



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

March 19, 2010

Laurence K. Lau
Deputy Director for Environmental Health
Hawaii Department of Health
P.O. Box 3378
Honolulu, Hawaii 96801

Dear Mr. Lau:

The Environmental Protection Agency (EPA) has reviewed the Amendment and Compilation of Chapter 11-54, Hawaii Administrative Rules (HAR), dated May 27, 2009, which contains recent amendments to the water quality standards for the State of Hawaii. Pursuant to CWA section 303(c) and the implementing federal regulations at 40 CFR 131, EPA hereby approves these amendments.

These amendments include the correction of an inadvertent typographical error made in the adoption of HAR section 11-54-4(b)(3) on November 30, 1989 (toxic pollutant fish consumption criterion for chlordane) and two revisions to the State's specific criteria for recreational waters contained in HAR section 11-54-8(b) (geometric mean and single sample maximum enterococcus content in marine recreational waters within 300 meters of the shoreline, including natural public bathing or wading areas). These amendments were approved by Governor Linda Lingle on June 5, 2009, adopted by the Hawaii Department of Health (HDOH) on June 15, 2009, and submitted to EPA in a letter dated July 8, 2009. EPA received this submittal on July 18, 2009. EPA requested additional information from HDOH regarding the submittal on September 4, 2009, and again on October 20, 2009, to clarify statements written in HDOH's response to public comments on the proposed amendments to criteria for recreational waters. The requested clarification was submitted to EPA in a letter dated February 16, 2010.

The bacteria criteria adopted in these amendments are equivalent to EPA's 1986 bacteria criteria and consistent with the bacteria criteria applicable beyond 300 meters, as promulgated by EPA in 2004. The corrected chlordane criterion is more protective than EPA's recommended water quality criterion due to the higher fish consumption rate adopted by HDOH in 1989 to address fish consumption in Hawaii.

Section 303(c) of the Clean Water Act (CWA) requires EPA to approve or disapprove new or revised State-adopted water quality standards. Today's action regarding the May 27, 2009 amendments to Hawaii's water quality standards is based on the finding that these amendments are consistent with the requirements of the CWA and EPA's regulations at 40 CFR 131.5 and 131.6. This action pertains only to those portions of the amendments that are subject to EPA's water quality standards approval authority under section 303(c) of the CWA.

(i.e., the portions addressing antidegradation, beneficial uses, water quality criteria, and implementation of water quality standards for surface waters).

Public Participation

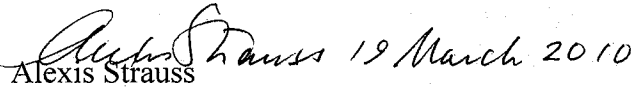
Public involvement is an integral component of a successful water quality program. EPA finds that the public participation procedures followed by the State in the development and adoption of the May 27, 2009 amendments are consistent with 40 CFR 131.20(b). A public notice announcing the proposed amendments was posted in five newspapers on March 9, 2009, and a public hearing was held on April 27, 2009.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act (ESA) states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. The criteria adopted in this action pertain to human health. Therefore, EPA has determined that today's action will have "no effect" on any federally listed endangered or threatened species or critical habitat.

If there are any questions regarding our action, please contact Janet Hashimoto at (415) 972-3452. As always, we look forward to continued cooperation with the State in achieving our mutual environmental goals.

Sincerely,


Alexis Strauss 19 March 2010
Director, Water Division

cc: Dave Penn, HDOH
Alec Wong, HDOH