

**OFFICE OF ADMINISTRATIVE LAW**

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DEBRA M. CORNEZ  
Director

**MEMORANDUM**

TO: Peter Osmolovsky  
FROM: OAL Front Desk LW  
DATE: 5/9/2014  
RE: Return of Approved Rulemaking Materials  
OAL File No. 2014-0325-01S

OAL hereby returns this file your agency submitted for our review (OAL File No. 2014-0325-01S regarding Lower Salinas River & Reclamation Canal Basin Nutrient TMDLS).

Enclosures If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State.

The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption applies concerning the effective date of the regulation approved in this file, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the state agency will contain the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's Web site once OAL posts the Internet Web site link to the full text of the regulation that is received from the state agency. (Gov. Code, secs. 11343 and 11344.)

**Please note this new requirement:** Unless an exemption applies, Government Code section 11343 now requires:

1. Section 11343(c)(1): Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. Section 11343(c)(2): Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at [postedregslink@oal.ca.gov](mailto:postedregslink@oal.ca.gov).

**NOTE ABOUT EXEMPTIONS.** Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; and regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

**DO NOT DISCARD OR DESTROY THIS FILE**

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW  
**11353 REGULAR**  
**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 <b>Z-</b>	REGULATORY ACTION NUMBER <b>2014 0325 01S</b>	EMERGENCY NUMBER
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ENDORSED FILED  
 IN THE OFFICE OF  
 2014 MAY -7 PM 2:10

*Debra Bowen*  
 DEBRA BOWEN  
 SECRETARY OF STATE

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

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board	AGENCY FILE NUMBER (if any) 2014-0008
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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) Lower Salinas River & Reclamation Canal Basin Nutrient TMDLs	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)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT 3929.10
	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 Peter Osmolovsky	TELEPHONE NUMBER (805) 549-3699	FAX NUMBER (Optional) (805) 543-0397	E-MAIL ADDRESS (Optional) pete.osmolovsky@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 3/20/14
TYPED NAME AND TITLE OF SIGNATORY Victoria A. Whitney, Deputy Director, Division of Water Quality, State Water Board	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

MAY 07 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 3. Central Coast Region

The following section 3929.10 is to be added to Title 23 of the California Code of Regulations:

Section 3929.10 – Lower Salinas River and Reclamation Canal Basin, and the Moro Cojo Slough Subwatershed Total Maximum Daily Loads and Implementation Plan for nitrate, nitrogen, unionized ammonia and orthophosphate.

On March 14, 2013, the Regional Water Quality Control Board, Central Coast Region (Water Board) adopted Resolution No. R3-2013-0008, amending the Water Quality Control Plan for the Central Coast Region (Basin Plan). The State Water Resources Control Board approved the Basin Plan amendment on February 4, 2014 by Resolution 2014-0008.

Resolution No. R3-2013-0008 establishes the Lower Salinas River and Reclamation Canal Basin and the Moro Cojo Slough Subwatershed Total Maximum Daily Loads (TMDLs) and Implementation Plan for nitrate, nitrogen, unionized ammonia and orthophosphate. The TMDLs address nutrient-related impairments of the lower Salinas Valley, which includes the following waterbodies: Alisal Creek, Alisal Slough, Blanco Drain, Chualar Creek, Esperanza Creek, Espinosa Slough, Gabilan Creek, Merrit Ditch, Moro Cojo Slough, Natividad Creek, Old Salinas River, Quail Creek, the Reclamation Canal, the Lower Salinas River (downstream of Gonzalez), Salinas River Lagoon (north), Santa Rita Creek, and Tembladero Slough.

Current nutrient and nutrient-related impairments in lower Salinas Valley waters are impairing a range of current or potential designated beneficial uses including aquatic habitat (COLD, WARM, SPWN), drinking water supply (MUN), groundwater recharge (GWR), water contact recreation (REC-1), and agricultural supply (AGR). The TMDLs set numeric targets for nitrate, nitrogen, unionized ammonia, orthophosphate, dissolved oxygen, chlorophyll *a*, and microcystins consistent with the Basin Plan narrative and numeric water quality objectives protective of the aforementioned beneficial uses.

Responsibility for achieving waste load allocations and load allocations falls upon several entities as described in the Basin Plan amendment. An implicit margin of safety is utilized in the TMDLs to account for uncertainties. The Water Board is relying on existing regulatory measures (i.e., the Agricultural Order and storm water permits) to ensure implementation actions are carried out by implementing parties. Interim and final implementation milestones of 12, 20, and 30 years are established for showing progress and achieving the TMDLs. The Water Board will track progress towards achieving the TMDLs through review of implementation actions and monitoring conducted by the implementing parties. Water Board staff will conduct triennial reviews of implementation actions and monitoring results.