

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2002-0176

AMENDING THE WATER QUALITY CONTROL PLAN
FOR
THE TULARE LAKE BASIN
TO UPDATE THE WATER QUALITY OBJECTIVES FOR BACTERIA

WHEREAS, in 1975 the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board) adopted the Water Quality Control Plan for the Tulare Lake Basin (Basin Plan), which has been amended occasionally; and

WHEREAS, the Federal Clean Water Act (CWA) Section 303 requires the Regional Board to develop water quality objectives which are sufficient to protect beneficial uses designated for each water body found within its region; and

WHEREAS, the Basin Plan contains the Tulare Lake Basin's water quality standards and implementation plans; and

WHEREAS, the CWA Section 303(c) requires the Regional Board to review the Basin Plan at least every three years and where appropriate modify water quality objectives or beneficial uses in the Basin Plan; and

WHEREAS, the current Basin Plan contains water quality objectives for total and fecal coliform bacteria to protect waters designated for water contact recreation based on recommendations made by the U.S. Environmental Protection Agency (USEPA) in 1976; and

WHEREAS, in 1986 the USEPA revised its recommended bacteria criteria for water contact recreation to include enterococcus for marine waters and enterococcus or e. coli for fresh waters; and

WHEREAS, in March 1999, the USEPA made a commitment in its Action Plan for Beaches and Recreational Waters that "where a State does not amend its water quality standards to include the 1986 criteria, USEPA will act under Section 303(c) of the Clean Water Act to promulgate the criteria with the goal of assuring that the 1986 criteria apply in all states no later than 2003;" and

WHEREAS, the USEPA's 1986 bacteria criteria represent the best science available; and

WHEREAS, the USEPA's 1986 bacteria criteria is intended to be equivalently protective of the water contact beneficial use as the current water quality objectives; and

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WHEREAS, the amendment will revise Chapter III “Water Quality Objectives” of the Basin Plan to update the current water quality objectives for bacteria for water contact recreation by replacing fecal coliform indicator organism with the e. coli indicator organism; and

WHEREAS, the Regional Board has considered the costs of implementing the proposed amendment, and finds these costs to be a reasonable burden relative to the environmental benefits; and

WHEREAS, the proposed amendment is consistent with State Board Resolution No. 68-16 (*Statement of Policy with Respect to Maintaining High Quality of Waters in California*), the State’s “Antidegradation Policy,” in that the changes to water quality objectives (i) consider maximum benefits to people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in a water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (Title 40 Code of Federal Regulations (40 CFR) Section 131.12); and

WHEREAS, the regulatory action proposed meets the “Necessity” standard of the Administration Procedures Act, Government Code, Section 11353, subdivision (b); and

WHEREAS, the basin planning process has been certified as “functionally equivalent” to the California Environmental Quality Act requirements for preparing environmental documents as specified in Title 23 California Code of Regulations (23 CCR) Section 3782 and is, therefore, exempt from those requirements (Public Resources Code, Section 21000 et seq.); and

WHEREAS, Regional Board staff has prepared a draft amendment and a staff report dated August 2002; and

WHEREAS, the Notice of Filing and environmental checklist indicates that the amendment results in a no potential for adverse effect, either individually or cumulatively, on wildlife; and

WHEREAS, the draft amendment, staff report, Notice of Filing, and environmental checklist have been prepared, noticed, and circulated to interested individuals and public agencies for review and comment in accordance with state and federal environmental regulations (23 CCR Section 3775, 40 CFR 25, and 40 CFR 131); and

WHEREAS, the Regional Board held a public hearing on 17 October 2002, for the purpose of receiving testimony on the draft Basin Plan amendment. Notice of the public hearing was sent to all interested persons and published in accordance with California Water Code, Section 13244; and

WHEREAS, a Basin Plan amendment must be approved by the State Board, Office of Administrative Law (OAL), and USEPA before becoming effective; and

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WHEREAS, the Regional Board finds that the proposed amendment to the Basin Plan was developed in accordance with California Water Code, Section 13240, et seq.:

THEREFORE BE IT RESOLVED, pursuant to Section 13240, et seq. of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendment to the Basin Plan as set forth in Attachment 1; and be it further

RESOLVED, that 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; and be it further

RESOLVED, that 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 USEPA; and be it further

RESOLVED, if during its approval process 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 Regional Board of any such changes; and be it further

RESOLVED, the Executive Officer is authorized to sign a Certificate of Fee Exemption and following approval of the Basin Plan amendment by the USEPA submit this Certificate in lieu of payment of the Department of Fish and Game filing fee to the Secretary of Resources; and be it further

RESOLVED, the environmental documents prepared by Regional Board staff pursuant to Public Resources Code Section 21080.5 are hereby certified and, following approval of the Basin Plan amendment by the State Board, the Executive Officer shall file a Notice of Decision with the State Clearinghouse.

I, THOMAS R. PINKOS, Acting Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 17 October 2002.

/s/
THOMAS R. PINKOS, Acting Executive Officer

ATTACHMENT 1
RESOLUTION NO. R5-2002-0176
AMENDMENT TO UPDATE THE BASIN PLAN
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Revise the Basin Plan section as follows:

CHAPTER 3: WATER QUALITY OBJECTIVES

Replace the paragraphs under the bacteria water quality objective with the following:

~~*In waters designated for contact recreation (REC-1), the fecal coliform concentration based on a minimum of not less than five samples for any 30-day period shall not exceed a geometric mean of 200/100 ml, nor shall more than ten percent of the total number of samples taken during any 30-day period exceed 400/100 ml.*~~

In all waters designated for contact recreation (REC-1), the E. coli concentration, based on a minimum of not less than five samples equally spaced over a 30-day period, shall not exceed a geometric mean of 126/100 ml and shall not exceed 235/100 ml in any single sample.

If any single sample limits are exceeded for E. coli, the Regional Water Board may require repeat sampling on a daily basis until the sample falls below the single sample limit or for 5 days, whichever is less, in order to determine the persistence of the exceedance.

When repeat sampling is required because of an exceedance of any one single sample limit, values from all samples collected during that 30-day period will be used to calculate the geometric mean.