

**STATE WATER RESOURCES CONTROL BOARD
CORRECTED RESOLUTION NO. 2011-0016**

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION TO ESTABLISH BACTERIA OBJECTIVES FOR WATERS DESIGNATED FOR CONTACT RECREATION IN MARINE AND ESTUARINE WATERS OF THE SAN FRANCISCO BAY REGION

WHEREAS:

1. On April 15, 2010 the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted Resolution R2-2010-0066 ([Attachment](#)) amending the Basin Plan to update the water quality objectives for bacteria that are applied to marine and estuarine waters designated for the contact recreation (REC-1) beneficial use.
2. The San Francisco Bay Water Board found that the adoption of this amendment would be consistent with the State Antidegradation Policy ([State Water Board Resolution No. 68-16](#)) and federal antidegradation requirements (40 Code of Federal Regulations 131.6).
3. Health and Safety Code, Sect. 57004 requires an external peer review for work products that constitute the scientific basis for a rule "...establishing a regulatory level, standard, or other requirement for the protection of public health or the environment." SB 1320 defines "scientific basis" as "the foundations of a rule that are premised upon, or derived from empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard or other requirement for the protection of public health or the environment." The Administrative Procedures Manual (2001), Chapter 8, p. 14 states that external peer review is not needed for source documents that have been previously peer reviewed by a recognized expert or body of experts, including U.S. Environmental Protection Agency (U.S. EPA) water quality criteria. The scientific basis of the enterococcus water quality objectives was peer reviewed when adopted by U.S. EPA, and this review (*External Peer Review of EPA Analysis of Epidemiological Data from EPA Bacteriological Studies, February 2004*) is available in the public record for the BEACH Act rule, Docket ID No. OW-2004-0010. Therefore, no additional external peer review was conducted.
4. The San Francisco Bay Water Board found that the analysis contained in the amendment staff report, the California Environmental Quality Act (CEQA) Checklist, and the responses to public and peer review comments comply with the requirements of the State Water Resources Control Board's (State Water Board's) certified regulatory CEQA process, as set forth in California Code of Regulations title 23, section 3775 et seq.
5. The State Water Resources Control Board (State Water Board) finds that, in amending the Basin Plan, the San Francisco Bay Water Board complied with the requirements set forth in sections 13141, 13240, 13242, 13245, and 13246 of the Water Code. The State Water Board also finds that the regulatory action meets the "necessity" standard of the Administrative Procedures Act, Government Code section 11353, Subdivision (b).
6. The Basin Plan amendment adds a 30-day geometric mean water quality-based enterococcus effluent limitation for inclusion in NPDES wastewater permits for discharges to marine or estuarine waters to be implemented according to procedures in the "Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bay, and

Estuaries of California". The enterococcus standards are based on epidemiological studies conducted by U.S. EPA and promulgated in the federal BEACH Act of November 16, 2004 "Water Quality Standards for Coastal and Great Lakes Recreation Waters" 69 FR 67217 et seq. also 40 CFR part 131.41; effective date December 16, 2004.

7. The Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The amendment must also be approved by the U.S. EPA.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan as adopted under San Francisco Bay Water Board Resolution No. R2-2010-0066.
2. Authorizes the Executive Director or designee to submit the amendment adopted under San Francisco Bay Water Board Resolution No. R2-2010-0066 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the Basin Plan amendment.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 5, 2011.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board