

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

**RESOLUTION NO. R21-001
March 11, 2021**

Amendments to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to Revise the Implementation Schedules for Municipal Separate Storm Sewer System (MS4) Dischargers, including Caltrans, Subject to Total Maximum Daily Loads (TMDLs) in the Los Angeles Region (the Santa Monica Bay Beaches Bacteria TMDL; the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL; the Malibu Creek and Lagoon Bacteria TMDL; the Malibu Creek Nutrients TMDL; the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments; the Ballona Creek Estuary Toxic Pollutants TMDL; the Marina del Rey Harbor Toxic Pollutants TMDL; the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL; and the Ballona Creek Metals TMDL)

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

1. The Los Angeles Water Board's 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. The Los Angeles Water Board has received a number of requests by MS4 permittees for extensions of imminent final TMDL implementation deadlines considering the availability of Safe Clean Water Program funds and the financial impacts of the COVID-19 pandemic.
3. Section 13240 of the California Water Code requires that basin plans are "periodically reviewed" and states that basin plans "may be revised."
4. These TMDL reconsiderations are not general reconsiderations of each and every element of these TMDLs. The fundamental technical elements including the Numeric Targets, Loading Capacities, waste load allocations and load allocations, Margins of Safety, and Critical Conditions and Seasonal Variations have not been changed. Nor are there changes proposed to the overarching implementation options identified in these TMDLs.
5. This action reconsiders wet-weather implementation deadlines due to economic impacts due to COVID-19 and due to funding availability as detailed in Findings 7-9 below. Dry-weather implementation deadlines are not reconsidered because the prohibition on non-stormwater discharges has been in place in MS4 permits since the 1990s, and permittees have had success complying with, or are approaching compliance with, most dry-weather deadlines.

6. Nine TMDLs in the Los Angeles Region have final implementation dates between 2021 to 2023 that are applicable to MS4 dischargers:

- a) Santa Monica Bay Beaches Bacteria TMDL: The Santa Monica Bay Beaches TMDL for bacteria during wet weather was adopted by the Los Angeles Water Board on December 12, 2002 (Resolution No. 2002-022) and became effective on July 15, 2003. This TMDL was revised in 2012 (Resolution No. R12-007). No changes were made to the implementation schedule at that time. An 18-year implementation period was adopted for this TMDL, with a final wet weather implementation date of July 15, 2021.
- b) Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL: the Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL was adopted by the Los Angeles Water Board on August 7, 2003 (Resolution No. 2003-0012) and became effective on March 18, 2004. This TMDL was revised in 2012 (Resolution No. R12-007). No changes were made to the implementation schedule at that time. The Board adopted a 17-year, 4-month implementation period for this TMDL, with a final wet weather implementation date of July 15, 2021.
- c) Malibu Creek and Lagoon Bacteria TMDL: the Malibu Creek and Lagoon Bacteria TMDL was adopted by the Los Angeles Water Board on December 13, 2004 (Resolution No. 2004-019R) and became effective on January 24, 2006. This TMDL was revised in 2012 (Resolution No. R12-009). No changes were made to the implementation schedule at that time. The Board adopted a 15-year, 6-month implementation period for this TMDL, with a final wet weather implementation date of July 15, 2021.
- d) Ballona Creek Estuary Toxic Pollutants TMDL: the Ballona Creek Estuary Toxic Pollutants TMDL was adopted by the Los Angeles Water Board on July 7, 2005 (Resolution No. R05-008) and became effective on January 11, 2006. The Board adopted a 15-year implementation period for cadmium, copper, lead, silver, zinc, total chlordane, and total DDT, with a final implementation date of January 11, 2021. The Board adopted a 19-year implementation period for total PCBs, with a final implementation date of January 11, 2025.
- e) Marina del Rey Harbor Toxic Pollutants TMDL: The Marina del Rey Harbor Toxic Pollutants TMDL was adopted by the Los Angeles Water Board on October 6, 2005 (Resolution No. 2005-012) and became effective on March 22, 2006. This TMDL was revised in 2014 (Resolution No. R14-004). The implementation schedule was revised to add two years to the final implementation deadline for the Back Basins. The Board adopted a 12-year implementation period for Marina del Rey Harbor Back Basins D, E, and F, with a final implementation date of March 22, 2018. The Board adopted a 15-year implementation period for Marina del Rey Harbor Front Basins A, B, C, G and H, with a final implementation date of March 22, 2021.
- f) Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL: the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL was

adopted by the Los Angeles Water Board on June 8, 2006 (Resolution No. 2006-011) and became effective on April 27, 2007. This TMDL was revised in 2012 (Resolution No. R12-008). No changes were made to the implementation schedule at that time. The Board adopted a 14-year, 3-month implementation period for this TMDL, with a final wet weather implementation date of July 15, 2021.

