



**RBOC**  
Protecting your boating interests.™

925 L Street • Suite 260  
Sacramento CA 95814  
916.441.4166  
[www.rbo.org](http://www.rbo.org)

August 23, 2018

Dr. Linda Candelaria, PhD  
California Regional Water Quality Control Board Santa Ana Region  
3737 Main Street, Suite 500 Riverside, California 92501-3348

RE: Regional Board Meeting on October 19, 2018 to adopt the Basin Plan Amendments to Incorporate Total Maximum Daily Loads for Copper and Non-TMDL Action Plans for other Metals in Newport Bay

Dear Dr. Candelaria:

Recreational Boaters of California [RBOC] submits these comments in response to the July 10, 2018 notice that the California Regional Water Quality Control Board, Santa Ana Region will consider adopting Amendments to the Water Quality Control Plan for the Santa Ana Region to incorporate Total Maximum Daily Loads for copper and non-TMDL Action Plans for other metals in Newport Bay.

RBOC is the statewide nonprofit advocacy organization that has advocated for the protection, enhancement and responsible use of our state's waterways for the past 50 years.

Boaters in the Santa Ana watershed and throughout the region have a keen interest in the issues being addressed by the regional board, and RBOC provided written comments in 2016 when this issue was previously considered. Our organization remains greatly concerned today.

RBOC reiterates the comments we submitted in 2016 and also endorses the August 22 comments that have been submitted by the City of Newport Beach, the points raised in those comments, and the City's request. These include:

- It has been 21 months since the October 28, 2016 workshop and there have been no workshops, no outreach to the boating community, no inclusion of named dischargers in the development of the latest draft TMDL.
- To date, we do not believe that our concerns about the practical impacts of the proposed implementation plan to our community and Newport Bay have been acknowledged or appreciated. Our original comments and concerns still stand.
- The copper TMDL unlawfully attempts to force local agencies to solve a conflict caused by the Regional Board's failure to convince the Legislature or its sister state agencies to ban copper anti-fouling paint [AFP].
- The copper TMDL is unlawful because alternatives to copper AFP are not effective or available and may have significant adverse environmental impacts.
- The phased implementation schedule is unreasonable and unsupported, and would force substantial early investments that may be unnecessary.

**John Marshall**  
President

**Ray Durazo**  
Vice President – North

**Dan Hodge**  
Vice President - South

**Otis Brock**  
Secretary – Treasurer

**Peter Robertson**  
Past President

Legislative Advocates

**Jerry Desmond**  
Director of  
Government Relations

Mail donation checks to  
**RBOC**  
c/o Otis Brock  
1253 Yuba Avenue  
San Pablo, CA 94806



Dr. Linda Candelaria, PhD  
California Regional Water Quality Control Board Santa Ana Region  
Page Two - August 23, 2018

In addition, RBOC is significantly concerned that:

- The revised amendments place an unfair and unreasonable responsibility on boats to continue to be responsible for lowering the levels of copper even after boat copper loads have been reduced to recommended levels, if the water column then shows that copper levels exceed 3.1 CTR.
- The information included in the attachments establishes that there may in fact not be a copper impairment [either in the water or sediment], and that no implementation plan is necessary at this time.
- The board has not acknowledged and learned from the challenges ongoing at Marina del Rey Harbor and Shelter Island.
- The revised amendments do not reflect the fact that alternatives to copper-based AFP may cause greater environmental harm and may increase the entrance and spread of invasive species.
- The copper TMDL imposes unfunded state mandates.
- The substitute environmental document fails to comply with the California Environmental Quality Act and CEQA 's implementing guidelines.
- The revised amendments seem flawed, preempted, give substandard consideration to current conditions and technical analyses, and do not comply with CEQA.

RBOC joins in the request of the City of Newport Beach that the board:

1. Not adopt the amendments at this time.
2. Select an additional review period a meaningful discussion about additional testing and monitoring, education, best management practices, the implementation timeline for DPR's updated AFP regulations, and more, with the goal of coming back to the Regional Board with more robust data and implementation ideas.
3. Commit to participating thoroughly and in good faith in that discussion provided all of the parties do so collaboratively, as has been the collective spirit in the past.

For these and other reasons RBOC respectfully requests that the Regional Board not adopt the amendments on October 19, 2018, and provide additional time for all stakeholders to further discuss the stated concerns.

RBOC appreciates the Regional Board's objective to protect the water and the recreational boating community remains willing and ready to discuss the development of amendments that incorporate a justified, reasonable, fact and science-based implementation plan to address actual water quality concerns in the Newport Bay.

Sincerely,

John Marshall, RBOC President

Enclosure