

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION
NOTICE OF PUBLIC HEARING AND
OPPORTUNITY TO PROVIDE ORAL COMMENT**

TENTATIVE RESOLUTION NO. R8-2022-0012

**Amendments to the Water Quality Control Plan for the Santa Ana River Basin to
Incorporate Total Maximum Daily Loads for Copper in Newport Bay, Orange County,
California**

NOTICE IS HEREBY GIVEN that the California Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board) will hold a public hearing to hear oral comment on proposed amendments to the Water Quality Control Plan for the Santa Ana River Basin (Basin Plan) to incorporate Total Maximum Daily Loads (TMDLs) for Copper (Cu) in Newport Bay, Orange County, California on December 2, 2022 (proposed Amendments)) and on the proposed Substitute Environmental Document (SED 2022).

The Santa Ana Water Board will consider adoption of the proposed Basin Plan amendment and SED 2022 through approval of Tentative Resolution No. R8-2022-0012. The public hearing will be held at the regularly scheduled Regional Board Meeting as follows:

DATE: December 2, 2022
TIME: 9:00 a.m.
LOCATION: City of Anaheim
200 S. Anaheim Blvd.
Anaheim, CA 92805

The public may participate either in person at the physical meeting location or virtually via the Zoom meeting platform. Instructions concerning how to participate virtually will be available on the Santa Ana Water Board's website at the following link:

https://www.waterboards.ca.gov/santaana/board_info/remote_meeting/index.html.

A copy of the Santa Ana Water Board's agenda for the public hearing will be available at least ten days prior to the date of the public hearing and will be available at the Water Board's website at the following link:

https://www.waterboards.ca.gov/santaana/board_info/agendas/2022_agendas.html

Please check the Santa Ana Water Board's website for the most up-to-date hearing date and location, as they are subject to change.

As explained below, the written comment period for the proposed Amendment and proposed SED 2022 closed August 30, 2021. No additional written comments will be accepted. The Santa Ana Water Board will accept oral comments at the public hearing. In order to ensure a productive, efficient and fair hearing in which all participants have an opportunity to be heard, the Board Chair may impose a time limit for each speaker. Persons with similar views are encouraged to make joint presentations. Commenters are asked to provide a copy of all PowerPoint or slide presentations used during the hearing and must provide a copy to the Executive Assistant for inclusion in the record. Santa Ana Water Board staff will respond orally to comments raising significant new issues at the hearing.

Background

The proposed Amendment would establish TMDLs for dissolved copper for Upper Newport Bay and Lower Newport Bay. The proposed Amendment includes an Implementation Plan and interim and final compliance schedules to achieve the TMDLs and thereby assure that water quality standards will be achieved and protected. The principal focus of these TMDLs and the Implementation Plan is the reduction of Cu discharges from Cu anti-fouling paints (AFPs) on boats in the Bay. The proposed Amendment includes requirements for monitoring and evaluation, including monitoring and evaluation of sediment conditions in the Bay in accordance with the requirements of the State Water Board's 2018 Water Quality Control Plan for Enclosed Bays and Estuaries – Sediment Quality Provisions.

The Santa Ana Water Board initially circulated a draft SED and draft Basin Plan amendment for written comment in August 2016 and received comments on those drafts by October 17, 2016. The documents were revised and recirculated on July 10, 2018, with written comments due no later than August 24, 2018. Thereafter the Santa Ana Water Board convened two workshops in May 2019 at which oral comments were received. Written responses to the written comments received in 2016 and 2018, and to oral comments at both the October 2016, hearing and the May 2019 workshops were made available to the public in 2018 and 2021, respectively.

Based on this public process, the Santa Ana Water Board staff made further revisions to the draft documents and on June 29, 2021, issued a Notice of Filing, Notice of Public Hearing and Notice of Recirculation of revised draft documents for a written public comment period exceeding 45 days, with written comments due no later than August 30, 2021. Instead of holding a public hearing on September 17, 2021, the Santa Ana Water Board conducted a public workshop and accepted oral comment.

