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## CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

### LOS ANGELES REGION

June 22, 2023

#### Resolution No. 23-XXX

#### **Amendment to the Water Quality Control Plan for the Los Angeles Region to Update the Freshwater Ammonia Objectives for Inland Surface Waters (including Enclosed Bays, Estuaries and Wetlands) for the Protection of Aquatic Life**

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

1. The federal Clean Water Act (CWA) requires each California Regional Water Quality Control Board to develop water quality objectives which are sufficient to protect beneficial uses designated for each water body found within its region.
2. The amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) was developed in accordance with the Porter-Cologne Water Quality Control Act (Wat. Code, division 7, chapter 4, article 3), including California Water Code section 13241.
3. The Basin Plan contains one-hour average and 30-day average ammonia objectives to protect inland surface waters supporting aquatic life. These objectives are based on the 1999 United States Environmental Protection Agency (U.S. EPA) ambient water quality criteria for ammonia that were adopted by the Los Angeles Water Board through a Basin Plan amendment process on April 25, 2002 (Resolution No. R02-011).
4. Based on the 1999 U.S. EPA ambient water quality criteria for ammonia, the one-hour average ammonia objective depends on pH and fish species (fish in the genus *Oncorhynchus* (hereafter referred to as salmonids) while the 30-day average ammonia objective depends on pH, temperature, and fish Early Life Stage (ELS). The implementation provisions of fish ELS were adopted by the Los Angeles Water Board through a Basin Plan amendment process on December 1, 2005 (Resolution No. R05-014).
5. The Los Angeles Water Board adopted an amendment to the Basin Plan on June 7, 2007, replacing the regional 30-day average water quality objectives for ammonia with site-specific objectives (SSOs) in specific water body reaches (i.e., Los Angeles River Reaches 3, 4, and 5, Burbank Western Channel, Rio Hondo, San Jose Creek, San Gabriel River Reaches 1, 2, and 3, Coyote Creek, Santa Clara River Reaches 5 and 6) along with corresponding implementation provisions (Resolution No. R07-005). These SSOs were developed based on water-effect

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ratios available in the 1999 U.S. EPA ambient water quality criteria for ammonia. Resolution No. R07-005 did not change the regional one-hour average ammonia objectives in these water body reaches.

6. This amendment replaces the freshwater ammonia objectives based on the 1999 U.S. EPA ambient water quality criteria for ammonia with new objectives based on the 2013 U.S. EPA “Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater” (hereafter referred to as the “new” objectives).
7. For enclosed bays and estuaries *not* characterized as freshwater, the existing ammonia objectives contained in the Basin Plan shall remain in effect.
8. This amendment provides implementation language to determine whether a water body is characteristic of freshwater, brackish water, or saltwater to determine which objectives should be applied.
9. Los Angeles Water Board staff prepared a detailed technical document that analyzes and describes the specific necessity and rationale for the development of the proposed amendment. The technical document entitled, "Proposed Amendments to the Los Angeles Water Quality Control Plan (Basin Plan) - To Incorporate 2013 United States Environmental Protection Agency ‘Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater’ in the Los Angeles Region” (Staff Report) is an integral part of this action and was reviewed, considered, and accepted by the Los Angeles Water Board before acting.
10. The new one-hour average (acute) and 30-day average (chronic) ammonia objectives include:
  - (A) Recognition of invertebrates’ sensitivity to ammonia, particularly at high water temperatures;
  - (B) Recognition of the sensitive native freshwater mussels in the Family Unionidae (hereafter referred to as mussels) and salmonids in determining the one-hour average ammonia objective;
  - (C) Recognition of mussels and fish ELS in determining the 30-day average ammonia objective; and
  - (D) A 30-day averaging period for the 30-day average ammonia objective, requiring that the highest four-day average within the 30-day period not exceed 2.5 times the 30-day average objective, more than once in three years on average.

