

**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. 2008-0903-01 S

Amend sections: 3939.20

This regulatory action amends the TMDL for Ballona Creek in the Los Angeles region to reduce metals (specifically lead, zinc, copper and selenium) for both dry weather and wet weather situations.

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

Date: 10/6/2008



George C. Shaw
Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Dorothy Rice
Copy: Michael Buckman

OFFICE OF ADMINISTRATIVE LAW

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SUSAN LAPSLEY
Director

MEMORANDUM

TO: Michael Buckman
FROM: OAL Front Desk *LW*
DATE: 10/9/2008
RE: RETURN OF Approved RULEMAKING MATERIALS
OAL File No. 2008-0903-01S

OAL hereby returns this file your agency submitted for our review (OAL File No. 2008-0903-01S regarding Total Maximum Daily Load for Metals for Ballona Creek).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). Note: The 30th 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, please retain 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

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2028-0903-01 S	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY STATE WATER RESOURCES CONTROL BOARD			AGENCY FILE NUMBER (if any)

2008 SEP -3 AM 9:42
OFFICE OF
ADMINISTRATIVE LAW

2008 OCT -6 PM 1:46
Jane Brown
OFFICIAL SECRETARY
SECRETARY OF STATE

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

1. SUBJECT OF NOTICE Amendment to the Los Angeles Basin Plan	TITLE(S) 23	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 Michael Buckman	TELEPHONE NUMBER (916) 341-5549	FAX NUMBER (Optional) (916) 341-5550
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) Total Maximum Daily Load for Metals for Ballona Creek.	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)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT AMEND 3939.20 REPEAL
TITLE(S) 23	
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input checked="" type="checkbox"/> Other (Specify) <u>Gov't Code 11353</u>	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only
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"/> Other (Specify)	<input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal
7. CONTACT PERSON Michael Buckman	TELEPHONE NUMBER (916) 341-5479
FAX NUMBER (Optional) (916) 341-5550	E-MAIL ADDRESS (Optional) mbuckman@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>Elizabeth Haven</i>	DATE 7/8/08
TYPED NAME AND TITLE OF SIGNATORY Elizabeth Haven, Assistant Deputy Director, Division of Water Quality, State Water Resources Control Board	

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 ~~July 7, 2005~~ September 6, 2007, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) adopted Resolution No. ~~R05-007R~~ 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) 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 ~~the majority~~ most of the capacity allocated to storm water sources.

The principle regulatory mechanisms to implement the TMDL are: (1) The TMDL identifies the Los Angeles County municipal storm water National Pollutant Discharge Elimination System (NPDES) permit, (2) the Caltrans storm water NPDES permit, (3) the general industrial and construction storm water NPDES permits, and (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. as the principal regulatory mechanisms to implement the TMDL. 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 within 10 years and 9 years of the effective date of the TMDL, respectively. The TMDL requires the municipal and Caltrans storm water permittees to achieve wasteload allocations in prescribed percentages of the watershed, achieving dry-weather allocations in the entire watershed within 10 years and wet-weather allocations in the entire watershed within 15 years. 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 4 1/2 years of the effective date of the TMDL. The TMDL allows for special studies, such as source assessment and metals partitioning studies, which are due within four years of the effective date of the TMDL. The TMDL specifies that within five years of its effective

date, the Los Angeles Water Board shall reconsider the wasteload allocations and implementation schedule based on the results of special studies.