

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 3991.1

Amend sections:

Repeal sections: 3989

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11353

OAL Matter Number: 2016-0411-04

OAL Matter Type: Regular (S)

This rulemaking action by the State Water Resources Control Board (SWRCB), pursuant to Government Code section 11353, adopts, by Resolution No. 20150066, the amendments to the Water Quality Control Plan for the San Diego Basin (9) adopted by the San Diego Regional Water Quality Control Board in Resolution No. R9-2015-0008. The amendments include: incorporating the SWRCB Onsite Wastewater Treatment Systems Policy; changing the nitrate water quality objective for groundwater, with the exception of the Warner Valley Hydrologic Area, to 45 mg/L nitrate; adding implementation provisions for the nitrate groundwater objective to protect surface water quality where groundwater and surface water are interconnected; and repealing Appendix D - Conditions for Conditional Waivers of Waste Discharge Requirements in Table 4-4 and the corresponding concise summary of these Conditions for Conditional Waivers at section 3989 of Title 23 of the California Code of Regulations.

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

Date: May 17, 2016



Dale P. Mentink
Senior Attorney

For: Debra M. Cornez
Director

Original: Thomas Howard
Copy: Jody Ebsen

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

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-	2016-0411-04 S	

For use by Office of Administrative Law (OAL) only

<p style="text-align: center;">NOTICE</p>	<p style="text-align: center;">REGULATIONS</p>
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2016 APR 11 P 4:14
OFFICE OF ADMINISTRATIVE LAW

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

MAY 17 2016

2:09 PM

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board	AGENCY FILE NUMBER (if any) 2015-0066
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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) San Diego Water Board Basin Plan Amendment	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 3991.1
	AMEND
TITLE(S) 23	REPEAL 3999

Jm
per agency request
5/17/16

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. 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. 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 Jody Ebsen	TELEPHONE NUMBER (619) 521-3965	FAX NUMBER (Optional) (619) 516-1994	E-MAIL ADDRESS (Optional) Jody.Ebsen@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>David W. Gibson</i>	DATE 22 March 2016
TYPED NAME AND TITLE OF SIGNATORY David W. Gibson, Executive Officer, San Diego Regional Water Quality Control Board	

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ENDORSED APPROVED
MAY 17 2016
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, 3989, is to be repealed and the text deleted from Title 23 of the California Code of Regulations:

§ 3989. Incorporating a Waste Discharge Requirement Waiver Policy for Certain Specific Types of Discharges.

~~The Policy waives waste discharge requirements for waste discharges if the Regional Board has determined that they are not against the public interest, and if they adhere to the stated mandated conditions. For each specific type of discharge, it was determined that it would not be against the public interest under one or more of the following circumstances: 1) the type of discharge is effectively regulated by other public agencies; 2) the type of discharge does not adversely affect the quality or the beneficial uses of the waters of the State; or 3) the type of discharge is not readily amenable to regulation through adoption of waste discharge requirements, but warrants Regional Board oversight to ensure compliance with the mandated conditions.~~

~~Through Regional Water Board Resolution R9-2007-0104, adopted October 30, 2007, the San Diego Regional Water Quality Control Board amended the Water Quality Control Plan for the San Diego Region (Basin Plan). On November 4, 2008, the State Water Resources Control Board (State Board) approved this amendment under State Board Resolution 2008-0081. This Basin Plan amendment incorporates the revised conditional waivers of waste discharge requirements for specific types of discharge within the San Diego Region.~~

~~The purpose of this Basin Plan amendment is to revise the conditional waivers in the Basin Plan to include waiver conditions that will minimize or eliminate the discharge or potential discharge of pollutants to waters of the state, as well as allow additional types of discharge to be eligible for conditional waivers. There are 35 (26 existing and 9 new) types of discharge for which the San Diego Water Board has proposed to conditionally waive the requirement to file a report of waste discharge (RoWD) and/or regulate under waste discharge requirements (WDRs). Instead of developing conditional waivers for each specific type of discharge, an integrated approach was developed to simplify the proposed conditional waivers. Types of discharge that are similar in nature or originate from a common setting or operation have been grouped together into a "discharge classification." General Conditions were developed that are applicable to all specific types of discharge within a discharge classification, and Specific Conditions were~~

~~developed for individual types of discharge if additional or discharge-specific conditions were necessary.~~

The following section, 3991.1, is to be added to Title 23 of the California Code of Regulations:

Section 3991.1 – “Amendment to the Water Quality Control Plan for the San Diego Basin (9) to Change the Nitrate Water Quality Objective for Groundwaters, Incorporate the Onsite Wastewater Treatment Systems Policy, and Incorporate Miscellaneous Updates.”

The California Regional Water Quality Control Board, San Diego Region, adopted Resolution No. R9-2015-0008 on April 15, 2015, amending the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan). The State Water Resources Control Board approved the amendment by adopting State Board Resolution No. 2015-0066 on November 17, 2015.

The purpose of this Basin Plan amendment is to revise several chapters within the Basin Plan. The nitrate water quality objective for groundwater was made consistent with the allowable maximum contaminant level for drinking water at 45 mg/L nitrate as NO₃ in all hydrologic areas/subareas with numeric objectives, except in the Warner Valley Hydrologic Area. Warner Valley’s freshwater replenishment beneficial use designation for groundwater precludes raising the nitrate water quality objective. The Basin Plan amendment revises existing provisions for regulation of onsite wastewater treatment systems and incorporates the provisions of the State Water Resources Control Board’s *Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems*. Implementation provisions were added for the nitrate groundwater quality objective to protect surface-water quality where groundwater and surface water are interconnected. An implementation provision prohibiting private ownership of community sewerage systems was removed from the Basin Plan. Other revisions also included addition of descriptions of current statewide policies, deletion of expired conditional waivers, and other minor non-substantive changes.