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HEALTH AND SAFETY CODE - HSC

DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] (*Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*)

PART 10. RECREATIONAL SAFETY [115725 - 116095] (*Part 10 added by Stats. 1995, Ch. 415, Sec. 6.*)

CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7] (*Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.*)

ARTICLE 2. Public Beaches [115875 - 115915] (*Article 2 added by Stats. 1995, Ch. 415, Sec. 6.*)

115875. For the purposes of this article, the following terms have the following meanings:

(a) "Public beach" 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.

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

(c) "Department" means the State Department of Public Health.

(d) "Health officer" means the legally appointed local 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.

(*Amended by Stats. 2011, Ch. 592, Sec. 1. (SB 482) Effective January 1, 2012.*)

115880. (a) The department shall, by regulation and in consultation with the board, local health officers, and the public, establish, maintain, and amend as necessary, 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 or amendment 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.

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

(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) Require that the waters adjacent to public beaches are 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 subdivision (e), testing shall be conducted on at least a weekly basis from April 1 to October 31, inclusive, of each year beginning in 2012, if both 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.

(d) Notwithstanding subdivision (a), if a local health officer demonstrates or has demonstrated through side-by-side testing over a beach season that the use of United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment

or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, to determine the level of enterococci bacteria as a single indicator provides a reliable indication of overall microbiological contamination conditions at one or more beach locations within that health officer's jurisdiction, the department may authorize the use of that testing method at those beach locations instead of other testing methods. In making that determination, the department shall take into account whether an alternative indicator or subset of indicators, with the associated test method, can provide results more quickly, thereby reducing the period of time the public is at risk while waiting for contamination to be confirmed.

(e) The monitoring frequency and locations established pursuant to this section and related regulations may be reduced or altered only after the testing required pursuant to paragraph (3) of subdivision (c) reveals levels of microbiological contaminants that do not exceed, for a period of two years, the minimum protective standards established pursuant to this section.

(f) The local health officer is responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within their jurisdiction.

(g) (1) The local health officer may meet the testing requirements of this section by utilizing test results from other parties conducting microbiological contamination testing of the waters under their jurisdiction.

(2) Test results used by the local health officer shall be made available to the public.

(3) A local health officer may only rely on data from test results from other parties if that data meets the same quality requirements that apply to local agencies pursuant to regulations and standards established pursuant to this section and Section 115881.

(h) This section does not require a wastewater treatment agency or other party conducting microbiological contamination testing of the waters under the local health officer's jurisdiction, who provides those test results to a local health officer pursuant to this section, to use United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, for total maximum daily load implementation, waste discharge requirements, or other monitoring programs required to be implemented pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(i) 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 department pursuant to this section.

(Amended by Stats. 2024, Ch. 411, Sec. 1. (AB 2599) Effective January 1, 2025.)

115881. (a) Commencing January 1, 2012, the board shall be responsible for all of the following:

(1) Directing the monitoring required to be conducted by Section 115880.

(2) Establishing and reviewing monitoring protocols, site locations, and monitoring frequencies consistent with Section 115880.

(3) Identifying options for funding the monitoring needed to fulfill the requirements of Section 115880, including options for integrating and streamlining existing monitoring programs or requirements associated with waste discharge requirements, total maximum daily load implementation, or other monitoring programs. If a regional board or state board issues waste discharge requirements that require monitoring to meet the requirements set forth in paragraph (1) of subdivision (c) of Section 115880, the monitoring shall only be required to the extent that the discharge has the potential to cause or contribute to exceedances of the standards established pursuant to paragraph (2) of subdivision (c) of Section 115880. Nothing in this section shall preclude any discharger from voluntarily participating in monitoring necessary to meet the requirements of Section 115880.

(b) The establishment and review of monitoring protocols, site locations, and monitoring frequencies by the board pursuant to this section shall be done in consultation with the department and local health officers, but shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Until June 30, 2016, not more than one million eight hundred thousand dollars (\$1,800,000) of the funds collected annually pursuant to Section 13260 of the Water Code may be used, upon appropriation by the Legislature, as a funding source for the implementation of this article.

(d) Any duty imposed upon a local public officer or agency pursuant to this section and Section 115880 shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the board, 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 board 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.

(Added by Stats. 2011, Ch. 592, Sec. 3. (SB 482) Effective January 1, 2012.)

115885. (a) (1) A health officer having jurisdiction over an area in which a public beach is created shall do all of the following:

(A) Inspect the public beach to determine whether the public beach is in compliance with the standards established pursuant to Section 115880. If the health officer finds a violation of the standards, the health officer may restrict the use of, or close, the public beach or portion of the public beach in which the violation occurs until the public beach is in compliance with the standards.

(B) Investigate a complaint of a violation of a standard established by the department pursuant to Section 115880. If the health officer finds a violation of the standards prescribed by the department, the health officer may restrict the use of, or close, the public beach or portion of the public beach until the public beach is in compliance with the standard. If the person who made the complaint is not satisfied with the action taken by the health officer, the person 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 of the public beach until the public beach is in compliance with the violated standard.

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

(D) 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.

(E) Report a 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.

(F) In the event of a known untreated sewage release, immediately test the waters adjacent to the public beach and to take action pursuant to regulations established under Sections 115880 and 115881.

(G) Notwithstanding any other law, in the event of an untreated sewage release that is known to have reached recreational waters adjacent to a public beach, 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.

(2) (A) The health officer may meet the requirements of subparagraphs (F) and (G) of paragraph (1) by using test results from other parties that have conducted microbiological contamination testing of the waters under the health officer's jurisdiction. The sharing of data between these parties pursuant to this paragraph shall be voluntary. The development of data-sharing protocols shall be at the discretion of these parties.

(B) Test results used by the local health officer shall be made available to the public.

(C) A local health officer may only rely on data from test results from other parties if that data meets the same quality requirements that apply to local agencies pursuant to regulations and standards established pursuant to Sections 115880 and 115881.

(b) If the department is aware of an untreated sewage release that has reached recreational waters adjacent to a public beach, and that the local health officer has not taken action to close the beach, it may take action to close those waters until the waters are in compliance.

(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 Public Health Officer, 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 Public Health Officer 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.

(Amended by Stats. 2024, Ch. 411, Sec. 2. (AB 2599) Effective January 1, 2025.)

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.

(Amended by Stats. 2011, Ch. 592, Sec. 5. (SB 482) Effective January 1, 2012.)

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

(Amended by Stats. 2011, Ch. 592, Sec. 6. (SB 482) Effective January 1, 2012.)

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) The board shall continuously post and update on its Web site, but at a minimum, annually on or before July 30, information documenting the beach posting and closure data provided to the board by the health officers including the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(Amended by Stats. 2004, Ch. 644, Sec. 26. Effective January 1, 2005.)

115915. (a) Whenever any public beach fails to meet the bacteriological standards established pursuant to subdivision (b) of Section 115880, the health officer shall, at a minimum, post the public 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 public 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 Public Health Officer, 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 Public Health Officer 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.

(Amended by Stats. 2011, Ch. 592, Sec. 9. (SB 482) Effective January 1, 2012.)