- g) Ballona Creek Metals TMDL: the Ballona Creek Metals TMDL was originally adopted by the Los Angeles Water Board on July 7, 2005 (Resolution No. R05-007) and became effective on January 11, 2006. Due to litigation, this TMDL was readopted on September 6, 2007 (Resolution No. 07-015). The readopted Ballona Creek Metals TMDL became effective on October 29, 2008. This TMDL was revised in 2013 (Resolution No. R13-010). No changes were made to the implementation schedule at that time. The Board adopted a 15-year implementation period for this TMDL, with a final wet weather implementation date of January 11, 2021.
 - h) Malibu Creek Nutrients TMDL: The United State Environmental Protection Agency (U.S. EPA) established TMDLs for nutrients in the Malibu Creek Watershed on March 21, 2003.¹ U.S. EPA established TMDLs do not include programs of implementation or schedules to achieve the assigned load and waste load allocations. However, the Los Angeles Water Board adopted a program of implementation for this TMDL on December 8, 2016 (Resolution No. R16-2009). This program of implementation became effective on May 16, 2017. The program of implementation allowed for an 18-year, 9-month implementation period for Los Angeles County MS4 Permittees above Malibou Lake, with a final implementation date of December 28, 2021.
 - i) Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments: U.S. EPA established TMDLs for sedimentation and nutrients in Malibu Creek and Lagoon on (i.e. below Malibou Lake) July 2, 2013. U.S. EPA established TMDLs do not include programs of implementation or schedules to achieve the assigned load and waste load allocations. However, the Los Angeles Water Board adopted a program of implementation for this TMDL on December 8, 2016 (Resolution No. R16-2009). This program of implementation became effective on May 16, 2017. The program of implementation allowed for a 10½-year implementation period for Los Angeles County MS4 Permittees below Malibou Lake, with a final implementation date of December 28, 2023.
7. To determine whether it would be appropriate to extend the implementation deadlines applicable to MS4 dischargers for the 9 TMDLs listed above, Los Angeles Water Board staff has analyzed whether meaningful progress has been made in meeting these TMDLs, which projects and programs have been completed and initiated, which

¹ The 2013 Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments superseded the portions of this TMDL that applied to waterbodies below Malibou Lake.

projects are planned and included in Watershed Management Programs and Enhanced Watershed Management Programs, and TMDL Implementation Plans and Stormwater Resource Plans. Other watershed-specific factors such as the size of the watershed in the case of Marina del Rey, and the impacts of the Woolsey Fire in the case of Malibu Creek and Northern Santa Monica Bay were also considered. Additionally, Water Board staff evaluated Stormwater Investment Plans for the Safe Clean Water Program, the availability of Safe Clean Water funds and other dedicated funding sources.

