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

Date: April 19, 2019

For: Holly Pearson
   Acting Director

Original: Eileen Sobeck, Executive Director
Copy: Terri S. Reeder
## A. PUBLICATION OF NOTICE

### Complete for publication in Notice Register

<table>
<thead>
<tr>
<th>1. SUBJECT OF NOTICE</th>
<th>TITLE(S)</th>
<th>FIRST SECTION AFFECTED</th>
<th>2. REQUESTED PUBLICATION DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>BPA, Selenium TMDLs, Newport Bay Watershed</td>
<td>3979.11</td>
<td>AMEND</td>
<td></td>
</tr>
</tbody>
</table>

### 3. NOTICE TYPE

<table>
<thead>
<tr>
<th>OAL USE ONLY</th>
<th>ACTION ON PROPOSED NOTICE</th>
<th>AGENCY CONTACT PERSON</th>
<th>TELEPHONE NUMBER</th>
<th>FAX NUMBER (Optional)</th>
<th>NOTICE REGISTER NUMBER</th>
<th>PUBLICATION DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Approved as Submitted</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Approved as Modified</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Disapproved/Withdrawn</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 4. AGENCY CONTACT PERSON

<table>
<thead>
<tr>
<th>1a. SUBJECT OF REGULATION(S)</th>
<th>1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Santa Ana RWQCB BPA, Selenium TMDLs, Newport Bay Watershed</td>
<td></td>
</tr>
</tbody>
</table>

### 5. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTIONS (Including title 26, if toxics related)

- **SECTION(S) AFFECTED**
  - AMEND

- **TITLE(S):**
  - 23

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

- □ Department of Finance (Form STD. 399) (SAM §6660)
- □ Fair Political Practices Commission
- □ State Fire Marshal
- □ Other (Specify)

### 7. CONTACT PERSON

<table>
<thead>
<tr>
<th>7. CONTACT PERSON</th>
<th>TELEPHONE NUMBER</th>
<th>FAX NUMBER (Optional)</th>
<th>E-MAIL ADDRESS (Optional)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terri S. Reeder</td>
<td>(951) 906-1899</td>
<td></td>
<td><a href="mailto:terrilreeder@waterboards.ca.gov">terrilreeder@waterboards.ca.gov</a></td>
</tr>
</tbody>
</table>

### 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:**

**Date:** 02/20/2019

**Other (Specify):**

**For use by Office of Administrative Law (OAL) only**

**ENDORSED APPROVED**

**APR 19 2019**

**Office of Administrative Law**
Concise Summary of Regulatory Provisions

TITLE 23. Waters
Division 4. Regional Water Control Boards
Chapter 1. Water Quality Control Plans, Policies, and Guidelines
Article 8. Santa Ana Region

The following section 3979.11 is to be added to Title 23 of the California Code of Regulations:


Resolution No. R8-2017-0014 establishes TMDLs for Selenium in three freshwater drainage systems in the Newport Bay watershed: Santa Ana-Delhi, San Diego Creek, and Big Canyon Wash subwatersheds. The TMDLs address exceedance of the California Toxics Rule (CTR) chronic water quality criterion for selenium and potential impairments to fish and birds via bioaccumulation in the freshwater portions of the watershed. Tissue-based targets for the protection of aquatic life (fish) and aquatic dependent wildlife (birds) are included in the TMDLs, as well as CTR-based water column targets. The objective of this amendment is to reduce levels of selenium in the watershed to protect water quality and potentially impaired beneficial uses.

The TMDL allocations are assigned to urban runoff, groundwater cleanup and dewatering dischargers and other National Pollutant Discharge Elimination System (NPDES) permittees, agriculture, open space, and rising groundwater. The allocations apply only during dry weather conditions (year-round) and are expressed as semi-annual arithmetic means (April 1 through September 30 and October 1 through March 31).

The TMDLs provide compliance options, including best management practices (BMP)-based compliance, to be incorporated into relevant NPDES permits. The compliance options are included as part of the assumptions and requirements of these selenium TMDLs. Compliance schedules are included that reflect the phased TMDL structure, the individual requirements for each Regulated Party, and the adaptive management process, including periodic reevaluations of the selenium TMDLs (e.g., TMDL re-openers). Final compliance with the TMDLs is to be achieved as soon as possible but no later than thirty years from the Reconsidered TMDL effective date. This timeframe considers the existing challenges and lack of available reasonably feasible treatment...
technologies/BMPs for selenium and therefore provides adequate but reasonable time to identify, design, and implement approaches in the future.