

**OFFICE OF ADMINISTRATIVE LAW**

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**DEBRA M. CORNEZ**  
Assistant Chief Counsel/Acting Director

**MEMORANDUM**

TO: Nick Martorano  
FROM: OAL Front Desk *AM*  
DATE: 7/28/2011  
RE: Return of Approved Rulemaking Materials  
OAL File No. 2011-0615-02S

OAL hereby returns this file your agency submitted for our review (OAL File No. 2011-0615-02S regarding TMDL for Metals in the Los Angeles Rivers and its Tributaries).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). (Please Note: The 30<sup>th</sup> Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.)

**DO NOT DISCARD OR DESTROY THIS FILE**

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

11353  
 NOTICE PUBLICATION/REGULATION SUBMISSION  
 STD. 400 (REV. 01/07)

|                  |                    |                          |                  |
|------------------|--------------------|--------------------------|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER | REGULATORY ACTION NUMBER | EMERGENCY NUMBER |
|                  | Z-                 | 2011-0615-025            |                  |

ENDORSED FILED  
 IN THE OFFICE OF  
 2011 JUL 27 PM 1:22  
 DEBRA BOWEN  
 SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2011 JUN 15 PM 2:32  
 OFFICE OF ADMINISTRATIVE LAW

|        |             |
|--------|-------------|
| NOTICE | REGULATIONS |
|--------|-------------|

|   |  |
|---|--|
| AGENCY WITH RULEMAKING AUTHORITY<br>State Water Resources Control Board (SWRCB) | AGENCY FILE NUMBER (If any)<br>2011-0021 |
|---|--|

**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

|   |  |                        |                               |
|---|--|------------------------|-------------------------------|
| 1. SUBJECT OF NOTICE  | TITLE(S)   | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE |
| 3. NOTICE TYPE<br><input type="checkbox"/> Notice re Proposed Regulatory Action<br><input type="checkbox"/> Other | 4. AGENCY CONTACT PERSON   | TELEPHONE NUMBER       | FAX NUMBER (Optional)         |
| <b>OAL USE ONLY</b>   | ACTION ON PROPOSED NOTICE<br><input type="checkbox"/> Approved as Submitted<br><input type="checkbox"/> Approved as Modified<br><input type="checkbox"/> Disapproved/Withdrawn | NOTICE REGISTER NUMBER | PUBLICATION DATE              |

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

|   |  |
|---|--|
| 1a. SUBJECT OF REGULATION(S)<br>TMDL for Metals in the Los Angeles Rivers and its Tributaries | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) |
|---|--|

|   |                  |
|---|------------------|
| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | ADOPT            |
| <b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>  | AMEND<br>3939.19 |
| TITLE(S)<br>23  | REPEAL           |

3. TYPE OF FILING

|   |   |   |   |
|---|---|---|---|
| <input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)  | <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. | <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))         | <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) |
| <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) | <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)   | <input type="checkbox"/> File & Print                                       | <input type="checkbox"/> Print Only   |
| <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))   |   | <input checked="" type="checkbox"/> Other (Specify) <u>Gov't Code 11353</u> |   |

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

|  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> Effective 30th day after filing with Secretary of State | <input type="checkbox"/> Effective on filing with Secretary of State | <input type="checkbox"/> \$100 Changes Without Regulatory Effect | <input checked="" type="checkbox"/> Effective other (Specify) <u>Upon Approval (Gov't Code 11353)</u> |
|--|--|--|---|

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

|  |  |   |
|--|--|---|
| <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) | <input type="checkbox"/> Fair Political Practices Commission | <input type="checkbox"/> State Fire Marshal |
| <input type="checkbox"/> Other (Specify)                                   |  |   |

|                                     |                                  |                                       |  |
|-------------------------------------|----------------------------------|---------------------------------------|--|
| 7. CONTACT PERSON<br>Nick Martorano | TELEPHONE NUMBER<br>213-576-6694 | FAX NUMBER (Optional)<br>916-341-5550 | E-MAIL ADDRESS (Optional)<br>nmartorano@waterboards.ca.gov |
|-------------------------------------|----------------------------------|---------------------------------------|--|

