

**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. 2010-0112-06 S

Adopt sections: 3919.7

Amend sections:

Repeal sections:

This regulatory action is the State Water Resources Control Board's approval of the San Francisco Bay Regional Water Quality Control Board's adoption of Resolution No. R2-2008-0089 on October 8, 2008 which amended the Water Quality Control Plan for the San Francisco Bay Region by adopting Total Maximum Daily Loads (TMDL) for mercury in the Guadalupe River watershed.

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

Date: 2/24/2010


Gordon R. Young
Senior Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Dorothy Rice
Copy: Peter Martin

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

REGULAR

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2010-0112-065	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2010 FEB 24 PM 4:06


 DEBRA BOWEN
 SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board	AGENCY FILE NUMBER (if any) 2009-0082
-------------------------------------------------------------------------	------------------------------------------

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

1. SUBJECT OF NOTICE Amendment to the San Francisco Bay Region	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 Peter Martin	TELEPHONE NUMBER 916-341-5557	FAX NUMBER (Optional) 916-341-5550
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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE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) BPA to establish a TMDL for Mercury in the Guadalupe River Watershed	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 3919.7 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"/> File & Print <input type="checkbox"/> Print Only <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <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>			
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 Peter Martin	TELEPHONE NUMBER 916-341-5557	FAX NUMBER (Optional) 916-341-5550	E-MAIL ADDRESS (Optional) pmartin@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>Elizabeth Haven</i>	DATE 12/17/09
TYPED NAME AND TITLE OF SIGNATORY Elizabeth Haven, Assistant Deputy Director, Division of Water Quality, SWRCB	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 24 2010

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 2. San Francisco Bay Region

The following section 3919.7 is to be added to Title 23 of the California Code of Regulations:

Section 3919.7 – “Total Maximum Daily Loads for mercury in the Guadalupe River watershed.”

On October 8, 2008, the San Francisco Bay Regional Water Quality Control Board adopted Resolution No. R2-2008-0089 amending the Water Quality Control Plan for the San Francisco Bay Region because waters in the Guadalupe River watershed are impaired by mercury. This amendment establishes for the Guadalupe River watershed two new fish tissue-based water quality objectives for mercury; mercury total maximum daily loads (TMDLs) for seven waters (Alamitos Creek, Guadalupe Creek, Guadalupe River, Guadalupe Reservoir, Almaden Reservoir, Calero Reservoir, and Lake Almaden); an implementation plan to reduce mercury to meet the new TMDLs and implement the new water quality objectives; and a mercury monitoring program. It also vacates an outdated water-column water quality objective (four-day average of 25 ng/l) in the above-mentioned waters.

The implementation plan requires cleanup and abatement of mercury mining waste at mine sites by December 31, 2018. Through existing regulatory controls such as waste discharge requirements and Clean Water Act section 401 certifications, the implementation plan also requires projects proposed within depositional areas downstream of mine sites to minimize erosion. Further, the implementation plan requires the Santa Clara Valley Water District to undertake methylmercury production and control studies and to continue the operation, maintenance and improvement of methylmercury controls in its lakes and reservoirs. Finally, the implementation plan requires urban stormwater runoff agencies to determine whether urban runoff contributes to methylmercury production and bioaccumulation.