APPENDIX A. STATE REGULATION OF BEACHES AND RECREATIONAL WATERS

A.1. OCEAN BEACHES AND OCEAN WATER-CONTACT SPORTS AREAS

A.1.1. Statutory Authority

Health and Safety Code Sections 100275, 115880, 116075, and 116080 authorize the Department of Health Services to adopt regulations pertaining to beach safety.

A.1.1.1 Statutes Related to Beaches

The following sections from the Health and Safety Code (Division 104, Environmental Health; Part 10, Recreational Safety; Article 2, Public Beaches) address beaches and water contact sports areas.

115875. "Public beach," as used in this article, means any beach area used by the public for recreational purposes that is owned, operated, or controlled by the state, any state agency, any local agency, or any private person in this state, and is located in the coastal zone, as defined in Section 30103 of the Public Resources Code, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as set forth in Section 66610 of the Government Code.

115880. (a) The department shall by regulation, in consultation with local health officers and the public, establish minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

(b) Prior to final adoption by the department, the regulations and standards required by this section shall undergo an external comprehensive review process similar to the process set forth in Section 57004 of the Health and Safety Code.

(c) The regulations shall, at a minimum, do all of the following, by December 31, 1998:

(1) Require the testing of the waters adjacent to all public beaches for microbiological contaminants, including, but not limited to, total coliform, fecal coliform, and enterococci bacteria. The department may require the testing of waters adjacent to all public beaches for microbiological indicators other than those set forth in this paragraph, or a subset of those set forth in this paragraph, if the department affirmatively establishes, based on the best available scientific studies and the weight of the evidence, that the alternative indicators are as protective of the public health.

(2) Establish protective minimum standards for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1).

(3) Establish protocols for all of the following:

(A) Determining monitoring site locations and monitoring frequency based on risks to public health.

(B) Making decisions regarding public notification of health hazards, including, but not limited to the posting, closing, and reopening of public beaches.

(4) Require that the waters adjacent to public beaches be tested for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1). Except as set forth in paragraph (5), testing shall be conducted on at least a weekly basis, from April 1 to October 31, inclusive, of each year, beginning in 1999, if all of the following apply:

(A) The beach is visited by more than 50,000 people annually.

(B) The beach is located on an area adjacent to a storm drain that flows in the summer.

(5) The monitoring frequency and locations established pursuant to this subdivision and related regulations may only be reduced or altered after the testing required pursuant to paragraph (4) reveals levels of microbiological contaminants that do not exceed for a period of two years the minimum protective standards established pursuant to paragraph (2).

(d) The local health officer shall be responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

(e) The local health officer may meet the testing requirements of this section by utilizing test results from other agencies conducting microbiological contamination testing of the waters under his or her jurisdiction.

(f) Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the state department pursuant to this section.

(g) Any duty imposed upon a local public officer or agency pursuant to this section shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Director of Health Services, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The State Director of Health Services shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

115885. The health officer having jurisdiction over the area in which a public beach is created shall:

(a) Inspect the public beach to determine whether the standards established pursuant to Section 115880 are being complied with. If the health officer finds any violation of the standards, he or she may restrict the use of, or close, the public beach or portion thereof in which the violation occurs until the standard is complied with.

(b) Investigate any complaint of a person of a violation of any standard established by the department pursuant to Section 115880. If the health officer finds any violation of the standards prescribed by the department, he or she may restrict the use of, or close, the public beach or portion thereof until the standard is complied with. If the person who made the complaint is not satisfied with the action taken by the health officer, he or she may report the violation to the department. The department shall investigate the reported violation, and, if it finds that the violation exists, it may restrict the use of or close the public beach or portion thereof until the standard violated is complied with.

(c) (1) Whenever a beach is posted, closed, or otherwise restricted in accordance with Section 115915, the health officer shall inform the agency responsible for the operation and maintenance of the public beach within 24 hours of the posting, closure, or restriction.

(2) The health officer shall establish a telephone hotline to inform the public of all beaches currently closed, posted, or otherwise restricted. The hotline shall be updated as needed in order to convey changes in public health risks.

(d) Report any violation of the standards established pursuant to Section 115880 to the district attorney, or if the violation occurred in a city and, pursuant to Section 41803.5 of the Government Code, the city attorney is authorized to prosecute misdemeanors, to the city attorney.

(e) In the event of a known untreated sewage release, the local health officer shall immediately test the waters adjacent to the public beach and to take action pursuant to regulations established under Section 115880.

