

**Santa Ana Regional Water Quality Control Board
Public Workshops, May 9&10, 2019**

**FACT SHEET
Proposed Basin Plan Amendment to Incorporate
Copper (Cu) TMDLs and
Action Plans for Zinc (Zn), Mercury (Hg), Arsenic (As) and Chromium (Cr)
in Newport Bay**

MAJOR POINTS

- *Newport Bay is still impaired due to Cu*
 - *Cu discharges from Cu antifouling paints must be reduced*
 - ***Proposed Cu TMDLs recommend but DO NOT REQUIRE conversions to non-Cu antifouling paints (AFPs)***
1. **USEPA established Cu (zinc (Zn), lead (Pb), cadmium (Cd)) TMDLs in 2002 for Newport Bay and San Diego Creek**
 - Cu TMDLs were established to address exceedances of California Toxics Rule (CTR) dissolved Cu criterion (3.1µg/L)
 - CTR Cu criterion is legally enforceable water quality objective
 - Established to protect aquatic organisms
 - Cu antifouling paints (AFPs) are the largest source of Cu to the Bay
 - USEPA TMDLs require a 92% reduction of Cu discharges from Cu AFPs
 2. **Regional Board staff have proposed Cu TMDLs (August 2016 and subsequent revisions)**
 - Bay is still impaired for Cu based on exceedances of the CTR criterion for Cu
 - Adverse effects on aquatic organisms can occur if CTR is exceeded
 - Cu AFPs continue to be the largest source of Cu to the Bay
 - Proposed TMDLs require 60% reduction of Cu discharges from Cu AFPs
 - *If CTR criterion is achieved before 60% reduction, no further reduction is required*
 - *Cu discharges from Cu AFPs must be reduced to meet the TMDLs*
 - *Cu in tributary runoff – no reduction is required*
 - Proposed TMDLs include an Implementation Plan and Compliance Schedule
 - *If Regional Board TMDLs are not adopted, Regional Board must implement USEPA's TMDLs*
 3. **Proposed Cu TMDLs Implementation Plan**
 - Dischargers include: City of Newport Beach, County of Orange, marina owners/operators, individual boat owners, hull cleaners, boatyard owner/operators
 - *Regional Board expects that the City of Newport Beach and County of Orange will take lead in developing/implementing approved plans on behalf of other responsible parties*
 - Dischargers are required to submit proposed implementation plan(s) to achieve the reduction of Cu discharges from boats
 - Plan(s) *must* include:
 - Monitoring and evaluation of water, sediments and tissue
 - Plan(s) *must consider* these strategies used in other Cu TMDLs:
 - Use best management practices (BMPs) for hull cleaning (e.g. the use of soft cloths, reduced hull cleaning frequency, slip liners, dry dock cleaning, container/filter method of hull cleaning)

(NOTE: Department of Pesticide Regulation (DPR) has issued a regulation for lower leach rate Cu AFPs, and BMPs must be used with DPR's lower leach rate Cu AFPs to achieve compliance with the CTR criterion)

- Diver certification/education program
- Incentives to convert boat hulls from Cu AFPs to non-Cu AFPs

(NOTE: Proposed Cu TMDLs recommend but DO NOT REQUIRE conversions to non-Cu AFPs)

- Other strategies identified by dischargers
- Dischargers must implement proposed plans upon Regional Board approval

4. Proposed Cu TMDLs Compliance Schedule

- Final compliance with TMDLs as soon as possible, but no later than **12** years from effective date of Regional Board's Cu TMDLs
 - effective date is the date of approval by USEPA
- Phased schedule to achieve 60% reduction of Cu discharges from boats:
 - 20% reduction no later than 4 years of effective date
 - 40% reduction no later than 8 years of effective date
 - 60% reduction no later than 12 years from effective date
- Schedule allows time for development/implementation of dischargers' plan(s) to achieve reduction of Cu discharges from boats

5. Proposed Action Plans for Zn, Hg, As and Cr

- Do not include allocations or compliance schedules
- Require monitoring and evaluation
- Monitoring and evaluation may indicate the need for TMDLs or other requirements
- If approved, the Zn Action Plan is expected to replace USEPA's Zn TMDLs for the Bay

6. If adopted and implemented, Regional Board Cu TMDLs and Zn, Hg, As, Cr Action Plans, including implementation plans, are subject to future change via a public participation process.

Documents for these Cu TMDLs and Action Plans can be found at:

https://www.waterboards.ca.gov/santaana/water_issues/programs/tmdl/tmdl_metals.html

For further questions contact: Linda Candelaria, PhD at RB8.CuTMDL@Waterboards.ca.gov or (951) 782-4991

Other Cu TMDLs in California

- **Marina del Rey Toxics TMDLs, Los Angeles, CA – County of LA**

https://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/bpa_96_R14-004_td.html

- **Shelter Island Yacht Basin Cu TMDL, San Diego, CA – Port of San Diego**

https://www.waterboards.ca.gov/sandiego/water_issues/programs/watershed/souwatershed.html#siyb_tmdl