For discharges to Marina del Rey, the watershed agencies have implemented three LFDs (which are owned and operated by Los Angeles County) to protect the back basins. Additionally, over 20 projects have been implemented to divert or treat dry-weather runoff in the Los Angeles River watershed. Cumulatively, LASAN is confident these projects have greatly reduced the risk associated with swimming and recreating in our waters. The proposed Bacteria Provisions will likely necessitate additional

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implementation actions above and beyond what are already planned, resulting in additional costs to the City's residents.

LASAN supports the State Water Board's efforts to update water quality objectives to reflect the current state of the science. Additionally, LASAN supports the State Water Board's inclusion of implementation provisions developed by the Los Angeles Regional Water Quality Control Board as part of TMDL development in our region, as well as the new implementation provisions outlined in the proposal. To further support the utilization of the rapidly evolving science of human and environmental health protection as it relates to bacteria and implementation of TMDLs, LASAN has the following technical comments for your consideration:

1. The state of the science related to human health protection and bacteria indicators is rapidly evolving. Research aimed at measuring human sources of bacteria and sources of pathogens continues to bring new information to light that improves our ability to protect human health and manage the risks associated with recreation in our local waters. As part of the ongoing research, alternative indicators (other than *E. coli* and enterococcus) are being identified that may demonstrate a stronger link to human health. Focusing on those indicators as part of TMDL implementation would result in more effective control measures. However, the proposed statewide water quality objectives (WQOs) are based on *E. coli* and enterococcus levels without the ability to shift indicators to meet the same level of protection based on site-specific conditions. The United States Environmental Protection Agency's (USEPA's) 2012 recreational water quality criteria (RWQC) includes a number of options for developing site-specific criteria. To allow the utilization for potentially more effective indicators and site-specific conditions, LASAN requests that the State Water Board acknowledge the following in the Bacteria Provisions:

Attaining the risk end point (32 illnesses per 1,000 recreators) is the top priority and the proposed indicators represent the default WQOs to meet that end point, but site-specific information may be utilized to appropriately modify the indicators or concentrations so long as they provide the same level of protection.

2. The proposed Ocean Plan amendments establish State Water Board Water-Contact Objectives based on USEPA's 2012 marine enterococcus RWQC and describe California Department of Public Health (CDPH) standards that are based on the historical enterococcus criterion, as well as total and fecal coliform criteria. However, the discussion on the difference in the applicability of the statewide objectives and the CDPH standards is unclear. This could lead to confusion about the expected endpoints for clean water programs beyond the Clean Water Act Section 303(d) List, such as Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permits, and TMDLs. As such, LASAN requests that the State Water Board clarify Section III.D.1.a (by inserting the underlined language) as follows:

"Any of the bacteria water quality objectives identified in Section II.B.1.a shall be implemented, . . ."

Also, clarify in Section III.D.1.d that Section II.B.1.a bacteria objectives shall be used in waterbody assessments and establishing TMDL endpoints.

3. As exemplified by a number of currently implemented State Water Board policies, it is extremely beneficial to all stakeholders when statewide policy is clear with respect to its expectations and provides explicit guidance for achieving those expectations. Provision IV.E.4 of the proposed Bacteria Provisions states:

“A WATER BOARD may suspend the water contact recreation (REC-1) beneficial use to reflect water conditions considered inapplicable or unsafe for the REC-1 beneficial use due to low water flows . . . A flow measure . . . shall be established by the WATER BOARD to describe specific conditions during which the seasonal suspension would apply.”

LASAN supports considerations for low-flow conditions; however, defining low flow consistent with the available literature¹ would be helpful. LASAN requests that such a definition be provided and is available to discuss potential definitions. Although a definition of low flow would be most helpful, at a minimum, the Bacteria Provisions should provide the Water Boards and water quality management professionals with clearer guidance and/or examples of when the suspension should apply. Lastly, given that most waterbodies located within Southern California could be exhibiting low flow throughout the year (except for during and immediately following significant rainfall events), LASAN suggests that the low-water flow suspension not be classified as a seasonal suspension. Instead, a distinct provision (similar to the provision provided for the high-flow suspension of the REC-1 beneficial use) could be incorporated.

Please contact Shahram Kharaghani, Watershed Protection Program Division Manager at Shahram.Kharaghani@lacity.org or at (213) 485-0587 for any questions related to these comments.

Sincerely,



ENRIQUE C. ZALDIVAR, Director
LA Sanitation

ECZ:SK:JLC:HR:es

c: Traci Minamide, LA Sanitation/EXEC
Adel Hagekhalil, LA Sanitation/EXEC
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¹ For example, the Instream Flow Group, formed under the sponsorship of the U.S. Fish and Wildlife Service and funded by the USEPA, published *Instream Flow Information Paper: No. 6 (Methods of Assessing Instream Flows for Recreation)* which provides a scientific basis for selecting criteria that determine whether certain physical conditions (water depth and velocity) support REC uses.