(f) Notwithstanding any other provision of law, in the event of an untreated sewage release that is known to have reached recreational waters adjacent to a public beach, the local health officer shall immediately close those waters until it has been determined by the local health officer that the waters are in compliance with the standards established pursuant to Section 115880.

(g) Any duty imposed upon a local public officer or agency pursuant to this section shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Director of Health Services, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The State Director of Health Services shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

115890. Prior to restricting the use of or closing a public beach or portion thereof alleged to be in violation of standards, the health officer, or the department as the case may be, shall give reasonable notice of the violation to the owner of, or person or agency in charge of, the beach.

115895. Any private person who violates any regulation adopted by the state department pursuant to Section 115880 is guilty of a misdemeanor.

115900. For the purposes of Sections 115900 to 115915, inclusive, the following definitions apply:

(a) "Beach" means any public beach of the ocean waters and bays of the state where water-contact sports are engaged in by the public.

(b) "Board" means the State Water Resources Control Board.

(c) "Health officer" means the legally appointed health officer or director of environmental health of the county or city having jurisdiction of the area in which a public saltwater beach is located.
115905. The Legislature finds and declares all of the following:

(a) California's world-famous beaches are an invaluable economic, environmental, and recreational resource that must be protected for present and future generations. Millions of residents and visitors alike visit the state's beaches annually.

(b) Pollution from toxic spills, untreated municipal sewage, and agricultural and urban runoff threatens this critical resource.

(c) During 1989 through 1991 alone, at least 400 of the state's beaches had to be posted "off-limits" due to dangerous levels of bacterial and toxic contamination.

(d) Due to this pollution, local health officials were forced to close one or more beaches between San Diego and Mendocino Counties for all but 18 days in 1991.

(e) This contamination of our beaches poses serious threats to the public's health, increasing the risk that persons who use the beaches will suffer from hepatitis, gastroenteritis, and other dangerous illnesses.

(f) Notwithstanding the importance and potential severity of this problem, the state has never conducted a statewide survey to document annual beach closings.

(g) The state does not have uniform testing protocols that must be followed to ensure that the public is never exposed to dangerous contamination at the state's beaches.

(h) The state does not have uniform standards requiring beach postings when California Ocean Plan bathing water standards, as adopted by the board pursuant to Section 13170.2 of the Water Code, are exceeded.

(i) The state does not have uniform requirements mandating the frequency with which beach waters must be tested to ensure public safety. Beach water sampling currently varies greatly from county to county. For example, Los Angeles County tests its beaches every week of the year while other coastal counties test much less frequently.

(j) More accurate and centralized record keeping on the relative contributions of pollutant sources to beach closures would enable more effective targeting of corrective actions to keep our beaches safe and our coastal areas economically strong.

115910. (a) On or before the 15th day of each month, each health officer shall submit to the board a survey documenting all beach postings and closures resulting from implementation of Section 115915 that occurred during the preceding month. The survey shall, at a minimum, include the following information:

(1) Identification of the beaches in each county subject to testing conducted pursuant to Section 115885 and the amount and types of monitoring conducted at each beach.

(2) Identification of the geographic location, areal extent, and type of action taken for each incident of posting or closure conducted pursuant to Section 115915. Geographic location and areal extent shall be noted in sufficient detail to determine on a common map, or by latitude and longitude, the approximate boundaries of the affected beaches.

(3) Identification of the standards exceeded and the causes and sources of the pollution, if known. Exceeded standards shall be identified with sufficient particularity to determine which types of tests and biological indicators were used to determine that an exceeded standard exists. Causes of pollution shall be identified with sufficient particularity to determine what substances, in addition to any water carrying the substances, were responsible for the exceeded standard. Sources shall be identified with sufficient particularity to determine the most specific geographical origin of the pollution sources available to the health officer at the time of the posting or closure.

(b) Surveys conducted pursuant to subdivision (a) shall be in a specific format established by the board on or before February 1, 2001. The board shall make the format easily accessible to the health officer through means that will enable the health officer to most effectively carry out the requirements of this section and enable the board to develop consistent, statewide data concerning the effect and status of beach postings and closures in a particular calendar year.

(c) On or before the 30th day of each month, the board shall make available to the public the information provided by the health officers. Based upon the data provided pursuant to subdivision (a), the report shall, at a minimum, include the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(d) On or before July 30 of each year, the board shall publish a statewide report documenting the beach posting and closure data provided to the board by the health officers for the preceding calendar year. Based upon the data provided pursuant to subdivision (a), the report shall, at a minimum, include the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(e) Within 30 days of publication of the annual report, the board shall distribute copies of the report to the Governor, the Legislature, and major media organizations, and copies of the report shall be made available to the public by a variety of means typically available to the board.

