

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11353

Title 23, California Code of Regulations

OAL File No. 2015-0320-03 S

Adopt sections:

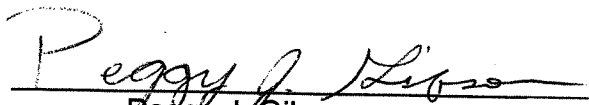
Amend sections: 3939.18, 3939.20

Repeal sections:

This regulatory action amends the TMDL for Ballona Creek in the Los Angeles region to reduce metals for both dry weather and wet weather situations. This regulatory action also amends the TMDL for Toxic Pollutants in the Ballona Creek Estuary. This action revises allocations in the Ballona Creek metals TMDL based on adjusting the maximum daily flow in the creek from 40 cfs to 64 cfs and adjusting the dry and wet-weather translators. The selenium numeric target and allocation is removed from the TMDL and there is additional flexibility provided to implement and demonstrate compliance with the TMDL. The TMDL for Toxic Pollutants in the Ballona Creek Estuary is amended to provide sediment targets for indirect effects and fish tissue, removing numeric targets and allocations for PAHs and revising sediment targets for direct effects consistent with the Water Quality Control Plan for Enclosed Bays and Estuaries - Part 1 Sediment Quality. This action also provides additional flexibility to implement and demonstrate compliance with the TMDL.

OAL approves this regulatory action pursuant to section 11353 of the Government Code.

Date: 5/4/2015


Peggy J. Gibson
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Thomas Howard
Copy: Man Voong

REGULAR 11353
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

| | | | |
|------------------|---------------------------------|--|------------------|
| OAL FILE NUMBERS | NOTICE FILE NUMBER Z- | REGULATORY ACTION NUMBER 2015-0320-035 | EMERGENCY NUMBER |
|------------------|---------------------------------|--|------------------|

For use by Office of Administrative Law (OAL) only

2015 MAR 20 AM 10:12
 OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
 in the office of the Secretary of State
 of the State of California

MAY 4 2015
 2:13 PM

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| NOTICE | REGULATIONS |
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AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (if any)
2014-0030

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 <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other | | 4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional) |
| OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn | | ACTION ON PROPOSED NOTICE | NOTICE REGISTER NUMBER | PUBLICATION DATE |

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

| | |
|--|---|
| 1a. SUBJECT OF REGULATION(S) Regional Water Quality Control Board R4 Ballona TMDLs Revision | 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 05-1101-01 S and 2008-0903-01 S |
|--|---|

| | |
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| 2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related) | |
| SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) | ADOPT AMEND 3939.18 and 3939.20 REPEAL |
| TITLE(S) 23 | |

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>Government 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 January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) | <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 (Code 11353)</u> |
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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 Man Voong | TELEPHONE NUMBER (213) 576-6690 | FAX NUMBER (Optional) (213) 576-6640 | E-MAIL ADDRESS (Optional) Man.Voong@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 <i>Renee Purdy</i> | DATE 3-16-15 |
| TYPED NAME AND TITLE OF SIGNATORY Renee Purdy, Chief, Regional Programs Section | |

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 04 2015

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

§ 3939.20 Total Maximum Daily Load for Metals for Ballona Creek.

On September 6, 2007, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted Resolution No. R2007-015, 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 (copper, lead, selenium, and zinc) in Ballona Creek for dry weather (maximum daily flow in the creek less than 40 cubic feet per second (cfs)) and wet weather (maximum daily flow in the creek equal to or greater than 40 cubic feet per second). The TMDL: (1) sets dry- and wet-weather numeric targets to achieve the California Toxics Rule (CTR) numeric water quality criteria for metals; (2) establishes a dry-weather loading capacity for a single critical flow to meet dry-weather numeric targets; (3) establishes a wet-weather loading capacity that varies with flow in order to meet the wet-weather numeric targets; and (4) allocates the dry- and wet-weather loading capacities among point and nonpoint sources of metals, with most of the capacity allocated to storm water sources.

The principale regulatory mechanisms to implement the TMDL are: (1) the Los Angeles County municipal separate storm water sewer system (MS4) National Pollutant Discharge Elimination System (NPDES) permit, (2) the Caltrans storm water MS4 NPDES permit, (3) the general industrial and construction storm water NPDES permits, (4) "other NPDES permits" for low-volume, intermittent, non-stormwater discharges, and (5) the authority vested in the Executive Officer by Water Code section 13267.