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In addition:

- (A) The new one-hour average ammonia objective does not depend solely on pH, but it also depends on temperature; and
  - (B) The new 30-day average ammonia objective remains dependent on both pH and temperature.
11. This amendment revises Chapter 3, "Water Quality Objectives," of the Basin Plan and adds implementation language. The new one-hour average objective based on the 2013 U.S. EPA freshwater ammonia criteria is applicable throughout the Los Angeles Region and shall replace the existing one-hour average objective that is based on the 1999 U.S. EPA ambient water quality criteria for ammonia. Likewise, the new 30-day average objective is applicable throughout the Los Angeles Region and shall replace the previously applicable regional objective and the SSOs for water body reaches with SSOs. However, the corresponding site-specific seasonal ELS periods remain.
  12. The new freshwater one-hour average ammonia objective is determined by the presence or absence of mussels and the presence or absence of salmonids. Therefore, there are four different criteria for the one-hour average objective (i.e., mussels present salmonids present, mussels present salmonids absent, mussels absent salmonids present, and mussels absent salmonids absent).
  13. The new freshwater 30-day average ammonia objective is determined by the presence or absence of mussels. When mussels are absent, the freshwater 30-day average objective is determined by the presence or absence of early life stages of fish (ELS). Therefore, there are three different criteria for the 30-day average objective (i.e., mussels present, mussels absent fish ELS present, mussels absent fish ELS absent).
  14. The 2018 technical report "Assessing the Status of Native Freshwater Mussels (Unionidae) in Los Angeles and Ventura Counties" showed that mussels have been extirpated from water bodies in the area under jurisdiction of the Los Angeles Water Board. Therefore, the mussel absent condition applies to all inland surface waters under Los Angeles Water Board's jurisdiction. If data and information are submitted to the Los Angeles Water Board that provide substantial evidence showing the presence of mussels in a water body, the Los Angeles Water Board will reconsider this implementation provision to ensure protection of mussels in the respective water body.
  15. The Los Angeles Water Board has considered the costs of implementing the amendment, and other factors, as required by California Water Code section 13241.

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16. This Basin Plan amendment revises water quality objectives for waste discharges that may impact disadvantaged and/or tribal communities.
17. Consistent with Water Code section 189.7, the Los Angeles Water Board has conducted outreach in potentially affected disadvantaged and tribal communities.
18. Pursuant to Water Code section 13149.2, the Los Angeles Water Board reviewed readily available information [and information raised to the board by interested persons] concerning anticipated water quality impacts in disadvantaged or tribal communities resulting from this action. The board also considered environmental justice concerns within its authority [and raised by interested persons] with regard to those impacts. Based on these considerations and as further discussed in the Staff Report, this proposed amendment results in low or no adverse water quality impacts to tribal and/or disadvantaged communities.
19. Pursuant Public Resources Code § 21080.3.1 (AB 52 Gatto), between August 26 and September 1, 2022, the Los Angeles Water Board sent letters to eight tribes that are required to be contacted for CEQA projects being initiated in the Los Angeles Region to receive AB 52 notices and to 66 tribal representatives in Los Angeles, Ventura and other counties as identified by the Native American Heritage Commission. The Los Angeles Water Board received no response to the letters requesting consultation on the project. Only one email was received from the San Manuel Tribe on September 26, 2022, stating that, unless anything changed, they had no concern over the project.
20. The Staff Report identifies measures available and within the scope of the board's authority to address any impacts of the amendment, particularly in cases where the amendment results in less stringent criteria. These include applying the ELS-present classification to all streams without site-specific objectives, implementation of nitrification/denitrification at publicly owned treatment works, and implementation of management practice requirements for discharges from irrigated agricultural lands. In addition, existing total maximum daily loads (TMDLs) will remain in place.
21. Pursuant to Fish and Game Code section 711.4, subdivision (c)(2)(A), this proposed amendment results in no effect, either individually or cumulatively, on fish or wildlife.
22. The proposed regulatory action meets the "Necessity" standard of the Administrative Procedure Act (Gov. Code, § 11353, subd. (b)).
23. The proposed amendment is consistent with the State Antidegradation Policy (State Water Resources Control Board Resolution No. 68-16) regarding the changes to water quality objectives that (i) consider maximum benefits to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that

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prescribed in policies. Likewise, the amendment is consistent with the federal Antidegradation Policy (40 CFR § 131.12).