115915. (a) Whenever any beach fails to meet the bacteriological standards established pursuant to subdivision (b) of Section 115880, the health officer shall, at a minimum, post the beach with conspicuous warning signs to inform the public of the nature of the problem and the possibility of risk to public health.

(b) A warning sign shall be visible from each legal primary beach access point, as identified in the coastal access inventory prepared and updated pursuant to Section 30531 of the Public Resources Code, and any additional access points identified by the health officer.

(c) Any duty imposed upon a local public officer or agency pursuant to this section shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Director of Health Services, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The State Director of Health Services shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

116070. As used in this article, water-contact sport means any sport in which the body of a person comes into physical contact with water, including but not limited to swimming, surfboarding, paddleboarding, skin diving, and water-skiing. It does not include boating or fishing.

116075. The department has supervision of sanitation, healthfulness, and safety of the public beaches and public water-contact sport areas of the ocean waters and bays of the state and, except as provided in Section 18930, the department may make and enforce regulations pertaining thereto as it deems proper.

116080. Regulations made pursuant to this article shall include suitable standards of safe bacteria count for water-contact sports areas specified by the State Water Pollution Control Board or regional water pollution control boards, which standards shall be applied to all public water-contact sport areas of the ocean waters and bays of the state.

116085. Every person who violates any rule or regulation adopted pursuant to this article is guilty of a misdemeanor.

116090. Nothing contained in this article shall be construed to give the department the authority to fix the areas wherein water-contact sports may be engaged in or to affect the authority of the State Water Pollution Control Board or regional water pollution control boards to fix appropriate areas for various uses.

A.1.2 Regulations

A.1.2.1 Department of Health Services [Also see DHS' Guidance for Salt Water Beaches]

Regulations for recreational use of ocean waters are published in Title 17 of the California Code of Regulations, in Group 10. Sanitation, Healthfulness and Safety of Ocean Water-Contact Sports Areas.

Title 17 of the California Code of Regulations

Group 10. Sanitation, Healthfulness and Safety of Ocean Water-Contact Sports Areas

Article 2. Definitions

7952. Public Water-Contact Sports Area Defined.

Public water-contact sports area means any area so designated (1) by a regional water pollution control board, or (2) by any other authorized and responsible public agency.

7956. Storm Drain.
"Storm drain" means a conveyance through which water flows onto or adjacent to a public beach and includes rivers, creeks, and streams, whether in natural or in man-made channels.

Article 4. Healthfulness

7957. Physical Standard.
No sewage, sludge, grease, or other physical evidence of sewage discharge shall be visible at any time on any public beaches or water-contact sports areas.

7958. Bacteriological Standards.
(a) The minimum protective bacteriological standards for waters adjacent to public beaches and public water-contact sports areas shall be as follows:

(1) Based on a single sample, the density of bacteria in water from each sampling station at a public beach or public water contact sports area shall not exceed:

(A) 1,000 total coliform bacteria per 100 milliliters, if the ratio of fecal/total coliform bacteria exceeds 0.1; or

(B) 10,000 total coliform bacteria per 100 milliliters; or

(C) 400 fecal coliform bacteria per 100 milliliters; or

(D) 104 enterococcus bacteria per 100 milliliters.

(2) Based on the mean of the logarithms of the results of at least five weekly samples during any 30-day sampling period, the density of bacteria in water from any sampling station at a public beach or public water contact sports area, shall not exceed:

(A) 1,000 total coliform bacteria per 100 milliliters; or

(B) 200 fecal coliform bacteria per 100 milliliters; or

(C) 35 enterococcus bacteria per 100 milliliters.

(b) Water samples shall be submitted for bacteriological analyses to a laboratory certified by the Environmental Laboratory Accreditation Program, California Department of Health Services in microbiology for methods for the analysis of the sample type.

7959. Bacteriological Sampling.
(a) In order to determine that the bacteriological standards specified in Section 7958 above are being met in a water-contact sports area designated by a Regional Water Quality Control Board in waters affected by a waste discharge, water samples shall be collected at such sampling stations and at such frequencies as may be specified by said board in its waste discharge requirements.

(b) In waters of a public beach or water-contact sports area that has not been so designated by a Regional Water Quality Control Board, water samples shall be collected at such frequencies as may be determined by the local health officer or Department. Local health officers shall be responsible for the proper collection and analysis of water samples in such areas.

