

**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. 2012-0207-03 S

Adopt sections: 3939.41

This regulatory action amends the basin plan to establish a Total Maximum Daily Load for bacteria in the Los Angeles River Watershed.

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

Date: 3/21/2012



George C. Shaw
Senior Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Thomas Howard
Copy: Nirmal Sandhar

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2012-0207-03S	EMERGENCY NUMBER
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(See instructions on reverse)

For use by Secretary of State only

ENDORSED FILED IN THE OFFICE OF

2012 MAR 21 PM 2:14

DEBRA BOWEN SECRETARY OF STATE

For use by Office of Administrative Law (OAL) only

2012 FEB -7 PM 2:30 OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

State Water Resources Control Board

AGENCY FILE NUMBER (If any) 2011-0056

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 Disapproved/Withdrawn			NOTICE REGISTER NUMBER	PUBLICATION DATE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) Los Angeles River Indicator Bacteria TMDL	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 3939.4 AMEND REPEAL
TITLE(S) 23	

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) Gov't Code 11353	

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 30th day after filing with Secretary of State	<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) Upon Approval (Gov't Code 11353)

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 Nirmal Sandhar	TELEPHONE NUMBER 916-341-5571	FAX NUMBER (Optional) 916-341-5550	E-MAIL ADDRESS (Optional) nsandhar@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 Victoria A. Whitney	DATE 4/30/12
TYPED NAME AND TITLE OF SIGNATORY Victoria A. Whitney, Deputy Director, Division of Water Quality, SWRCB	

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ENDORSED APPROVED

MAR 21 2012

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 4. Los Angeles Region

§ 3939.41, A Total Maximum Daily Load for Bacteria in the Los Angeles River Watershed.

Los Angeles Regional Water Quality Control Board (Regional Board) Resolution No. R10-007, adopted on July 9, 2010 by the Regional Board, modified the regulatory provisions of the Water Quality Control Plan for the Los Angeles Region (Basin Plan) by (1) revising the Table of Contents and (2) establishing a Total Maximum Daily Load (TMDL) for Bacteria in the Los Angeles River Watershed.

Los Angeles River Reaches 1, 2, 4, and 6, Aliso Canyon Wash, Arroyo Seco Reaches 1 and 2, Bull Creek, Compton Creek, Dry Canyon Creek, McCoy Canyon Creek, Rio Hondo Reaches 1 and 2, Tujunga Wash, and Verdugo Wash Reaches 1 and 2 have been listed pursuant to federal Clean Water Act Section 303(d) as not attaining water quality standards due to elevated levels of indicator bacteria. The Regional Board and the State Water Resources Control Board have adopted the proposed 2008 federal Clean Water Act Section 303(d) list, which includes both Bell Creek and Burbank Western Channel as impaired waterbodies for elevated levels of indicator bacteria. The beneficial uses most affected by elevated levels of indicator bacteria in the Los Angeles River Watershed include water contact recreation (REC-1) and non-contact water recreation (REC-2). These listings are subject to the Consent Decree deadline between USEPA and Heal the Bay, Case No. 98-4825 SBA. According to the consent decree, TMDLs must be approved or established by USEPA by March 24, 2012 to address coliform in analytical unit 15.

The amendment establishes final waste load allocations (WLAs) for point source discharges, final load allocations (LAs) for nonpoint source discharges, and interim WLAs for Municipal Separate Storm Sewer System (MS4) permittees. Final allocations to achieve the single sample maximum numeric targets are expressed as "allowable exceedance days". No exceedance days of the geometric mean targets are allowed. Allowable exceedance days are further separated into dry weather and wet weather allowances. The amendment establishes a phased and stepped implementation schedule for complying with allocations with separate final compliance dates of up to 18.5 years for dry weather, depending on the segment, and 25 years for wet weather, given the different conditions and implementation approaches necessary to achieve compliance.

Responsible parties shall submit a Coordinated Monitoring Plan one year after the effective date of the TMDL. To achieve the dry weather interim WLAs, MS4 permittees shall submit a Load Reduction Strategy (LRS) for reducing dry weather loading into the MS4. MS4 permittees that choose to comply with the TMDL in dry weather through alternative methods shall submit an alternative compliance plan for Regional Board Executive Office approval. MS4 permittees implementing an LRS may be permitted a second phase for implementing a revised LRS. Responsible parties shall submit a wet weather implementation plan 10 years after the effective date of the TMDL and shall achieve the final wet weather WLAs no later than 25 years after the effective date of the TMDL.

In addition to a brief description of the Los Angeles River Watershed and the existing conditions contributing to water quality problems, the Basin Plan amendment also includes numeric targets, a source analysis, a linkage analysis, WLAs, LAs, a margin of safety and critical conditions.