Following the workshop, Santa Ana Water Board staff considered written comments, oral comments presented at the workshop, and engaged in multiple discussions with interested parties and agencies, including the USEPA. As a result of this process, Water Board staff made limited revisions to the draft Basin Plan amendment and draft SED considered at the workshop primarily as follows:

- The proposed SED 2022 and Staff Report reflect updated information concerning the availability and potential environmental effects of alternative (non-biocide and non-Cu biocide) AFPs.
- The sediment targets in the draft Basin Plan amendment were revised to include both a numeric sediment target, as required by TMDL regulations (the Effects Range Low (ERL) guideline (34 µg/g) from NOAA SQuiRTS (1999, 2008), which was originally proposed in the 2016 version of the draft amendments), and an alternative target to the numeric sediment target based on the 2018 Sediment Quality Provisions.
- Editorial changes, such as re-labeling of table notes, were made to improve the clarity of the documents.

These revisions are reflected in the proposed Amendment and proposed SED 2022 in underline-bold/strikeout showing changes from the documents released on June 29, 2021.

Responses to written comments submitted by the August 30, 2021, deadline will be made available to all interested parties at least ten days prior to the public hearing. No additional written comments will be accepted. Santa Ana Water Board staff will respond orally to oral comments presented at the hearing raising significant new issues. At the conclusion of the

hearing, the Santa Ana Water Board will consider adoption of the proposed Amendment and SED 2022, including changes to the proposed Amendment that are consistent with the general purpose of the proposed Amendment and are a logical outgrowth of the comments received.

When considering approval of a Santa Ana Water Board's adoption of a Basin Plan amendment, the State Water Resources Control Board may refuse to accept any comments that were not timely raised before the Santa Ana Water Board. Therefore, interested persons are strongly encouraged to make all comments on this proposed action to the Santa Ana Water Board.

The Santa Ana Water Board is considering the proposed Amendment in accordance with a certified regulatory program, exempt under section 21080.5 of the Public Resources Code from the requirement to prepare an environmental impact report under the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*). The substitute environmental document is required under the Water Boards' certified regulatory program (Cal. Code Regs., tit. 23, §§3775 *et seq.*) and includes the required environmental analyses of the proposed Amendment.

If approved by the Santa Ana Water Board, State Water Resources Control Board, the Office of Administrative Law, and the U.S. Environmental Protection Agency (USEPA), the Cu TMDLs will supersede the Cu TMDLs established in 2002 by USEPA for Newport Bay.

Document Availability

The proposed Amendments, the proposed SED 2022 (including the Environmental Checklist and Analysis and the Staff Report 2022,) and Tentative Resolution No. R8-2022-0012 will be available no later than October 26, 2022, on the Santa Ana Water Board FTP site* or by request to Santa Ana Water Board staff at the Cu email address: RB8.CuTMDL@Waterboards.ca.gov. The documents made available will also include underline/strikeout versions showing revisions from the 2021 draft Amendments. The public notice will also be sent out via the Copper email list**.

*The link for the FTP site is: <https://ftp.waterboards.ca.gov/WebInterface/login.html>

The credentials are: Username: rb8download Password: Region8_public

**To sign up for the email list, to receive updates regarding TMDLs for Newport Bay, visit the following website and subscribe to the "TMDL Newport Bay Copper – Metals" list:

http://www.waterboards.ca.gov/resources/email_subscriptions/req8_subscribe.shtml

Accessibility

Any person who is disabled and requires special accommodation to participate in the Santa Ana Water Board hearing should contact Jessica Baenre at (951) 782-3285 at least five days prior to the hearing.

Additional Information

Please direct any questions regarding this notice to Linda Candelaria, PhD at RB8.CuTMDL@Waterboards.ca.gov or (951) 782-4991 or Terri Reeder at terri.reeder@waterboards.ca.gov or (951) 782-4995

Date: October 18, 2022