7960. Corrective Action.
(a) When a public beach or public-water-contact sports area fails to meet any of the standards as set forth in Section 7957 or 7958 above, the local health officer-or the Department, after taking into consideration the causes therefor, may at his or its discretion close, post with warning signs, or otherwise restrict use of said public beach or public water-contact sports area, until such time as corrective action has been taken and the standards as set forth in 7957 and 7958 above are met.

7961. Public Beaches Visited by More than 50,000 People Annually and Adjacent to Storm Drains.
(a) Waters adjacent to a public beach shall be tested for bacteria identified in Section 7958 on at least a weekly basis from April 1 to October 31, inclusive, if the beach is

(1) Visited by more than 50,000 people annually, and

(2) Located adjacent to a storm drain that flows in the summer.

(b) Water samples shall be taken from locations that include areas affected by storm drains. Samples shall be taken in ankle- to knee-deep water, approximately 4 to 24 inches below the water surface.

(c) When testing reveals that the waters adjacent to a public beach fail to meet any of the standards set forth in Section 7958(a)(1), the local health officer shall post the beach pursuant to Health and Safety Code Section 115915, and shall use the standards of Sections 7958(a)(1) and (2) in determining the necessity to restrict the use of or close the public beach or portion thereof.

(d) In the event of a known release of untreated sewage into waters adjacent to a public beach, the local health officer shall:

(1) Immediately post and close the beach or a portion thereof, or otherwise restrict its use until the source of the sewage release is eliminated;

(2) Sample the affected waters; and

(3) Continue closure or restriction of the beach or a portion thereof and posting the beach until testing results establish that the standards of Sections 7958(a)(1) are satisfied.

7962. Duties Imposed on a Local Public Officer or Agency.
(a) Pursuant to Health and Safety Code Sections 115880(h), 115885(g), and 115915(c), any duty imposed upon a local public officer or agency by Section 7961 shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Director of Health Services, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with performance of these duties.

Regulations for the sanitation of public beaches are published in Title 17 of the California Code of Regulations, in Group 10.1

Group 10.1 Sanitation of Public Beaches

Article 2. Definitions and Exemptions

7972. Saltwater Body.
Saltwater Body means the ocean, a marine bay, estuary or lagoon.

7973. Freshwater Body.
Freshwater Body means a natural or artificial lake, river, reservoir, stream or canal.

7974. Refuse.
Refuse means domestic or industrial garbage, rubbish, or other debris adversely affecting public health and safety as specified by the Health Officer.

7975. Sanitation.
Sanitation means the maintenance of a safe and healthful environmental by means of removal of refuse; provision of sanitary toilet and handwashing facilities; disposal of sewage and liquid wastes; protection of bathing water quality; provision of pure, wholesome and potable drinking water; and control of harmful insects, rodents and animals.

7976. Recreational Purposes.
Recreational purposes include but are not limited to, swimming, camping, scenic enjoyment, fishing, shellfish gathering, surfing, scuba or snorkel diving, boating, equestrianship, use of recreational vehicles, jogging, walking, and beachcombing.

7977. Public Health and Safety.
Public health and safety means the maintenance of an environmental that contributes to human well being, and in which there is an absence of human disease, ill health or injury.

7978. Health Officer.
Health Officer means the legally appointed Health Officer of the county or city having jurisdiction of the area in which a public beach is located.

7979. Exemption.
Sections 7981 through 7991 of Title 17 shall not apply when the Health Officer determines that the beach is maintained primarily as an open space. The criteria, among others, that may be evidence of open space is lack of developed access, lack of parking facilities, lack of lifeguard services, or where casual use normally does not exceed 50 people per mile of shoreline.

7980. Review by Health Officer.
No persons shall begin construction, reconstruction or alteration of any public beach sanitation facility without first submitting plans, specifications and other such information, as may be required, to the Health Officer for his review and written approval. If no action is taken within fifteen (15) days of submission of plans, the project shall be deemed approved. If the Health Officer disapproves, the reason shall be so stated in writing.

Article 3. Day Use Beaches

7981. Application.
The provisions of this article shall be applicable to public beaches where overnight camping is not permitted.

7982. Toilets.
Toilets shall conform to the State Plumbing Code, Part 5, Title 24, California Administrative Code. Portable toilets may be substituted for plumbed toilets.

7983. Water Supply.
Water when provided for drinking, showers, or handwashing shall be from a source approved by the Health Officer.

7984. Maintenance.
Toilets shall be available to the public at all times the beach is officially open for use. All facilities must be maintained in a clean and sanitary condition at all times.

7985. Refuse Handling.
(a) Refuse containers approved by the Health Officer shall be provided at all public beaches.

(b) All refuse shall be stored in the container in a manner which will not create a nuisance.

