

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 3919.16

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11353

OAL Matter Number: 2016-0421-04

OAL Matter Type: Regular (S)

The State Water Resources Control Board (State Water Board) submitted this action for review under Government Code section 11353 to adopt section 3919.16 in title 23 of the California Code of Regulations regarding amendments to the Water Quality Control Plan for the San Francisco Bay Region (Basin Plan). The Basin Plan amendments were adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on November 18, 2015 in Resolution No. R2-2015-0048. The State Water Board approved the Basin Plan amendments on March 15, 2016 in Resolution No. 2016-0017. The Basin Plan amendments establish a Total Maximum Daily Load (TMDL) and Implementation Plan for selenium in North San Francisco Bay.

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

Date: June 2, 2016



Peggy J. Gibson
Senior Attorney

For: Debra M. Cornez
Director

Original: Thomas Howard

Copy: Barbara Baginska

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2016-0421-04S	

For use by Office of Administrative Law (OAL) only

2016 APR 21 P 3:24
OFFICE OF ADMINISTRATIVE LAW

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

JUN 02 2016
1:53 PM

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (If any)
2016-0017

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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE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 Francisco Bay BP North San Francisco Bay Selenium 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 3919.16
	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>
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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 Barbara Baginska	TELEPHONE NUMBER 510-622-2474	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) bbaginska@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>Bruce N. Wolfe</i>	DATE 4/16/16
TYPED NAME AND TITLE OF SIGNATORY Bruce N. Wolfe, Executive Officer	

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ENDORSED APPROVED
JUN 02 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 2. San Francisco Bay Region

The following section 3919.16 is to be added to Title 23 of the California Code of Regulations:

Section 3919.16 – “Total Maximum Daily Load for Selenium in North San Francisco Bay”.

On November 18, 2015, the San Francisco Bay Regional Water Quality Control Board adopted Resolution No. R2-2015-0048, amending the Water Quality Control Plan for the San Francisco Bay Region to address impairment of the North Bay from selenium. This amendment establishes a total maximum daily load (TMDL) expressed as total annual selenium load to North San Francisco Bay equal to the sum of current loads from external sources and an implementation plan. The amendment establishes two numeric targets: 1) a numeric target for selenium in fish tissue (8.0 $\mu\text{g/g}$ dry weight whole body and 11.3 $\mu\text{g/g}$ in muscle tissue) protective of aquatic life, including listed species (e.g., green sturgeon), and 2) a numeric target for the water column of 0.5 $\mu\text{g/L}$ total dissolved selenium, derived from the fish tissue target, which is more stringent than the current Basin Plan water quality objective of 5.0 $\mu\text{g/L}$.

The main goal of the implementation plan is to maintain existing water quality and prevent increases in selenium loading from petroleum refineries, the largest controllable source of selenium, and from the Central Valley watershed. Therefore the implementation plan establishes load-based effluent limits for petroleum refineries that will be incorporated into NPDES permits, and includes monitoring of ambient waters, and monitoring to ensure attainment of the Central Valley load allocation.