

**State of California**

**California Regional Water Quality Control Board, Los Angeles Region**

**TENTATIVE RESOLUTION NO. RXX-XXX**

**[Insert Date]**

**Amendments to the Water Quality Control Plan for the Los Angeles Region to Revise the Total Maximum Daily Load for Toxic Pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters**

**WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board), finds that:**

1. The Los Angeles Water Board's Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) contains definitions and designations of beneficial uses of waters in the Los Angeles Region, water quality objectives to protect those beneficial uses, implementation programs and other actions to achieve these water quality objectives, including TMDLs for surface waters designated as impaired under section 303(d) of the federal Clean Water Act.
2. On May 5, 2011, the Los Angeles Water Board, by Resolution No. R11-008, amended the Basin Plan to establish a Total Maximum Daily Load (TMDL) for toxic pollutants in Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters (hereinafter "2012 DC and Greater Harbor Waters TMDL"). The 2012 DC and Greater Harbor Waters TMDL addressed impairments in Dominguez Channel and Greater Harbor Waters due to heavy metals and organic pollutants including DDT and PCBs in one or more environmental media: water, sediment, or fish tissue.
3. The 2012 DC and Greater Harbor Waters TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on February 7, 2012; the Office of Administrative of Law on March 21, 2012; and the U.S. EPA on March 23, 2012. The effective date of the TMDL is March 23, 2012, upon the approval of the U.S. EPA.
4. When approving the TMDL on February 7, 2012, the State Water Board directed State Water Board staff to prioritize development of the assessment methodology to support implementation of the Sediment Quality Objectives (SQOs) to protect human health as Part 2 of the State's SQOs, for consideration by the State Water Board.
5. In addition, on February 7, 2012, the State Water Board directed the Los Angeles Water Board to carefully review and evaluate the results of special studies on foraging ranges of resident species and the linkages between pollutants concentrations in targeted species and sediment concentrations, including bioaccumulation dynamics, before reconsidering the waste load allocation and load allocations necessary to

achieve fish tissue targets. Such a reconsideration could include revising the implementation schedule of the TMDL to achieve the fish tissue targets and/or revising, if appropriate, the numeric targets.

6. The State Water Board adopted the Amendment to the Water Quality Control Plan for Enclosed Bays and Estuaries – Sediment Quality Provisions (SQPs) under Resolution No. 2018-0028 on June 5, 2018 to address the application and implementation of two SQOs, including i) application and implementation of the SQO protecting benthic organisms from direct exposure to pollutants in sediment which was included in the 2008 SQO Part 1; and ii) application and implementation of the SQO protecting human consumers of resident sportfish from contaminants that bioaccumulate from sediment into fish tissue. The SQPs became effective upon approval by the U.S. EPA on March 11, 2019.
7. Los Angeles Water Board staff have worked closely with the City of Los Angeles and City of Long Beach principally through the Port of Los Angeles and the Port of Long Beach under the Harbor Technical Working Group, the State Water Board, the Southern California Coastal Water Research Project (SCCWRP), and other stakeholders to conduct several special studies to: support the State Water Board efforts in updating the SQPs; support the development of a conceptual model and bioaccumulation model to characterize sources of contaminants to fish tissue and define the linkage between organic contaminants in the environment and fish tissue accumulation for the Greater Harbor Waters; and implement other site-specific aspects of SQOs for assessing benthic community protection and human health protection in the Greater Harbor Waters.
8. Section 13240 of the California Water Code requires that basin plans are “periodically reviewed” and states that basin plans “may be revised.”
9. This Resolution amends the Basin Plan in order to revise or ‘reconsider’ the 2012 DC and Greater Harbor Waters TMDL in order to incorporate i) the updated SQPs, including SQOs for the protection of the benthic community and human health into compliance options for the Waste Load Allocations (WLAs) and Load Allocation (LAs) and the Implementation Sections of the TMDL; ii) additional source assessment and implementation recommendations for PCBs; iii) additional linkage analysis; iv) revisions to monitoring requirements to require improved PCBs methods; v) revisions of the fish tissue monitoring frequency to be consistent with sediment sampling; and vi) other revisions to correct errors or for clarification.
10. These revisions of the 2012 DC and Greater Harbor Waters TMDL are not general reconsiderations of each and every element of these TMDLs. The fundamental technical elements including the Problem Statement, Numeric Targets, Loading Capacities, Margins of Safety, and Critical Conditions have not changed. Nor are there changes proposed to the implementation options identified in the TMDL.