24. The analysis contained in the California Environmental Quality Act (CEQA) “substitute environmental documents” for the proposed Basin Plan amendment, including the CEQA Checklist, the Staff Report, and the responses to comments, complies with the State Water Resources Control Board’s regulations for the implementation of CEQA, as set forth in California Code of Regulations, title 23, sections 3775 through 3781.
25. A CEQA scoping meeting was conducted on November 17, 2022, in Los Angeles, California.
26. Consistent with CEQA, the substitute environmental documents do not engage in speculation or conjecture but, rather, analyze the reasonably foreseeable environmental impacts related to methods of compliance with the proposed amendments, reasonably foreseeable mitigation measures to reduce those impacts, and reasonably feasible alternative means of compliance that would avoid or reduce the identified impacts.
27. Because the proposed ammonia objectives are not substantially different than the current ammonia objectives with the implementation of the mussels absent condition, the Los Angeles Water Board finds that the proposed amendments would not cause a significant adverse effect on the environment. There are also feasible alternatives or feasible mitigation measures that, if employed, would reduce the potentially significant adverse impacts identified in the substitute environmental documents to less than significant levels. These alternatives or mitigation measures are within the responsibility and jurisdiction of other public agencies, and such public agencies will be required to comply with CEQA in approving the methods of compliance.
28. The public had a reasonable opportunity to participate in the review of the proposed amendments to the Basin Plan. A Notice of Hearing was published in the Los Angeles Times on April 8, 2023, and the Ventura County Star on April 9, 2023. A draft of the staff report, tentative resolution, and proposed Basin Plan language were released for public comment on April 7, 2023 to allow a 47-day public comment period in advance of the public hearing. The Los Angeles Water Board responded to written and oral comments received from the public on the proposed action.
29. On June 22, 2023, prior to the Los Angeles Water Board’s action on this resolution, a public hearing was held to consider the proposed Basin Plan amendment. The public had an opportunity to provide oral comments and testimony during the

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hearing. Notice of the public hearing was sent to all known interested persons and published in accordance with California Water Code section 13244.

30. Health and Safety Code section 57004 requires external peer review of the scientific portions of basin plan amendments. The new objectives are based on EPA's *Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater* (2013), which underwent external scientific peer review as described in *EPA Response to External Peer Reviewer Comments on Draft 2009 Update Aquatic Life Ambient Water Quality Criteria for Ammonia - Freshwater* (April 2013). The amendment applies the new objectives in the same manner and context that EPA previously subjected to peer review. Section 57004 therefore does not require additional external peer review of the amendment.
31. The Basin Plan amendment must be submitted for review and approval by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and U.S. EPA. Once approved by the State Water Board, the amendment will be submitted to OAL and U.S. EPA. The Basin Plan amendment will become effective for state law purposes upon approval by OAL. For purposes of federal law, the Basin Plan will be effective upon approval by both OAL and U.S. EPA. A Notice of Decision will be filed.

THEREFORE, be it resolved that:

1. Pursuant to sections 13240 and 13241 of the California Water Code, the Los Angeles Water Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to the Water Quality Control Plan for the Los Angeles Region as set forth in Attachment A hereto.
2. The Los Angeles Water Board directs staff, when implementing the new objectives through TMDLs and permits, to ensure that beneficial uses, including endangered species and early life stages of fish, are being protected.
3. The Los Angeles Water Board hereby approves the final CEQA substitute environmental documentation prepared in accordance with Public Resources Code section 21159 and California Code of Regulations, title 14, section 15187 and adopts the findings and determinations set forth therein.
4. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of section 13245 of the California Water Code.
5. The Los Angeles Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to OAL and the U.S. EPA.

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6. If during the approval process the Los Angeles Water Board staff, State Board, or OAL determines that minor, non-substantive corrections to the language of the amendment 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 sign a Certificate of Fee Exemption.

I, Renee Purdy, the 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 June 22, 2023.

Renee Purdy  
Executive Officer

Attachment A: Amendment to the Los Angeles Basin Plan