On December 6, 2013, the Los Angeles Regional Water Quality Control Board adopted Resolution No. R13-010, amending the Basin Plan to revise the Total Maximum Daily Loads for Metals in Ballona Creek and the Total Maximum Daily Loads for Toxic Pollutants in the Ballona Creek Estuary

The Basin Plan amendment adopted by Resolution No. R13-010 revises the TMDL adopted by Resolution No. 2007-015 by revising allocations based on adjusting the maximum daily flow in the creek from 40 cfs to 64 cfs and adjusting the dry- and wet-weather translators; removing selenium numeric target and allocations from the TMDL; and providing additional flexibility to implement and demonstrate compliance with the TMDL.

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

§ 3939.18 A Total Maximum Daily Load for Toxic Pollutants in Sediment in Ballona Creek Estuary.

On July 7, 2005, the Los Angeles Regional Water Quality Control Board adopted Resolution No. R05-008, amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan) by establishing a Total Maximum Daily Load (TMDL) to reduce toxic pollutants in sediment in Ballona Creek Estuary (Estuary). The TMDL sets numeric concentration-based targets for cadmium, copper, lead, silver, zinc, chlordane, total dichlorodiphenyltrichloroethane (DDT) isomers and metabolites, total polychlorinated biphenyls (PCBs), and total polynuclear aromatic hydrocarbons (PAHs) in the sediment for the Estuary. The targets are based on Effects Range-Low sediment quality guidelines compiled by the National Oceanic and Atmospheric Administration and will be achieved primarily by limiting the amount of pollutants associated with suspended sediment in storm water runoff.

The TMDL will mainly be implemented through National Pollutant Discharge Elimination System (NPDES) storm water permits, including the Los Angeles County Municipal Separate Storm Sewer Systems (MS4) permit, the California Department of Transportation (Caltrans) MS4 permit, the general industrial and construction permits, and other NPDES permits for low-volume, intermittent, non-stormwater discharges, and through the authority vested in the Executive Officer by Water Code section 13267.

The TMDL requires the general industrial and construction storm water permittees to achieve assigned wasteload allocations within seven years and nine years of the effective date of the TMDL, respectively. The implementation schedule for the municipal and Caltrans permittees consists of a phased approach, with wasteload allocations to be achieved in prescribed percentages of the watershed, with total compliance to be achieved within fifteen years of the effective date of the TMDL. The TMDL requires the municipal and Caltrans storm water permittees to submit a coordinated monitoring plan within one year of the effective date of the TMDL and an implementation plan within five and a half years of the effective date of the TMDL. The monitoring plan must include bioaccumulation testing of fish and mussel tissue and sediment toxicity testing. The TMDL allows for special studies, which are due within five years of the effective date of the TMDL, to refine source assessments, provide better estimates of loading capacity, and optimize implementation efforts. The TMDL specifies that within six months of the effective date of a statewide adopted sediment quality objectives and implementation policy, the Los Angeles Regional Water Quality Control Board will re-assess the numeric targets and wasteload allocations for consistency with these statewide objectives. The TMDL also specifies that within six years of its effective date, the Los Angeles Regional Water Quality Board shall reconsider the waste load allocations and implementation schedule based on the results of special studies.

On December 6, 2013, the Los Angeles Regional Water Quality Control Board adopted Resolution No. R13-010, amending the Basin Plan to revise the Total Maximum Daily Loads for Metals in Ballona Creek and the Total Maximum Daily Loads for Toxic Pollutants in the Ballona Creek Estuary.

The Basin Plan amendment adopted by Resolution No. R13-010 revises the TMDL adopted by Resolution No. 07-008 by revising sediment targets for direct effects consistent with the Water Quality Control Plan for Enclosed Bays and Estuaries – Part 1 Sediment Quality; establishing sediment targets for indirect effects and fish tissue based on the Office of Environmental Health Hazard Assessment (OEHHA) Fish Contaminant Goals; removing numeric targets and allocations for PAHs from the TMDL; and providing additional flexibility to implement and demonstrate compliance with the TMDL through various implementation strategies.