

**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. 2014-0520-02 S

Adopt sections: 3979.7

Amend sections:

Repeal sections:

On January 21, 2014, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2014-0005 which amended the Water Quality Control Plan for the Santa Ana River Basin to revise Recreational Standards for Inland Fresh Surface Waters in the Santa Ana Region.

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

Date: 7/2/2014

AI6 TARPENNING

**Craig S. Tarpenning
Assistant Chief Counsel**

**For: DEBRA M. CORNEZ
Director**

**Original: Thomas Howard
Copy: David Woelfel**

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR 11353
 (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2014-0520-025	

ENDORSED FILED
IN THE OFFICE OF

2014 JUL -2 PM 2: 12

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2014 MAY 20 PM 2: 47
OFFICE OF ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board	AGENCY FILE NUMBER (if any) 2014-0005
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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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE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) Santa Ana BP Recreational Standards - Inland Fresh Surface Waters	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 3979.7
	AMEND
TITLE(S) 23	REPEAL

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 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) <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 David Woelfel	TELEPHONE NUMBER (951) 782-7960	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) David.Woelfel@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 <i>Victoria A. Whitney</i>	DATE 5/13/14
TYPED NAME AND TITLE OF SIGNATORY Victoria A. Whitney, Deputy Director, Division of Water Quality, State Water Board	

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ENDORSED APPROVED

JUL 02 2014

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 8. Santa Ana Region

The following section 3979.7 is to be added to Title 23 of the California Code of Regulations:

Section 3979.7 –“Revisions to Recreational Standards for Inland Fresh Surface Waters in the Santa Ana Region”

On June 15, 2012, the Regional Water Quality Control Board, Santa Ana Region (Santa Ana Water Board) adopted Resolution No. R8-2012-0001, amending the Water Quality Control Plan for the Santa Ana Region (Basin Plan). The State Water Resources Control Board approved the amendments under Resolution No. R8-2014-0005 on January 21, 2014.

The amendments with regulatory significance are:

1. The deletion of Basin Plan fecal coliform objectives for inland fresh waters designated REC1 (water contact recreation) and REC2 (non-contact water recreation) and replacement of those objectives with a geometric mean *E. coli* objective.
2. The addition of a narrative pathogen objective requiring that waste discharges not cause or contribute to excessive risk of illness from human pathogens.
3. The establishment of tiers of REC1-designated inland fresh surface waters based on the intensity of REC1 use in each of those waters and identification of single sample maximum *E. coli* values that apply to each tier. These single sample maximum values are to be used as an alternative method for assessing probable compliance with the geometric mean *E. coli* objective for REC1 when insufficient data are available to calculate the geometric mean. The single sample maximum values are intended to be used principally for notification and posting purposes regarding the safety of recreational use of surface waters. The values are also intended to be used as a trigger for further investigation of sources contributing to high bacteria indicator densities.
4. The establishment of criteria for the temporary suspension of bacteria objectives and recreational uses for inland surface waters under certain flow conditions.
5. The de-designation of REC1 and, in some cases, REC2 beneficial uses for specific waters (specific portions of the Santa-Ana Delhi Channel, Greenville-Banning Channel, Temescal Creek and Cucamonga Creek). These changes in REC1/REC2 designations will be reviewed at least once every three years to confirm their propriety. Where changed conditions warrant it, future amendment of the Basin Plan will be recommended to re-designate REC1 and/or REC2 uses.
6. The establishment of numeric bacteria antidegradation targets for waters designated REC2-only. These targets will be used to assess bacteria quality conditions over time and to trigger investigation and corrective actions where necessary.
7. Incorporation of an implementation plan that: includes a requirement to develop and implement an approved monitoring plan to assess compliance with the added *E. coli* objectives; identifies the criteria for suspension of recreational standards (objectives and uses) under certain flow conditions; describes the application of the single sample maximum *E. coli* values; describes implementation of the antidegradation targets for REC2-only freshwaters; discusses controllable and uncontrollable sources of bacteria

inputs to surface waters, which may affect the need for and nature of control actions required by the Regional Board.

8. Deletion of the fecal coliform bacteria quality objective for waters designated MUN (municipal and domestic supply beneficial use).
9. Addition of waters not currently listed in the Basin Plan and designation of beneficial uses for those waters.

These changes to the Basin Plan may or will affect requirements included in waste discharge requirements and the need for and nature of corrective actions, including those specified in investigation or enforcement orders issued to dischargers by the Santa Ana Regional Board, in order to assure compliance with bacteria water quality objectives and protection of beneficial uses. Monitoring pursuant to the amendments that is conducted by the Santa Ana Regional Board and/or by dischargers as required by the Santa Ana Regional Board may provide evidence of water quality standards impairment, requiring the subsequent development and implementation of Total Maximum Daily Loads. The suspension of recreation standards under specified flow conditions and changes in REC1 and REC2 designations in certain inland fresh surface waters will allow focused implementation of bacteria control measures by dischargers when and where necessary to meet water quality standards.