

**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. 2011-1102-01 S

Adopt sections: 3939.40

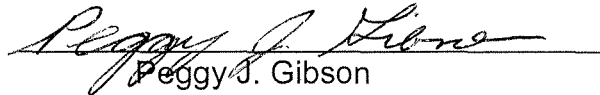
Amend sections:

Repeal sections:

This action is SWRCB's approval of the Los Angeles Regional Water Quality Control Board's amendments of the Los Angeles Regional Basin Plan. On July 8, 2010, the Los Angeles Regional Water Quality Control Board adopted Resolution R10-006 amending the Water Quality Control Plan for the Los Angeles Region (Basin Plan) by establishing the Total Maximum Daily Load (TMDL) for indicator bacteria in the Santa Clara River Estuary and Reaches 3, 5, 6 and 7. The TMDL sets numeric targets for indicator bacteria based on numeric water quality objectives provided in the Basin Plan. The TMDL establishes final waste load allocations for point source discharges, final load allocations for nonpoint source discharges, interim final load allocations for Storm Sewer System discharges. On October 4, 2011, the State Water Resources Control Board approved this amendment under Resolution No. 2011-0048.

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

Date: 12/19/2011


Peggy J. Gibson
Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Thomas Howard
Copy: Nick Martorano

REGULAR NOTICE PUBLICATION/REGULATIONS SUBMISSION

11353

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS Z-	NOTICE FILE NUMBER 2011-1102-01S	REGULATORY ACTION NUMBER 2011 NOV -2 AM 9:17 AM	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		OFFICE OF ADMINISTRATIVE LAW	
NOTICE		REGULATIONS	

DEC 19 PM 3:12
J. W. ...
SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board (SWRCB)

AGENCY FILE NUMBER (if any): 2011-0048

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

1. SUBJECT OF NOTICE		TITLE(S)		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		TELEPHONE NUMBER		FAX NUMBER (Optional)	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
TMDL for Indicator Bacteria in the Santa Clara River

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 3939.40
	AMEND
	REPEAL 23

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<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"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Gov't Code 11353</u>	

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>
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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"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON: Nick Martorano
TELEPHONE NUMBER: 213-576-6694
FAX NUMBER (Optional): 916-341-5550
E-MAIL ADDRESS (Optional): nmartorano@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: *Victoria A. Whitney*
DATE: 10/26/11
TYPED NAME AND TITLE OF SIGNATORY: Victoria A. Whitney, Deputy Director, Division of Water Quality, SWRCB

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED
DEC 19 2011
Office of Administrative Law

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

The Following section 3939.40 is to be added in Title 23 of the California Code of Regulations:

§ 3939.40 - "A Total Maximum Daily Load for Indicator Bacteria in the Santa Clara River Estuary and Reaches 3, 5, 6 and 7".

On July 8, 2010, the Los Angeles Regional Water Quality Control Board adopted Resolution No. R10-006, amending the Water Quality Control Plan for the Los Angeles Region by establishing a Total Maximum Daily Load (TMDL) for indicator bacteria in the Santa Clara River (SCR) Estuary and Reaches 3, 5, 6 and 7. The TMDL sets numeric targets for indicator bacteria based on numeric water quality objectives provided in the Basin Plan. The TMDL establishes final waste load allocations (WLA) for point source discharges, final load allocations (LA) for nonpoint source discharges, interim LA for nonpoint source discharges and interim WLA for city and county Municipal Separate Storm Sewer System (MS4) discharges. Final allocations to achieve the single sample maximum numeric targets are expressed as "allowable exceedance days" and only apply to days in which single sample limits are exceeded and do not apply to days where geometric mean limits are exceeded. No exceedance days of the geometric mean targets are allowed. Allowable exceedance days are further separated into dry weather and wet weather allowances. The TMDL requires the city and county MS4 dischargers and nonpoint source dischargers to achieve the final WLA and LA within 11 years for dry weather and 17 years for wet weather. Other point source dischargers must achieve WLA upon the effective date of the TMDL.

Compliance with the city and county MS4 WLA is based on the allowable number of exceedance days, except in wet weather, when compliance can alternatively be based on an allowable load of bacteria. Compliance with the city and county MS4 WLA is assessed using a combination of in-stream and MS4 outfall monitoring. Compliance with the WLA assigned to other point source dischargers is assessed through permit requirements. Compliance with nonpoint source load allocations is assessed through compliance with waste discharge requirements, waivers, or prohibitions.