8. Additionally, staff has considered the potential impacts of the COVID-19 pandemic and the associated projections of economic impacts. The COVID-19 pandemic has impacted the economy in many ways. Society is incurring significant costs in healthcare and lost lives. Many remain unemployed despite some job recovery over the summer and into the fall. And most businesses have struggled amid reduced consumer demand. This has in turn led to reduced revenues for state and local governments, which provide services that are needed even more in times of economic distress. Economists in general predict that full recovery to pre-COVID-19 levels will occur in 2022 or afterwards. Factors contributing to this uncertainty include renewed outbreaks, the timeline of development and distribution of vaccines and/or antiviral therapies, federal funding, and state and local actions. And while many revenue sources to state and local governments have become uncertain, revenue from property taxes will likely be a more stable source. It is unclear whether everyone will pay their taxes during these difficult economic times, but it can be expected that local governments, including those in Los Angeles and Ventura Counties, will at least receive the majority of property tax revenues, which will fund the Safe Clean Water Program and other stormwater measures.
9. Los Angeles Water Board staff has prepared a detailed technical document entitled “Consideration of Extension of Final TMDL Implementation Dates for Certain TMDLs in the Los Angeles Region” (Staff Report) that analyzes and describes the specific necessity and rationale for extending the final implementation deadlines of the TMDLs.
10. The Staff Report 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. For each TMDL, based on an evaluation of the status of water quality and beneficial use impacts, progress on implementing projects considering the length of the original TMDL implementation schedule, and the projects that remain to be implemented, along with federal guidance that TMDL implementation schedules should achieve WLAs in a reasonable period of time, the Los Angeles Water Board determined whether and how much additional time is warranted to achieve the nine TMDLs with final deadlines between 2021-2023 applicable to wet weather MS4 discharges. The Los Angeles Water Board also evaluated the estimated cost of remaining projects, dedicated revenue, and anticipated matching funds, and factored in the economic impacts due to the COVID-19 pandemic, as stated in Findings 7 and 8 above.
11. The proposed schedule extensions are as short as possible and are not intended to set a precedent for extensions of TMDL deadlines that were not considered as part of this action. The TMDL implementation deadline extensions adopted through this

action not only recognize the immediate economic impact of the COVID-19 pandemic, but also consider the specific circumstances surrounding implementation of these TMDLs. Future requests for extensions of TMDL-related deadlines will be considered on a case-by-case basis.

12. The public has had reasonable opportunity to participate in review of these amendments to the Basin Plan to revise the final wet weather implementation deadlines applicable to MS4 dischargers in the Santa Monica Bay Beaches Bacteria TMDL, Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Malibu Creek and Lagoon Bacteria TMDL, Ballona Creek Estuary Toxics TMDL, Marina del Rey Harbor Toxics TMDL, Ballona Creek Bacteria TMDL, Ballona Creek Metals TMDL, and Implementation Plan for the U.S. EPA-Established Malibu Creek Nutrients TMDL and the U.S. EPA-Established Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments (Amendments). Tentative Basin Plan amendments for the proposed revisions and supporting documents were released for public comment on November 20, 2020; a Notice of Hearing and Opportunity to Comment was published and circulated 84 days preceding Los Angeles Water Board action. This notice was published in the Los Angeles Times and Ventura County Star on November 20, 2020, in accordance with the requirements of Water Code section 13244.
13. The Los Angeles Water Board responded to oral and written comments received from the public; and the Los Angeles Water Board held a public hearing on February 11, 2021 and March 11, 2021 to consider adoption of the Amendments consistent with Water Code section 13244.
14. 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.
15. 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.
16. These Amendments are consistent with the state Antidegradation Policy (State Water Board Resolution No. 68-16), and the federal Antidegradation Policy (40 CFR § 131.12), in that they do not allow degradation of water quality but require restoration of water quality and attainment of water quality standards.
17. Considering the record as a whole, these Amendments will result in no adverse effect, either individually or cumulatively, on wildlife resources.
18. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the 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.)
19. The Los Angeles Water Board previously prepared "substitute environmental documentation" for the establishment of the Santa Monica Bay Beaches Bacteria

TMDL (Resolution No. 2002-022), the Marina del Ray Harbor Mothers' Beach and Back Basins Bacteria TMDL (Resolution No. 2003-012), the Malibu Creek and Lagoon Bacteria TMDL (Resolution No. 2004-019R), the Ballona Creek Estuary Toxics TMDL (Resolution No. R05-008), the Marina del Ray Harbor Toxics TMDL (Resolution No. 2005-012), the Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL (Resolution No. 2006-011), the Ballona Creek Metals TMDL (Resolution No. R2007-015), the Malibu Creek Nutrients TMDL, and the Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments (Resolution No. 16-009) pursuant to California Code of Regulations, title 23, sections 3775 et seq., and Public Resources Code section 21159. That documentation contained the required environmental documentation as required by the State Water Board's CEQA regulations. (23 Cal. Code Regs. §§ 3777, 3779.5.). 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. The previous substitute environmental documentation 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.

