

**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

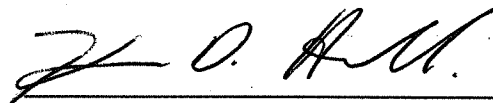
OAL File No. 2013-0927-05 S

Adopt sections:
Amend sections: 3939.15
Repeal sections:

This regulatory action by the State Water Resources Control Board (State Board) amends the Water Quality Control Plan for the Los Angeles Region as adopted by the Los Angeles Regional Water Quality Control Board (Regional Board) on June 7, 2012, pursuant to Resolution R12-009 and approved by the State Board on March 19, 2013, pursuant to Resolution 2013-0008. This basin plan amendment revises the total maximum daily load (TMDL) for bacteria in Malibu Creek and Lagoon.

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

Date: 11/8/2013



Kevin D. Hull
Attorney

For: DEBRA M. CORNEZ
Director

Original: Thomas Howard
Copy: Jenny Newman

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-2013)

REGULAR

11353

See instructions on reverse

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2013-0927-055	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2013 NOV -8 PM 3:24


 DEBRA BOWEN
 SECRETARY OF STATE

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

AGENCY FILE NUMBER (if any)

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

1. SUBJECT OF NOTICE Amendment to the Los Angeles Basin Plan		TITLE(S) 23	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 Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE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) Revise TMDL for Bacteria in Malibu Creek and Lagoon.		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 05-1018-03 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	
		AMEND	
23		3939.15	
TITLE(S)		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) Gov. Code 11353 <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 January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <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) Upon Approval (Gov. Code 11353)			
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 Jenny Newman		TELEPHONE NUMBER (213) 576-6691	FAX NUMBER (Optional) (213) 576-6660
E-MAIL ADDRESS (Optional) jnewman@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

DATE

September 16, 2013

TYPED NAME AND TITLE OF SIGNATORY

Deborah Smith, Chief Deputy Executive Officer, LARWQCB

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 08 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 4. Los Angeles Region

§ 3939.15 - Total Maximum Daily Load for Bacteria in Malibu Creek .

This Basin Plan amendment establishes a Total Maximum Daily Load (TMDL) for bacteria in Malibu Creek and Lagoon for summer (April 1 to October 31) dry weather, winter (November 1 to March 31) dry weather and wet-weather days. Wet-weather days are defined as any day receiving 0.1 inch of rain or more and three days thereafter. The TMDL establishes the loading capacity of the Malibu Creek and Lagoon as the maximum densities of the four bacterial indicators (total coliform, *eE. coli*, fecal coliform, and enterococcus) as specified in the Basin Plan as bacteriological water quality objectives for fresh and marine water having a water contact beneficial use designation. This TMDL will be implemented in ~~three~~ two phases over a ~~ten~~ fifteen-year period. ~~Within three years of the effective date of the TMDL~~ By January 24, 2012, compliance with the allowable number of summer-dry-weather exceedance days and the rolling 30-day geometric mean targets must be achieved. ~~In response to a written request from the responsible jurisdiction or responsible agency, the Executive Officer of the Los Angeles Regional Water Quality Board (Los Angeles Water Board) may extend the compliance date for the summer dry-weather allocations from three up to six years from the effective date of this TMDL.~~ ~~Within six years of the effective date of the TMDL, compliance with the allowable number of winter dry-weather exceedance days and the rolling 30-day geometric mean targets must be achieved.~~ ~~Within ten years of the effective date of the TMDL~~ By July 15, 2021, compliance with the allowable number of wet-weather exceedance days and rolling 30-day geometric mean targets must be achieved. ~~The Los Angeles Water Board may extend the wet-weather compliance date up to July 15, 2021 at its discretion, by adopting a subsequent Basin Plan amendment that complies with applicable law.~~

The regulatory mechanisms to implement the TMDL may include, but are not limited to, the Los Angeles County Municipal Separate Storm Sewer Water System (MS4) National Pollutant Discharge Elimination System (NPDES) Permit, ~~Ventura County Municipal Storm Water~~ MS4 NPDES Permit, the Caltrans Storm Water Permit, any future Phase II MS4 permits, waste discharge requirements (WDRs), Memorandum of Understanding (MOUs), revised MOUs, or other appropriate mechanisms consistent with the Nonpoint Source Implementation and Enforcement Policy, general NPDES permits, general industrial storm water permits, general construction storm water permits, and the authority contained in Sections 13225, 13263, and 13267, and 13383 of the California Water Code, and other appropriate regulatory mechanisms. Each NPDES permit assigned a Waste Load Allocation (WLA) shall be reopened or amended at reissuance, in accordance with applicable laws, to incorporate the applicable WLA as a permit requirement.

~~The amendment requires that responsible jurisdictions and responsible agencies provide the following submittals to the Executive Officer within the specified time after the effective date of the TMDL: (1) within 120 days, a comprehensive bacteria water quality monitoring plan for the~~

Malibu Creek Watershed, (2) within one year, a written report outlining how each responsible agency intends to cooperatively achieve compliance with the TMDL, and a written report detailing the rationale and criteria used to identify high risk areas where on-site systems have a potential to impact surface waters in the Malibu Creek Watershed, and (3) within two years, a reference watershed study, and a report quantifying the bacteria loading from birds to the Malibu Lagoon.

Within three years after the effective date of the TMDL, the Los Angeles Water Board must re-consider the TMDL to: (1) consider a natural source exclusion for bacteria loading from birds in the Malibu Creek Lagoon if all anthropogenic sources to the Lagoon have been controlled, (2) reassess the allowable winter dry weather and wet weather exceedance days based on additional data on bacterial indicator densities, and an evaluation of site specific variability in exceedance levels to determine whether existing water quality is better than water quality at the reference watershed, (3) reassess the allowable winter dry weather and wet weather exceedance days based on a re-evaluation of the selected reference watershed and consideration of other reference watersheds that may better represent reaches of the Malibu Creek and Lagoon, (4) consider whether the allowable winter dry weather and wet weather exceedance days should be adjusted annually dependent on the rainfall conditions and an evaluation of natural variability in exceedance levels on the reference system(s), (5) re-evaluate the reference year used in the calculation of allowable exceedance days, and (6) re-evaluate whether there is a need for further clarification or revision of the geometric mean implementation provision.

By July 15, 2018, the TMDL shall be re-considered to incorporate new information from technical or scientific studies, or to address revisions to water quality standards, such as adoption of revised water quality objectives based on recommendations from U.S. EPA.

This Basin Plan amendment was adopted by the Los Angeles Water Board on December 13, 2004 (Resolution No. R14-019R) and approved by the State Water Resources Control Board (State Water Board) on September 22, 2005.

The Basin Plan amendment was revised by the Los Angeles Water Board on June 7, 2012 (Resolution No. R12-009), and approved by the State Water Board under Resolution No. 2013-0008 on March 19, 2013.