

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt section: 3002.1
Amend section: 3002

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11353

OAL Matter Number: 2019-0110-01

OAL Matter Type: Regular (S)

This action amends the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including new and revised flow objectives for the Lower San Joaquin River watershed and a revised salinity objective for the southern Delta.

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

Date: February 25, 2019



Eric Partington
Senior Attorney

**For: Debra M. Cornez
Director**

**Original: Eileen Sobeck, Executive
Director**

Copy: Erin Foresman

1352

REGULAR

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2019-0110-015	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

<p>2019 JAN 10 A 11:17</p> <p>OFFICE OF ADMINISTRATIVE LAW</p>	<p>NOTICE</p> <p>REGULATIONS</p>
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ENDORSED - FILED
In the office of the Secretary of State
of the State of California

FEB 25 2019

1:35P

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board	AGENCY FILE NUMBER (if any) Resolution 2018-0059
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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 <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 Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER	PUBLICATION DATE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) Lower San Joaquin River Flow and Southern Delta Salinity	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 07-0515-02 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 Division 3, Chapter 23, Section 3002.1
	AMEND Division 3, Chapter 23, Section 3002
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. 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>OAL approval (Gov. Code § 11353(b)(5))</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 checked="" type="checkbox"/> Other (Specify) <u>U.S. Environmental Protection Agency review and approval subsequent to OAL approval.</u>			

7. CONTACT PERSON Erin Foresman	TELEPHONE NUMBER (916) 341-5359	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) erin.foresman@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 12/20/2018
TYPED NAME AND TITLE OF SIGNATORY Eric Oppenheimer, Chief Deputy Director	

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ENDORSED APPROVED

FEB 25 2019

Office of Administrative Law

Concise Summary of Regulatory Provisions

TITLE 23. Waters

Division 3. State Water Resources Control Board

Chapter 23. Water Quality Control Plans

Section 3002 is amended as follows:

Section 3002 - Clear and Concise Summary of Revised Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

On December 13, 2006 the State Water Resources Control Board (State Water Board) adopted Resolution No. 2006-0098, entitled Adoption of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (2006 Bay-Delta Plan). The 2006 Bay-Delta Plan supersedes the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted May 1995 (1995 Plan), the Water Quality Control Plan for Salinity for the San Francisco Bay/Sacramento-San Joaquin Delta adopted May 1991 (1991 Plan) and the Water Quality Control Plan for the Sacramento-San Joaquin Delta and Suisun Marsh adopted August 1978 (1978 Plan).

(a) The introductory chapter was revised, summarized, and reorganized. A new section D was added describing emerging water quality issues. The State Water Board is committed to further examining the following issues:

- (1) Pelagic Organism Decline.
- (2) Climate Change.
- (3) Delta and Central Valley Salinity.
- (4) San Joaquin River Flows.

(b) Beneficial uses established in the 1995 Plan remain unchanged in the 2006 Bay-Delta Plan.

(c) Water Quality Objectives for Municipal and Industrial uses, Agricultural uses and Fish and Wildlife beneficial uses remain unchanged. No new water quality objectives were adopted in the 2006 Bay-Delta Plan. Water quality objective footnotes containing implementation dates have been moved to the program of Implementation or, if obsolete have been deleted. The fish and wildlife water quality objective footnotes in Table 3 have been edited for clarification and to use the same terminology as the corresponding footnotes in Water Right Decision 1641 (D-1641), which implements the flow-dependent fish and wildlife objectives.

(d) Implementation Measures.

(1) Measures within the State Water Board Authority: This section was expanded to include specific implementation measures, many of which are implemented through permit and license terms adopted in D-1641. ~~This section adds a staged implementation of the April 15 through May 15 San Joaquin River pulse flow objectives to allow for scientific experimentation.~~

(2) Measures requiring a Combination of State Water Board Authorities and Actions by Other Agencies: This section was revised to update the State Water Board's recommendations to other agencies on their programs to achieve water quality objectives.

(3) Recommendations to Other Agencies: This section has been updated to address new developments since the release of the 1995 Plan.

(4) Monitoring and Special Studies Program: This section was updated to make changes to the Water Quality Compliance and Baseline Monitoring Program. The addition and deletion of stations as well as any other changes were made as proposed by the California Department of Water Resources.

Section 3002.1 is adopted as follows:

Section 3002.1 – Clear and Concise Summary of Amendments to Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

On December 11, 2018, the State Water Resources Control Board (State Water Board) adopted Resolution No. 2018-0059 amending the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) as follows:

(a) Introduction. Update the introductory chapter, including information to reflect the new and revised flow water quality objectives for the Lower San Joaquin River and its tributaries and the revised salinity water quality objectives for the southern Delta, which were identified as two emerging issues in the 2006 revisions to the Bay-Delta Plan.

(b) Beneficial Uses. Clarify that the beneficial uses designated in the “Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin” for the Stanislaus River, Tuolumne River, Merced River, and the San Joaquin River from the mouth of the Merced River to Vernalis remain in effect and that the Bay-Delta Plan includes measures to protect those uses.

(c) Water quality objectives. Adopt new and revised narrative and numeric flow water quality objectives for the Lower San Joaquin River watershed, including the Stanislaus, Tuolumne, and Merced Rivers, (the LSJR flow objectives or flow objectives) to reasonably protect fish and wildlife beneficial uses in the Bay-Delta Estuary and its tributaries, the Stanislaus, Tuolumne, and Merced Rivers. Adopt a revised salinity water quality objective for the southern Delta to reasonably protect agricultural beneficial uses in the southern Delta (the southern Delta salinity objective).

(d) Program of Implementation.

(1) Implementation measures within State Water Board Authority. Amend the program of implementation for the Lower San Joaquin River to implement the LSJR flow objectives through water right or water quality actions. It describes how the State Water Board will exercise its authorities to: (i) ensure the required flows are used for their intended purpose; (ii) ensure that actions taken in response to implementation of the flow objectives do not result in unreasonable redirected groundwater impacts; (iii) require the development and implementation of minimum reservoir carryover storage targets or other requirements to help ensure that providing flows to meet the flow objectives will not have significant adverse temperature or other impacts on fish and wildlife or, if feasible, on other beneficial uses; and (iv) ensure that implementation of the flow objectives does not impact supplies of water for minimum health and safety needs. The program of implementation allows adaptive adjustments to the required flows where criteria are met

and specifies the information, procedures, plans, and comprehensive monitoring and evaluation needed to inform implementation, compliance, and effectiveness of the program of implementation in meeting the flow objectives. The program of implementation allows the State Water Board to authorize a temporary change in the implementation of the flow objectives in defined states of emergencies. It recognizes that voluntary agreements may serve as an implementation mechanism for the flow objectives.

(2) Measures Requiring a Combination of State Water Board Authorities and Actions by Other Agencies. Amend the program of implementation to implement the southern Delta salinity objective to describe the actions necessary to achieve the objective and the monitoring, special studies, and reporting requirements that the State Water Board will require to evaluate compliance with the objective and to obtain additional information to inform implementation of the objective and understanding of salinity conditions in the southern Delta. Update the information on the efforts, projects, and actions undertaken by other agencies that will or may assist in implementing the southern Delta salinity objective.

(3) Recommendations to Other Agencies. Amend the program of implementation to recommend that other agencies and parties implement non-flow actions in the San Joaquin River watershed that are complementary to the LSJR flow objectives.