11. Los Angeles Water Board staff have prepared a detailed technical document entitled “Staff Report: Reconsideration of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL” that analyzed and described the specific rationale supporting the revisions of the TMDL. This document is an integral part of this Los Angeles Water Board action and was reviewed, considered, and accepted by the Los Angeles Water Board before acting.
12. On September 8, 2022, prior to the Los Angeles Water Board’s action on this resolution, a public hearing was conducted on the revisions to the TMDL. Notice of the hearing for the revision of the TMDL was published in accordance with the requirements of Water Code section 13244. This notice was published in the Los Angeles Times and the Press Telegram on May 27, 2022.
13. The public has had reasonable opportunity to participate in review of the amendment to the Basin Plan. A draft of the revisions to the 2012 DC and Greater Harbor Waters TMDL was released for public comment on May 27, 2022; a Notice of Hearing was published and circulated 60 days preceding Los Angeles Water Board action.
14. The Los Angeles Water Board responded to oral and written comments received from the public; and the Los Angeles Board held a public hearing on September 8, 2022, to consider adoption of the revised TMDL consistent with Water Code section 13244.
15. In amending the Basin Plan, the Los Angeles Water Board considered sections 13240 and 13242 of the Water Code. These Amendments conform to applicable state policies and the Los Angeles Water Board consulted with and considered the recommendations of affected state and local agencies.
16. Neither the TMDLs nor the numeric targets or other components of the TMDLs are water quality objectives, and thus their establishment or revision does not implicate Water Code section 13241.
17. This amendment is consistent with the State Antidegradation Policy (State Water Board Resolution No. 68-16), and the federal Antidegradation Policy (40 CFR § 131.12), in that it does not allow degradation of water quality but requires restoration of water quality and attainment of water quality standards.
18. Considering the record as a whole, these Amendments will result in no adverse effect, either individually or cumulatively, on wildlife resources.
19. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Los Angeles Water Boards’ basin planning process as a “certified regulatory program” that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) requirements for preparing environmental documents. (14 Cal. Code Regs. § 15251(g); 23 Cal. Code Regs. § 3782.)

20. The Los Angeles Water Board previously prepared “substitute environmental documents” for the establishment of the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL (Resolution No. R11-008), which were filed with the Resources Agency. Those documents contained the required environmental documentation under the State Water Board’s CEQA regulations (23 Cal. Code Regs § 3777.) The project itself was the establishment of the TMDL. In preparing the previous substitute environmental documents, the Los Angeles Water Board considered the requirements of Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187, and intended those documents to serve as a tier 1 environmental review.
21. These TMDL revisions do not alter the environmental analyses that were previously prepared for the establishment of the TMDL because the revisions will not result in different implementation actions than those previously analyzed, or different effects upon the environment. Moreover, no additional reasonably foreseeable methods of compliance warrant environmental analysis pursuant to Public Resources Code section 21159 and California Code of Regulations, Title 14, section 15187. As such, these TMDL revisions are consistent with the prior CEQA documentation.
22. Further, consistent with California Code of Regulations, title 14, section 15162, the Los Angeles Water Board has determined that no subsequent environmental documents shall be prepared because these TMDL revisions do not involve new significant environmental effects, a substantial increase in the severity of previously identified significant effects, or mitigation measures or alternatives that are considerably different from those analyzed in the previous substitute environmental documentation.
23. The regulatory action meets the “Necessity” standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b). Federal regulations require that TMDLs be incorporated into the water quality management plan. The Los Angeles Water Board’s Basin Plan is the Regional Board’s component of the water quality management plan, and the Basin Plan is how the Los Angeles Water Board takes quasi-legislative, planning actions. Moreover, the TMDLs are a program of implementation for existing water quality objectives, and are, therefore, appropriately a component of the Basin Plan under Water Code section 13242. The necessity of revising the DC and Greater Harbor Waters TMDL is established in Basin Plan Tables 7-40.1 and 7-40.2, and the TMDL staff report.
24. The Basin Plan amendments revising the DC and Greater Harbor Waters TMDL must be submitted for review and approval by the State Water Board and the OAL. Portions of the Basin Plan amendments that revise technical elements of the TMDLs, if any, are also subject to review and approval by the U.S. EPA. The Basin Plan amendments will become effective upon approval by OAL and U.S. EPA, if required. Once effective, a Notice of Decision will be filed with the California Natural Resources Agency.

25. If during its approval process, Los Angeles Water Board staff, the State Water Board or State Water Board staff, or OAL determine that minor, non-substantive corrections to the language of the amendments are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Los Angeles Water Board of any such changes.

**THEREFORE, be it resolved that pursuant to sections 13240 and 13242 of the Water Code, the Los Angeles Water Board hereby amends the Basin Plan as follows:**

1. Pursuant to Sections 13240 and 13242 of the California Water Code, the Los Angeles Water Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to Chapter 7 of the Basin Plan, as set forth in Attachment A hereto, to revise the Dominguez Channel and Greater Los Angeles and Long Beach Harbor Waters Toxic Pollutants TMDL.
2. The Executive Officer is directed to forward copies of the Basin Plan amendments to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.
3. The Los Angeles Water Board requests that the State Water Board approve the Basin Plan amendments in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward the approved amendments and record to OAL and to the U.S. EPA, if required.
4. If during its approval process, Los Angeles Water Board staff, the State Water Board or State Water Board staff, or OAL determine 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.
5. The Executive Officer is authorized to request a "No Effect Determination" from the Department of Fish and Wildlife, and/or transmit payment of the applicable fee as may be required to the Department of Fish and Wildlife.

I, Renee Purdy, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on September 8, 2022.

---

Renee Purdy

Executive Officer