

**State of California  
Office of Administrative Law**

**In re:**  
State Water Resources Control Board

**Regulatory Action:**

**Title 23, California Code of Regulations**

**Adopt sections:**

**Amend sections:** 879(c)

**Repeal sections:**

**NOTICE OF APPROVAL OF EMERGENCY  
REGULATORY ACTION**

**Government Code Sections 11346.1 and  
11349.6; Water Code Section 1058.5**

**OAL File No. 2015-0320-07 EE**

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The State Water Resources Control Board submitted this emergency readoption action to keep in effect and further amend subdivision (c) of section 879 of title 23 of the California Code of Regulations that pertains to informational orders issued by the Deputy Director to water right holders, diverters, or users. Section 879(c) was adopted in OAL file no. 2014-0708-02E. The proposed readoption and further amendment of section 879(c) allows the Deputy Director to issue informational orders under specified circumstances, and the party receiving the order has 30 days to respond to the order with the requested information. Proposed section 879(c) also allows the Deputy Director to authorize an extension up to 30 days for responding to an informational order, impose a penalty for failure to respond to the informational order, as authorized under Water Code sec. 1846, and grandfathers in informational orders already issued by the Deputy Director under authority of existing section 879(c).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code and section 1058.5 of the Water Code.

This emergency regulatory action is effective on 3/27/2015 and will expire on 12/23/2015. The Certificate of Compliance for this action is due no later than 12/22/2015.

Date: 3/27/2015



Richard L. Smith  
Senior Attorney

For: DEBRA M. CORNEZ  
Director

Original: Thomas Howard  
Copy: Andrew Tauriainen

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

# EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	<b>NOTICE FILE NUMBER</b> Z-	<b>REGULATORY ACTION NUMBER</b>	<b>EMERGENCY NUMBER</b> 2015-0320-07EE
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

**ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California

MAR 27 2015  
1:37 P.M.

2015 MAR 20 PM 2:52  
OFFICE OF  
ADMINISTRATIVE LAW

<b>AGENCY WITH RULEMAKING AUTHORITY</b> State Water Resources Control Board	<b>AGENCY FILE NUMBER (if any)</b>
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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)
<b>OAL USE ONLY</b> <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) Informational Order authority during drought	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) OAL File No. 2014-0708-02-E
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<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT
	AMEND
	879, subdivision (c)
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 checked="" 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 per agency request
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <i>Emergency Readopt (Wat. Code §1058.5(c))</i>	

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 checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM 56660) <i>per agency request</i>	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Andrew Tauriainen	TELEPHONE NUMBER 916-341-5445	FAX NUMBER (Optional) 916-341-5896	E-MAIL ADDRESS (Optional) andrew.tauriainen@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>Thomas Howard</i>	DATE 3/18/15
TYPED NAME AND TITLE OF SIGNATORY Thomas Howard, Executive Director, State Water Resources Control Board	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED  
MAR 27 2015  
Office of Administrative Law

**Informational Order  
Emergency Regulations Digest**

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In Title 23, Division 3, Chapter 2, Article 24, amend Section 879, subdivision (c) to read:

**§ 879. Reporting.**

....

(c)(1) The Deputy Director may issue an informational order, as provided in paragraph (2), in any of the following circumstances:

(A) Upon receipt of a complaint that staff determines to merit investigation alleging interference with a water right by a riparian or pre-1914 appropriative water right holder, diverter or user;

(B) Where a water right holder, diverter or user asserts a right to divert under a pre-1914 or riparian right in response to an investigation, curtailment order or any notice of curtailment, and no Statement of Water Diversion and Use for such right was on file with the Board as of January 17, 2014;

(C) Where a water right holder, diverter or user responds to an investigation, curtailment order or any notice of curtailment by asserting a right to divert under a contract or water transfer for which the Board has not approved a change petition and for which no record had been previously filed with the Board; or

(D) ~~upon~~ Upon receipt of information that indicates actual or threatened waste, unreasonable use, unreasonable method of diversion, or unlawful diversions of stored water by riparians or pre-1914 appropriative any water right holders, diverter or user.

(2) ~~the~~The Deputy Director may issue an order under this article requiring such a water right holder, diverter or user to provide additional information related to a diversion or use described in (c)(1), including regarding the claim of right; property patent date; the date of initial appropriation; and diversions made or anticipated during the current drought year; basis of right and amount of a water transfer not subject to approval of the Board or Department of Water Resources; or any other information relevant to authenticating the right or forecasting use and supplies in the current drought year.

(3) Any water right holder party receiving an order under this subdivision shall provide the requested information within ~~five~~thirty (530) days. The Deputy Director may grant additional time for submission of information supporting the claim of right upon substantial compliance with the 30-day deadline and a showing of good cause.

(4) The failure to provide the information requested within 30 days or any additional time extension granted is a violation subject to civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code section 1846.

(5) Orders issued under previous versions of this subdivision shall remain in effect and shall be enforceable as if adopted under this version. The provisions of Article 12 of this Chapter (commencing with section 768) shall govern petitions for reconsideration of orders issued under this subdivision.

Authority: Sections 1058 and 1058.5, Water Code.

Reference: Sections 100, 186, 187, 275, 348, 1050, 1051, ~~and 1058.5,~~ and 1846, Water Code.