

**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. 2010-0921-03 S**

**Adopt sections: 3929.5**

**Amend sections:**

**Repeal sections:**

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This filing is a Basin Plan Amendment submitted to OAL by the State Water Resources Control Board (SWRCB) and subject to OAL review under Government Code section 11353. The Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board), adopted a Basin Plan Amendment for the Central Coast Region Water Quality Control Plan intended to reduce fecal coliform concentration levels in the Aptos Creek Watershed, located in Santa Cruz County. After adoption, the Central Coast Water Board submitted the Basin Plan Amendment to the SWRCB which then approved the amendment and submitted it to OAL. This Basin Plan Amendment includes three components. First, the amendment establishes a Total Maximum Daily Load (TMDL) for fecal coliform concentration applicable to the impaired waters of the Aptos Creek Watershed, including an implementation program for the responsible parties and a tracking and evaluation schedule for the TMDL. Second, the amendment includes a general prohibition on discharges containing fecal material from domestic animals (including horses, cattle, goats, sheep, dogs, cats and any other animals in the care of persons) into the waters of the Aptos Creek Watershed. Third, the amendment includes a general prohibition on human fecal material discharges into waters of the Aptos Creek Watershed.

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

**Date:** 10/29/2010



**Eric Partington  
Staff Counsel**

**For: SUSAN LAPSLEY  
Director**

Original: Thomas Howard  
Copy: Michael Buckman

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

(Instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2010-0921-035	

For use by Office of Administrative Law (OAL) only

2010 OCT -0 16 2:09  
OFFICE OF ADMINISTRATIVE LAW

2010 OCT 29 PM 1:59

*John Bowen*  
D. J. BOWEN  
SECRETARY OF STATE

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY  
State Water Resources Control Board (SWRCB)

AGENCY FILE NUMBER (if any)  
2010-0038

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Amendment to the Central Coast Region	TITLE(S) 23	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 Michael Buckman	TELEPHONE NUMBER 916-341-5479	FAX NUMBER (Optional) 916-341-5550
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) Aptos Ck Wtrshd BPA pathogen TMDLs, Human & Domestic Fecal Prohibition	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 3929.5
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)
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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 Michael Buckman	TELEPHONE NUMBER 916-341-5479	FAX NUMBER (Optional) 916-341-5550	E-MAIL ADDRESS (Optional) mbuckman@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>Jonathan Bishop</i>	DATE 10/5/2010
TYPED NAME AND TITLE OF SIGNATORY Jonathan Bishop, Chief Deputy Director, SWRCB	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 29 2010

Office of Administrative Law

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

**REGULAR**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

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For use by Office of Administrative Law (OAL) only		2010 SEP 21 PM 2:52 OFFICE OF ADMINISTRATIVE LAW	
NOTICE		REGULATIONS	

AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board (SWRCB)	AGENCY FILE NUMBER (If any) 2010-0031
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<b>OAL USE ONLY</b> <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) Sequel Lagoon Wtrshd BPA pathogen TMDLs, Lagoon-SHELL removal, prohib	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)				
<table border="1"> <tr> <td rowspan="3"><b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b></td> <td>ADOPT 3929.4</td> </tr> <tr> <td>AMEND</td> </tr> <tr> <td>REPEAL</td> </tr> </table>	<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT 3929.4	AMEND	REPEAL
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		AMEND		
	REPEAL			
TITLE(S) 23				

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SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9/15/10
TYPED NAME AND TITLE OF SIGNATORY Darrin Polhemus, Deputy Director, Division of Water Quality, SWRCB	

For use by Office of Administrative Law (OAL) only

## 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 3929.5 is to be added to Title 23 of the California Code of Regulations:

Section 3929.5 – “Aptos Creek Watershed Total Maximum Daily Loads and Implementation Plan for Fecal Coliform, Domestic Animal Waste Discharge Prohibition, and Human Fecal Material Discharge Prohibition”

On May 8, 2009, the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) adopted Resolution No. R3-2009-0025, amending the Water Quality Control Plan for the Central Coast Region. The State Water Resources Control Board approved the amendment under Resolution No. 2010-0038, on August 3, 2010.

Resolution No. R3-2009-0025 establishes Total Maximum Daily Loads (TMDLs) for fecal coliform in the Aptos Creek, Valencía Creek, and Trout Gulch (Aptos Creek Watershed), and adds the Aptos Creek Watershed to the Basin Plan’s human fecal material discharge prohibition and domestic animal waste discharge prohibition.

The Central Coast Water Board set wasteload and load allocations for subwatersheds, and numeric targets for receiving waters based on the Basin Plan water quality objectives for fecal coliform in waters supporting body contact recreation. Implementation of the TMDLs relies on compliance by non-point source dischargers with prohibitions against the discharge of domestic animal waste and human fecal material. Responsible parties will need to demonstrate compliance with the prohibitions through reporting to the Central Coast Water Board or its Executive Officer. Additionally, the Central Coast Water Board will rely upon existing NPDES permits and Waste Discharge Requirements to ensure that implementing parties carry out implementation actions.

Central Coast Water Board staff will conduct triennial reviews of implementation actions, monitoring results, and evaluations submitted by responsible parties of their progress toward achieving their allocations. Triennial reviews will continue until the water quality objectives are achieved. The compliance schedule for achieving the TMDLs and the numeric target for fecal coliform concentration is 13 years after the TMDLs are approved by the Office of Administrative Law.