

State of California
California Regional Water Quality Control Board, Los Angeles Region

RESOLUTION NO. RX-XXX
June XX, 2024

Amendment to the Water Quality Control Plan for the Los Angeles Region to Establish a Copper Water Effects Ratio for Marina del Rey Harbor and Revise the Total Maximum Daily Load for Toxic Pollutants in Marina del Rey Harbor

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

1. The Water Quality Control Plan for the Los Angeles Region (Basin Plan) is the Los Angeles Regional Water Quality Control Board's (Los Angeles Water Board) water quality control plan for the coastal watersheds of Los Angeles and Ventura Counties. The Basin Plan designates beneficial uses of waters of the State, establishes water quality objectives to protect those beneficial uses and prevent nuisance, and describes implementation programs to achieve water quality objectives.
2. The Basin Plan may be amended in accordance with California Water Code section 13240 et seq.
3. This amendment to the Basin Plan was developed in accordance with the Porter-Cologne Water Quality Control Act (Wat. Code, division 7, chapter 4, article 3), including California Water Code section 13241.
4. This amendment to the Basin Plan includes revisions both to Chapter 3, Water Quality Objectives, to establish a site-specific objective for copper in Marina del Rey and to Chapter 7, TMDLs (Total Maximum Daily Loads) to revise the TMDL for toxic pollutants in Marina del Rey Harbor (hereinafter "Marina del Rey Harbor Toxics TMDL").
5. On October 6, 2005, the Los Angeles Water Board adopted, by Resolution No. R05-012, an amendment to the Basin Plan establishing the Marina del Rey Harbor Toxics TMDL. The TMDL included an implementation plan requiring reduction of toxic pollutants in sediments to Marina del Rey Harbor by March 22, 2021.
6. The Marina del Rey Harbor Toxics TMDL was subsequently approved by the State Water Resources Control Board (State Water Board) on January 13, 2006, the Office of Administrative Law (OAL) on March 13, 2006, and the United States Environmental Protection Agency (U.S. EPA) on March 16,

2006. The effective date of the Marina del Rey Harbor Toxics TMDL established by Resolution No. R05-012 was March 22, 2006, when the Certificate of Fee Exemption was filed with the California Department of Fish and Game.

7. On February 6, 2014, the Los Angeles Water Board adopted, by Resolution No. R14-004, an amendment to the Basin Plan revising the Marina del Rey Harbor Toxics TMDL. The revision expanded the geographical extent of the 2005 TMDL, added a TMDL for dissolved copper and included an implementation plan requiring reduction of dissolved copper to Marina del Rey Harbor by March 22, 2024.
8. The Marina del Rey Harbor Toxics TMDL revision was subsequently approved by the State Water Board on September 9, 2014, OAL on May 4, 2015, and the U.S. EPA on October 16, 2015. The effective date of the Marina del Rey Harbor Toxics TMDL revised by Resolution No. R14-004 was October 16, 2015.
9. This reconsideration of the TMDL is not a general reconsideration of each and every element of the TMDL but a re-examination of certain technical issues, which might need revision upon further data collection and analysis, or new State or regional water quality control plans or policies as indicated in Table 7-18.21.
10. The Marina del Rey watershed is approximately 2.9 square miles located within the larger Santa Monica Bay watershed. It is south of Venice and north of Playa del Rey, and approximately 15 miles southwest of downtown Los Angeles. The watershed includes area within the City of Los Angeles, Culver City and some unincorporated areas of Los Angeles County.
11. The Los Angeles Water Board's goal in establishing the Marina del Rey Harbor Toxic Pollutants TMDL is to protect the aquatic life, wildlife, recreational and fishing beneficial uses of Marina del Rey Harbor, and to achieve the level of water quality and sediment quality to protect these beneficial uses. The TMDL addresses impairments of fish tissue, sediment quality, and water quality caused by metals and organic compounds in Marina del Rey Harbor. The proposed TMDL revision specifically addresses impairments of water quality caused by copper.
12. Los Angeles Water Board staff has prepared a detailed technical document that analyzes and describes the specific necessity and rationale for this site-specific objective and this TMDL revision. The technical document entitled "Reconsideration of Certain Aspects of the Total Maximum Daily Load for Toxic Pollutants in Marina del Rey Harbor" 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.

