

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

**RESOLUTION NO. R12-~~XXX~~
November 8, 2012**

Amendment to the Water Quality Control Plan for the Los Angeles Region to amend the Total Maximum Daily Load (TMDL) for Nitrogen Compounds and Related Effects in the Los Angeles River by incorporating site-specific ammonia objectives

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

1. On July 10, 2003, the Regional Board adopted Resolution R03-009, amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to include a TMDL for Nitrogen Compounds and Related Effects in the Los Angeles River. The TMDL assigned waste load allocations (WLAs) to major POTWs and minor point sources discharging to the Los Angeles River. The TMDL's numeric targets and waste load allocations for ammonia were based on U.S. EPA's 1999 Update of Ambient Water Quality Criteria for Ammonia. The Regional Board also directed staff to consider alternative interim effluent limits proposed by dischargers. Resolution R03-009 was subsequently approved by State Board in Resolution R03-0074 on November 19, 2003, by OAL on February 27, 2004, and by U.S. EPA on March 18, 2004.
2. On December 4, 2003, the Regional Board amended the TMDL by Resolution No. R03-016 to revise interim effluent limits for ammonia for the Donald C. Tillman, Los Angeles-Glendale, and Burbank Water Reclamation Plants (WRPs). The amended TMDL was subsequently approved by State Board in Resolution R04-0014 on March 24, 2004 and by OAL on September 27, 2004, which is the effective date of the TMDL. U.S. EPA approval is not required for a change to the implementation plan.
3. Application of the 30-day average objectives recommended by U.S. EPA in its "1999 Update of Ambient Water Quality Criteria for Ammonia" is based on the presence or absence of early life stages (ELS) of fish in waterbodies. Resolution R05-014, adopted by the Regional Board on December 1, 2005, classified ELS status within regional waterbodies as present or absent. Resolution R05-014 was subsequently approved by State Board in Resolution R06-0053 on July 19, 2006, by OAL on August 31, 2006, and by U.S. EPA on February 16, 2007. The Basin Plan Amendment became effective on April 5, 2007.
4. In the "1999 Update of Ambient Water Quality Criteria for Ammonia," U.S. EPA provides for the determination and use of water-effect ratios (WERs) for ammonia. A WER is a measure of the toxicity of a material obtained in site water divided by the

TENTATIVE

same measure of the toxicity of the same material obtained simultaneously in laboratory dilution water.

5. A WER has a default value of 1.0 unless a study is conducted, consistent with U.S. EPA's WER guidance and adopted by the Regional Board, establishing the ratio that represents the difference between toxicity in laboratory test water and toxicity in a specific waterbody based on ambient conditions.
6. On June 7, 2007, the Regional Board adopted Resolution R07-005. This amendment to the Basin Plan incorporated site-specific 30-day average objectives for ammonia along with corresponding site-specific early life stage implementation provisions for select waterbody reaches and tributaries in the Santa Clara, Los Angeles, and San Gabriel River watersheds. These site-specific 30-day average objectives and corresponding site-specific early life stage implementation provisions replaced the previously applicable regional 30-day average objective for the affected waterbody reaches. This amendment did not change the regional one-hour average objective for these waterbodies.
7. According to U.S. EPA regulations for establishing effluent limitations in National Pollution Discharge Elimination System (NPDES) permits (40 CFR §122.44 (d)(vii)(B)) and the implementation tasks in the Los Angeles River Nitrogen Compounds and Related Effects TMDL, in order for the ammonia SSOs to be incorporated into NPDES permits for the POTWs in the Los Angeles River watershed, the Los Angeles River Nitrogen Compounds and Related Effects TMDL must be revised to reflect the SSOs.
8. Regional Board staff prepared a detailed technical document that analyzes and describes the specific necessity and rationale for the development of this amendment. The technical document entitled "Revision of the Total Maximum Daily Load for Nitrogen Compounds and Related Effects in the Los Angeles River and its Tributaries" (Staff Report) is an integral part of this Regional Board action and was reviewed, considered, and accepted by the Regional Board before acting.
9. The Regional Board's goal in amending the TMDL to incorporate site-specific objectives for select reaches and tributaries of the Los Angeles River watershed is to take into account site-specific conditions in the Los Angeles River that affect the toxicity of ammonia to aquatic life, while maintaining the same level of aquatic life protection intended by U.S. EPA's recommended criteria.
10. Implementation actions to achieve applicable site-specific objectives in these waterbodies must also result in compliance with downstream water quality objectives for ammonia and other nitrogen compounds.
11. In amending the Basin Plan to revise this TMDL, the Regional Board considered the requirements set forth in Sections 13240 and 13242 of the California Water Code.

TENTATIVE

12. The amendment is consistent with the State Antidegradation Policy (State Board Resolution 89-16 and the federal Antidegradation Policy (40 CFR 131.12), in that it does not allow degradation of water quality and ensures that beneficial uses are fully protected.
13. 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.) The Regional Board previously prepared "substitute environmental documents" for the establishment of the Los Angeles River Nitrogen Compounds and Related Effects TMDL. 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 Los Angeles River Nitrogen Compounds and Related Effects TMDL. In preparing the previous substitute environmental documents, the Regional 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. The previous substitute environmental documents contained significant environmental analysis and numerous findings related to the reasonably foreseeable methods of compliance, the impacts of the methods of compliance, feasible mitigation measures, and alternative means of compliance.
14. This TMDL revision does not alter the environmental analysis that was previously prepared for the establishment of the Los Angeles River Nitrogen Compounds and Related Effects TMDL because the TMDL revisions will not result in different implementation actions than those previously analyzed for the Los Angeles River Nitrogen Compounds and Related Effects TMDL, 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, this amendment is consistent with the prior CEQA documentation.
15. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
16. The Basin Plan amendment revising the TMDL must be submitted for review and approval by the State Water Resources Control Board (State Board), the State Office of Administrative Law (OAL), and U.S. EPA. The Basin Plan amendment will become effective upon approval by OAL and U.S. EPA. A Notice of Decision will be filed.
17. Occasionally during its approval process, Regional Board staff, the SWRCB or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency. Under such circumstances, the Executive

TENTATIVE

Officer should be authorized to make such changes, provided he informs the Board of any such changes.

THEREFORE, be it resolved that pursuant to Section 13240 and 13242 of the Water Code, the Regional Board hereby amends the Basin Plan as follows:

1. The Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to Chapter 7 of the Water Quality Control Plan for the Los Angeles Region to revise the TMDL for Nitrogen Compounds and Related Effects in the Los Angeles River and its Tributaries as set forth in Attachment A.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the SWRCB in accordance with the requirements of section 13245 of the California Water Code.
3. The Regional Board requests that the SWRCB approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to OAL for review and approval and finally, for review and approval pursuant to CWA sections 303(d) and/or 303(c), as appropriate, to U.S. EPA.
4. If during the approval process, Regional Board staff, the SWRCB or SWRCB staff, or OAL determine that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer is authorized to make such changes, and shall inform the Board of any such changes.
5. The Executive Officer is authorized to request a "No Effect Determination" from the Department of Fish and Game, and/or transmit payment of the applicable fee as may be required to the Department of Fish and Game.

I, Samuel Unger, 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 November 8, 2012.

Samuel Unger, PE
Executive Officer

TENTATIVE