(c) Containers shall be emptied at frequencies sufficient to prevent overflow and to be maintained in a sanitary condition.

(d) Every public beach shall be maintained in a clean condition free of refuse.

7985.1 Animals.
No person shall bring onto or allow any animal, except guide dogs used by the blind, to remain on any beach which has been designated a public swimming beach by the state, or any city, county, or city and county and where life guards are provided, except that horses may be ridden on designated equestrian trails and areas.

This regulation is not intended to prohibit or supersede any local ordinance not in effect or which may be enacted.

Article 4. Beaches Allowing Overnight Camping

7987. Application.
The provisions of this article shall be applicable to public beaches used for overnight camping.

7988. Refuse Handling.
(a) Refuse containers approved by the Health Officer shall be provided in every camping area.

(b) All refuse shall be stored and removed in a manner which will not create a nuisance.

(c) Beach areas and areas set aside for camping shall, at all times, be maintained in a clean condition free of refuse.

7988.1 Animals.
No person shall bring onto or allow any animal, except guide dogs used by the blind, to remain on any beach which has been designated a public swimming beach by the state, or any city, county, or city and county and where life guards are provided, except that horses may be ridden on designated equestrian trails and areas.

This regulation is not intended to prohibit or supersede any local ordinance not in effect or which may be enacted.

7989. Campsites.
(a) No travel trailer, camp car, recreational vehicle or tent shall be located closer than six feet from any building or travel trailer, camp car, recreational vehicle or tent on an adjacent lot or campsite.

(b) Each vehicular lot or campsite in a camping area shall have direct access.

7990. Sanitary Facilities.
(a) Toilets shall conform to the State Plumbing Code, Part 5, Title 24, California Administrative Code.

(b) Shower baths or other bathing facilities are not required; however, when provided, they shall conform to the State Plumbing Code, Part 5, Title 24, California Administrative Code.

7991. Maintenance.
All sanitary facilities shall be maintained in a clean and safe condition.

7992. Disposal of Sewage Wastes.
(a) Wastewater or material from plumbing fixtures shall not be permitted to be deposited upon the ground.

(b) Campsites not provided with a drain inlet shall not be occupied by a travel trailer, camp car, or recreational vehicle equipped with plumbing unless the drain outlet of the vehicle is capped or as otherwise provided by part (c) of this section. Each campsite for use by vehicles equipped with toilets, unless self-contained shall be provided with a three-inch drain inlet.

(c) Other means of disposing of liquid wastes, not including human wastes, may be approved by the Health Officer.

(d) Trailer sanitation stations approved by the Health Officer and designed to receive the discharge of sewage holding tanks of self-contained vehicles shall be installed or available in an accessible location to every public beach campground area in which there are campsites not provided with drain inlets designed to receive the discharge of sewage wastes. Trailer sanitation stations shall be provided on the basis of one station for each 100 such campsites or portion thereof.

(e) Trailer sanitation stations shall be designed and constructed as required by Sections 5570 through 5580, Title 25, California Administrative Code.

7993. Laundry Facilities.
Laundry facilities are not required; however, when provided they shall conform to the State Plumbing Code, Part 5, Title 24, California Administrative Code.

7994. Water Supply.
When provided, potable water shall be from a source approved by the Health Officer and obtainable from faucets installed not more than 400 feet from each campsite. Potable water shall be adequate for all the requirements of the camping area.

A.1.2.2 State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards (RWQCBs)

The SWRCB's Ocean Plan (SWRCB, 2005) establishes Water Quality Objectives for microbiological contamination. See http://www.swrcb.ca.gov/water_issues/programs/ocean//docs/oplans/oceanplan2005.pdf .

RWQCBs' Basin Plans establish their water quality objectives. The basin plans are at http://www.swrcb.ca.gov/plans_policies/ .

A.2 FRESH WATER BEACHES

A.2.1 Department of Health Services

Regulations for public beaches are published in Title 17 of the California Code of Regulations, Group 10.1 Sanitation of Public Beaches, beginning with Section 7972.

They provide definitions of terms, and address the provision of water supply, toilets and sanitary facilities, maintenance, refuse handling, campsites and animals. These regulations are presented above. [Also, see DHS' non-regulatory Guidance for Fresh Water Beaches.

A.2.2 RWQCBs

RWQCBs' Basin Plans establish their water quality objectives. The basin plans are at http://www.swrcb.ca.gov/plans_policies/ .

Initial draft: November 1997

REFERENCES

See http://www.cdph.ca.gov/HealthInfo/environhealth/water/Pages/Beaches.aspx