

**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. 2011-0217-01 S

Adopt sections: 3990

Amend sections:

Repeal sections:

This filing is a Basin Plan Amendment submitted to OAL by the State Water Resources Control Board (SWRCB) and subject to OAL review under Government Code section 11353. The Regional Water Quality Control Board, San Diego Region (San Diego Water Board), adopted a Basin Plan Amendment for the San Diego Region Water Quality Control Plan intended to reduce indicator bacteria concentration levels in twenty beaches and creeks located in the San Diego area. After adoption, the San Diego Water Board submitted the Basin Plan Amendment to the SWRCB which then approved the amendment and submitted it to OAL. This Basin Plan Amendment includes Total Maximum Daily Loads (TMDLs) for total coliform, fecal coliform, and Enterococcus indicator bacteria, including allowable wet weather and dry weather exceedance frequencies, applicable to twenty impaired bodies of water within or hydraulically downstream of five watersheds in Orange and Riverside Counties and eight watersheds in San Diego County. The Amendment also includes an implementation program for the responsible parties and a tracking and evaluation schedule for the TMDLs.

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

Date: 4/4/2011



Eric Partington
Staff Counsel

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

Original: Thomas Howard
Copy: Nirmal Sandhar

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2011-0217-015	EMERGENCY NUMBER
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2011 FEB 17 PM 3:10

OFFICE OF
ADMINISTRATIVE LAWENDORSED FILED
IN THE OFFICE OF

2011 APR -4 PM 2:22


 JULIA BOWEN
 SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

State Water Resources Control Board (SWRCB)

AGENCY FILE NUMBER (if any)

2010-00XX

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 <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER
				PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SD Revised TMDL for Indicator Bacteria, Project I	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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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 3990
	AMEND
	REPEAL
TITLE(S) 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 Nirmal Sandhar	TELEPHONE NUMBER 916-341-5571	FAX NUMBER (Optional) 916-341-5550	E-MAIL ADDRESS (Optional) nsandhar@waterboards.ca.gov
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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 2/9/11
TYPED NAME AND TITLE OF SIGNATORY Elizabeth Haven, Assistant Deputy Director, Division of Water Quality, SWRCB	

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ENDORSED APPROVED

APR 04 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 9. San Diego Region

The following section 3990 is to be added to Title 23 of the California Code of Regulations:

Section 3990 - "Revised Total Maximum Daily Loads for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek)"

On February 10, 2010, the San Diego Regional Water Quality Control Board (San Diego Water Board) adopted Resolution No. R9-2010-0001, an amendment to the Water Quality Control Plan for the San Diego Region (Basin Plan) that incorporates Revised Total Maximum Daily Loads (TMDLs) for Indicator Bacteria, Project I – Twenty Beaches and Creeks in the San Diego Region (including Tecolote Creek). The State Water Resources Control Board approved this amendment under Resolution No. 2010-0064 on December 14, 2010.

The purpose of these TMDLs is to restore and protect the recreational beneficial uses of the receiving waters of 12 Pacific Ocean shoreline segments, 2 creek mouths, and 6 creeks. The numeric targets for these TMDLs include the recreational water contact beneficial use water quality objectives for total coliform, fecal coliform, and *Enterococcus* indicator bacteria prescribed in the Basin Plan, and allowable wet weather and dry weather exceedance frequencies.

The TMDLs will be implemented primarily by reissuing or revising the existing National Pollution Discharge Elimination System (NPDES) waste discharge requirements for the Phase I and Caltrans municipal separate storm sewer systems (MS4s). The Phase I and Caltrans MS4s are required to meet and maintain the water quality objectives in the receiving waters and achieve the TMDLs within the compliance schedules prescribed in the amendment. Other dischargers identified as significant sources of bacteria (e.g., agriculture) will also be required to meet and maintain the water quality objectives in the receiving waters. Future actions that may be implemented, as necessary, by the San Diego Water Board include issuing investigative orders, enforcement actions, conditional waivers, and/or waste discharge requirements, as well as developing subsequent Basin Plan amendments to refine the provisions of these TMDLs. The San Diego Water Board will initiate a Basin Plan amendment project to revise the requirements and/or provisions for implementing these TMDLs within 5 years from the effective date of this Basin Plan amendment, unless insufficient data exist to support the initiation of a Basin Plan amendment.