20. These Amendments do not alter the environmental analysis that was previously prepared because the deadline extensions 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.
21. 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 the Amendments 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.
22. 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 state's water quality management plan. The Los Angeles Water Board's Basin Plan is the water quality management plan for the Los Angeles Region along with statewide water quality management plans. Amendments to the Basin Plan are the mechanism by which the Los Angeles Water Board takes quasi-legislative actions. Moreover, 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 Santa Monica Bay Beaches Bacteria TMDL, Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Malibu Creek and Lagoon Bacteria TMDL, Ballona Creek Estuary Toxics TMDL, Marina del Rey Harbor Toxics TMDL, Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL, Ballona Creek Metals TMDL, and

Implementation Plan for the U.S. EPA-Established Malibu Creek Nutrients TMDL and the U.S. EPA-Established Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments is established in the supporting documents to the TMDLs, and in Basin Plan Tables 7-4.1 through 7-4.3, 7-5.1 through 7-5.3, 7-10.1 through 7-10.3, 7-12.1 through 7-12.2, 7-14.1 through 7-14.2, 7-18.1 through 7-18.2, 7-21.1 through 7-21.3, and 7-42.1 through 7-42.2.

23. The Amendments must be submitted for review and approval by the State Water Board and OAL. The Amendments will become effective upon approval by OAL. Once effective, a Notice of Decision will be filed with the California Natural Resources Agency.
24. Occasionally 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. Under such circumstances, the Executive Officer should be authorized to make such changes, provided she informs 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. The Los Angeles Water Board, after considering the entire record, including oral testimony at the hearing, adopts the Amendments to Chapter 7 of the Basin Plan, as set forth in Attachment A, Attachment B, Attachment C, Attachment D, Attachment E, Attachment F, Attachment G, and Attachment H to revise the Santa Monica Bay Beaches Bacteria TMDL, Marina del Rey Harbor Mothers' Beach and Back Basins Bacteria TMDL, Malibu Creek and Lagoon Bacteria TMDL, Ballona Creek Estuary Toxic Pollutants TMDL, Marina del Rey Harbor Toxic Pollutants TMDL, Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL, Ballona Creek Metals TMDL, and the Implementation Plan for the U.S. EPA-Established Malibu Creek Nutrients TMDL and Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments, respectively.
2. The Executive Officer is directed to forward copies of the Amendments to the State Water Board in accordance with the requirements of section 13245 of the Water Code.
3. The Executive Officer is directed to schedule oral reports to the Los Angeles Water Board at a Board meeting by the MS4 permittees on their progress with achieving the waste load allocations in the nine TMDLs addressed by these Amendments. The oral reports shall be accompanied by a summary written report prepared by the MS4 Permittees. These reports shall be annual until waste load allocations are achieved.
4. The Executive Officer is directed to re-examine the TMDL schedules addressed in these Amendments and, as warranted, to propose any reconsiderations of these schedules before the final TMDL deadlines pass. Specifically, the Executive Officer is directed to re-examine the TMDL schedules in light of new information related to the implementation of these TMDLs in any new or revised Watershed Management

Programs developed pursuant to the Regional MS4 Permit as well as other significant new factors that could affect the implementation of these TMDLs.

5. The Los Angeles Water Board requests that the State Water Board approve the Amendments in accordance with the requirements of sections 13245 and 13246 of the Water Code and forward the approved Amendments and record to OAL.
6. 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.
7. The Executive Officer is authorized to request a “No Effect Determination” for the revisions to the Santa Monica Bay Beaches Bacteria TMDL, Marina del Rey Harbor Mothers’ Beach and Back Basins Bacteria TMDL, Malibu Creek and Lagoon Bacteria TMDL, Ballona Creek Estuary Toxic Pollutants TMDL, Marina del Rey Harbor Toxic Pollutants TMDL, Ballona Creek, Ballona Estuary, and Sepulveda Channel Bacteria TMDL, Ballona Creek Metals TMDL, and Implementation Plan for the U.S. EPA-Established Malibu Creek Nutrients TMDL and the U.S. EPA-Established Malibu Creek and Lagoon Sedimentation and Nutrients TMDL to Address Benthic Community Impairments from the California Department of Fish and Wildlife, and/or transmit payment of the applicable fee as may be required to the California 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 March 11, 2021.

Renee Purdy
Executive Officer