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

|   |                 |
|---|-----------------|
| SIGNATURE OF AGENCY HEAD OR DESIGNEE<br><i>Victoria A. Whitney</i>  | DATE<br>6/14/11 |
| TYPED NAME AND TITLE OF SIGNATORY<br>Elizabeth Haven, Assistant Deputy Director, Division of Water Quality, SWRCB |                 |
| <i>Victoria A. Whitney</i>  |                 |

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ENDORSED APPROVED  
 JUL 27 2011  
 Office of Administrative Law

## CONCISE SUMMARY OF REGULATORY PROVISIONS

### TITLE 23. Waters

#### Division 4. Regional Water Quality Control Boards

#### Chapter 1. Water Quality Control Plans, Policies, and Guidelines

#### Article 4. Los Angeles Region

### ***The Following section 3939.19 is to be amended in Title 23 of the California Code of Regulations:***

§ 3939.19 - "A Total Maximum Daily Load for Metals in the Los Angeles River and its Tributaries."

On September 6, 2007, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted Resolution No. R2007-014, amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan). This Basin Plan amendment establishes a Total Maximum Daily Load (TMDL) to reduce metals in the Los Angeles River and its Tributaries for dry weather (maximum daily flow in the River less than 500 cubic feet per second) and wet weather (maximum daily flow in the River equal to or greater than 500 cubic feet per second). The TMDL: (1) sets dry- and wet-weather numeric targets to achieve California Toxics Rule (CTR) numeric water quality criteria for metals; (2) establishes a dry-weather loading capacity for a single critical flow to meet the dry-weather numeric target; (3) establishes a wet-weather loading capacity that varies with flow in order to meet wet-weather numeric targets; and (4) allocates the dry- and wet-weather loading capacities among point and nonpoint sources of metals, with the majority of the dry-weather allocation to the three largest publicly owned treatment works (POTWs) and the majority of the wet-weather allocation to storm water sources.

The TMDL identifies the National Pollutant Discharge Elimination System (NPDES) permits for three POTWs, the Los Angeles County and Long Beach municipal storm water NPDES permits, the Caltrans storm water NPDES permit, the general industrial and construction storm water NPDES permits, "other NPDES permits" for low-volume, intermittent, non-stormwater discharges, and the authority vested in the Executive Officer by Water Code section 13267 as the principal regulatory mechanisms to implement the TMDL. The TMDL requires the three POTWs to achieve dry- and wet-weather wasteload allocations at the time of permit issuance, renewal, or re-opener, or by January 11, 2016 if advanced treatment is required to reduce metals loads.

The TMDL requires the general industrial and construction storm water permittees to achieve dry-weather wasteload allocations at the time of permit issuance, renewal, or re-opener; it requires the general industrial and construction storm water permittees to achieve wet-weather wasteload allocations by January 11, 2016 and January 11, 2015, respectively. The TMDL requires the municipal and Caltrans storm water permittees to achieve waste load allocations in prescribed percentages of the watershed, achieving

dry-weather allocations in the entire watershed by January 11, 2024 and wet-weather allocations in the entire watershed by January 11, 2028.

The TMDL identifies five jurisdictional groups to coordinate implementation of the municipal storm water allocations and provides that by April 11, 2007, each jurisdictional group must submit a coordinated monitoring plan and by July 11, 2010, each jurisdictional group must submit an implementation plan. The TMDL allows for special studies, such as site-specific toxic effects and natural source studies, which are due by January 11, 2010. The TMDL specifies that by January 11, 2011, the Los Angeles Water Board shall reconsider the wasteload allocations and implementation schedule based on the results of special studies.

On May 6th, 2010, the Los Angeles Water Board adopted Resolution No. R10-003, amending the Basin Plan to revise the TMDL for metals in the Los Angeles River and its tributaries. The revision adjusts the copper numeric targets and loading capacity for Reaches 1-4 of the Los Angeles River and the Burbank Western Channel, as well as the copper waste load allocations for the Donald C. Tillman, Los Angeles-Glendale, and Burbank POTWs.