

**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. 2013-0117-06 S

Adopt sections: 3929.9

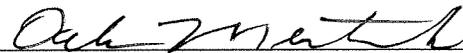
Amend sections:

Repeal sections:

This Government Code section 11353 rulemaking action establishes a Total Maximum Daily Load for fecal indicator bacteria for the Santa Maria Watershed with a 15-year implementation target date, which will be achieved through responsible parties' implementations of best management practices along with monitoring and reporting by some parties during, at least, the first three years of implementation. The rulemaking action establishes various numeric targets for fecal coliform, total coliform, and E. Coli, and provides that numeric targets and allocations will be re-evaluated by the Central Coast Water Board if responsible parties demonstrate that controllable sources of pathogens are not contributing to exceedances.

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

Date: 2/21/2013



Dale P. Mentink
Senior Staff Counsel

For: DEBRA M. CORNEZ
Director

Original: Thomas Howard
Copy: Shanta Keling

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2013-0117-065	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) 2012-0055

ENDORSED FILED
IN THE OFFICE OF

2013 FEB 21 PM 1:48

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

2013 FEB -4 AM 10:45
OFFICE OF
ADMINISTRATIVE LAW

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) Central Coast BP Santa Maria Watershed Fecal Indicator Bacteria TMDL		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 3929.9	
		AMEND	
TITLE(S) 23		REPEAL	
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"/> Fair Political Practices Commission	
<input type="checkbox"/> Other (Specify)		<input type="checkbox"/> State Fire Marshal	
7. CONTACT PERSON Shanta Keeling		TELEPHONE NUMBER (805) 549-3464	FAX NUMBER (Optional) (805) 549-0397
		E-MAIL ADDRESS (Optional) skeeling@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>Michael Thomas</i>	DATE Jan 28, 2013
TYPED NAME AND TITLE OF SIGNATORY Michael Thomas, Assistant Executive Officer, Regional Water Quality Control Bd., Reg. 3	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 21 2013

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 3. Central Coast Region

The following section 3929.9 is to be added to Title 23 of the California Code of Regulations:

Section 3929.9 – “Total Maximum Daily Loads for Fecal Indicator Bacteria in the Santa Maria River Watershed and Domestic Animal Waste Discharge Prohibition.”

The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) adopted Resolution No. R3-2012-0002 on March 15, 2012, amending the *Water Quality Control Plan for the Central Coast Region* (Basin Plan). The State Water Resources Control Board approved the amendment under Resolution No. 2012-0055 on October 16, 2012.

Resolution No. R3-2012-0002 establishes Total Maximum Daily Loads (TMDLs) and an Implementation Plan for the Santa Maria River Watershed for Fecal Indicator Bacteria. The TMDL addresses impairment of the Santa Maria River Watershed (including Alamo Creek, Blosser Channel, Bradley Canyon Creek, Bradley Channel, Cuyama River, La Brea Creek, Little Oso Flaco Creek, Main Street Canal, Nipomo Creek, Orcutt Creek, Oso Flaco Creek, Oso Flaco Lake, Santa Maria River Estuary, and the Santa Maria River) due to elevated levels of fecal indicator bacteria. Resolution R3-2012-0002 also adds the Santa Maria River Watershed, including the Oso Flaco subwatershed, to the Domestic Animal Waste Discharge Prohibition established by the Central Coast Water Board in March 2009.

Current fecal indicator bacteria concentrations in Santa Maria River Watershed waters are impairing the water contact beneficial use (REC-1). Additionally, fecal indicator bacteria concentrations are impairing the shellfishing (SHELL) beneficial use in the Santa Maria River Estuary. The TMDL establishes a numeric target for fecal coliform consistent with current Basin Plan objectives protecting the REC-1 beneficial use and a numeric target for total coliform consistent with current Basin Plan objectives protecting the SHELL beneficial use for the Santa Maria River Estuary. The TMDL also establishes a numeric target for *E. coli* consistent with USEPA recommended criteria. Responsibility for achieving the numeric target falls upon several entities as described in the Attachment to Resolution R3-2012-0002 in Table IX P-1. An implicit margin of safety is utilized in the TMDL to account for uncertainties. The Central Coast Water Board is relying on existing regulatory authority (waste discharge permits and Phase II Small Municipal Separate Storm Sewer System (MS4) Program's National

Pollutant Discharge Elimination System (NPDES) permit) and a discharge prohibition to ensure implementation actions are carried out by the implementing parties.

An implementation target of 15 years is established for achieving the TMDL. The Central Coast Water Board will track progress towards achieving the TMDL through review of implementation actions and monitoring. Water Board staff will conduct triennial reviews of implementation actions and monitoring results dependent upon staff availability and priorities. Responsible parties will continue monitoring and reporting for at least three years, at which time the Central Coast Water Board will determine the need for continuing or otherwise modifying the monitoring requirements. Responsible parties may also demonstrate that although water quality objectives are not being achieved in receiving waters, controllable sources of pathogens are not contributing to the exceedances. If this is the case, the Central Coast Water Board may re-evaluate the numeric targets and allocations.