13. This Basin Plan amendment establishes a site-specific objective for copper in Marina del Rey based on site-specific studies to determine a Water Effect Ratio (WER) for copper in Marina del Rey.
14. This Basin Plan amendment revises the 2014 Marina del Rey Harbor Toxics TMDL to incorporate site-specific WERs into water column copper targets and to revise the assigned load allocations (LAs) for boats discharging copper based on the site-specific copper WERs. The copper LAs based on the WER will allow higher levels of copper in Marina del Rey Harbor than the copper LAs in the existing TMDL. However, the proposed revisions to the water quality objectives and TMDL take into account site-specific conditions in Marina del Rey Harbor and modify the water quality objectives for copper per U.S. EPA procedures such that the objectives will still be fully protective of the aquatic life in these waterbodies.
15. Notice of the hearing for this site-specific objective and 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 on April 2, 2024.
16. The public has had reasonable opportunity to participate in review of the amendment to the Basin Plan. A draft of the staff report, tentative resolution, and proposed Basin Plan amendment language, was released for public comment on [April 2, 2024](#); a Notice of Hearing was published and circulated 45 days preceding Los Angeles Water Board action; Los Angeles Water Board staff responded to oral and written comments received from the public; and the Los Angeles Water Board held a public hearing on June 27, 2024 to consider adoption of the revised TMDL. The public had an opportunity to provide oral comments and testimony during the hearing.
17. The Los Angeles Water Board has satisfied the outreach requirements set forth in Water Code section 189.7 by conducting outreach in potentially affected disadvantaged and tribal communities. On March 1, 2024, the Los Angeles Water Board staff sent letters to tribes that are traditionally and culturally affiliated with the geographic area of the Basin Plan amendment notifying them of the proposed Basin Plan amendment, regulatory background and the project location. No requests for further consultation were received.
18. In amending the Basin Plan to add a site-specific objective for Marina del Rey, the Los Angeles Water Board considered the factors set forth in sections 13240, 13241 and 13242 of the California Water Code.
19. 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.

20. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional 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.)
21. The Los Angeles Water Board previously prepared substitute environmental documentation for the establishment of the Marina del Rey Harbor Toxics TMDL Resolution No. R05-012, which was filed with the Resources Agency on March 22, 2006. That documentation 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 documentation, 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.
22. The Los Angeles Water Board prepared additional substitute environmental documentation for the previous revision of the Marina del Rey Harbor Toxics TMDL Resolution No. R14-004, which was filed with the Resources Agency on September 9, 2014. The detailed technical report entitled "Reconsideration of the Total Maximum Daily Load for Toxic Pollutants in Marina del Rey Harbor", Resolution No. R14-004, and the Environmental Checklist served as the substitute environmental documents for this project. The project itself was the revision of the TMDL to incorporate additional impairments. 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.
23. These TMDL revisions do not require changes to the environmental analyses that were previously prepared for the establishment of this TMDL because the TMDL 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 21159 and California Code of Regulations, Title 14, section 15187. As such, this amendment is consistent with the prior CEQA documentation.
24. 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.

25. 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 Los Angeles Water 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 TMDL is a program of implementation for existing water quality objectives, and is, therefore, appropriately a component of the Basin Plan under Water Code section 13242.
26. The Basin Plan amendment establishing a site-specific objective for copper in Marina del Rey and revising the Marina del Rey Harbor Toxic Pollutants TMDL must be submitted for review and approval by the State Water Board, OAL, and the U. S. EPA. The Basin Plan amendment will become effective for state law purposes upon approval by OAL. For purposes of federal law, the Basin Plan will be effective upon approval by both OAL and U.S. EPA. Once effective, a Notice of Decision will be filed with the Resources Agency.
27. If during its approval process, Regional 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 Water Board of any such changes.
28. Pursuant to Fish and Game Code section 711.4, subdivision (c)(2)(A), this Basin Plan amendment results in no effect, either individually or cumulatively, on fish or wildlife.
29. When adopting or modifying water quality objectives, Water Code section 13149.2 of the requires the Los Angeles Water Board to make a concise, programmatic finding on potential environmental justice, tribal impact, and racial equity considerations related to the adoption. The Board reviewed readily available information and information raised to the Board by interested persons concerning anticipated water quality impacts in disadvantaged or tribal communities resulting from adoption of this water quality objective. Based on the available information and the staff report, the Los Angeles Water Board determines that there are not anticipated water quality impacts due to the adoption of the Basin Plan amendment.

30. Water Code section 106.3 declares that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes” (id., subd. (a)) and promotes the adoption of policies, regulations, and grant criteria pertinent to those uses of water (id., subd. (c)). The proposed Basin Plan amendments do not pertain to water utilized for human consumption, cooking or sanitary purposes.
31. The amendment is consistent with the State Antidegradation Policy (State Water Board Resolution No.68-16), in that the changes to the water quality objective (i) is consistent with the maximum benefit to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (40 CFR 131.12). A detailed antidegradation analysis is contained in the staff report supporting this action.

THEREFORE, BE IT RESOLVED THAT:

1. Pursuant to Sections 13240, 13241 and 13242 of the California Water Code, the Los Angeles Water Board, after considering the entire record, including oral testimony at the hearing, adopts the amendments to Chapter 3 and Chapter 7 of the Basin Plan, as set forth in Attachment A and Attachment B hereto.
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 amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward the approved amendment and record to OAL and finally, for review and approval pursuant to CWA section 303(d) and section 303(c) as appropriate, to the U.S. EPA.
4. If during its approval process, Regional 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 Water 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, Susana Arredondo, 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 June 27, 2024.

Susana Arredondo
Executive Officer

Tentative