

**State of California  
Office of Administrative Law**

**In re:**  
State Water Resources Control Board

**Regulatory Action:**

**Title 23, California Code of Regulations**

**Adopt sections:**

**Amend sections:** 3989.7

**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11353**

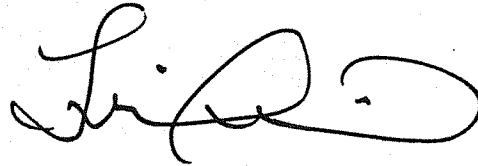
**OAL Matter Number: 2020-0122-02**

**OAL Matter Type: Regular (S)**

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This action amends the Water Quality Control Plan for the San Diego Region. On February 8, 2017, the San Diego Regional Water Quality Control Board adopted Resolution No. R9-2017-0015 to adopt site-specific water effect ratios (WERs) for dissolved copper and zinc in Chollas Creek during wet weather and update the numeric targets for Chollas Creek dissolved copper and zinc total maximum daily limits (TMDLs) to incorporate site-specific WERs. On September 17, 2019, the State Water Resources Control Board approved the amendments under Resolution No. 2019-0046.

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



**Date:** March 5, 2020

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Lindsey S. McNeill  
Attorney

**For:** Kenneth J. Pogue  
Director

**Original:** Eileen Sobeck, Executive  
Director

**Copy:** Melissa Corona

REGULAR

See instructions on reverse)

for use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	200-02205	

For use by Office of Administrative Law (OAL) only

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

MAR 05 2020

3:18 PM

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OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

State Water Resources Control Board

LM per agency request

AGENCY FILE NUMBER (if any) CW-650429

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 Diego Regional Water Quality Control Plan Update	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) <del>OAL Matter No. 2008-0909-01</del>
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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
AMEND 3989.7
REPEAL
TITLE(S) 23

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input checked="" type="checkbox"/> Other (Specify) Gov. Code 11353	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

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) Upon approval (Gov. 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 Melissa Corona	TELEPHONE NUMBER 619 521 8039	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) melissa.corona@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 12/23/2019
TYPED NAME AND TITLE OF SIGNATORY David Gibson, Executive Officer, San Diego Regional Water Quality Control Board	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 05 2020

Office of Administrative Law

**NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 01-2013) (REVERSE)

## INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

**ALL FILINGS**

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

**NOTICES**

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

**REGULATIONS**

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

**EMERGENCY REGULATIONS**

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

**NOTICE FOLLOWING EMERGENCY ACTION**

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

**CERTIFICATE OF COMPLIANCE**

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

**EMERGENCY REGULATIONS - READOPTION**

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

**CHANGES WITHOUT REGULATORY EFFECT**

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

**ABBREVIATIONS**

Cal. Code Regs. - California Code of Regulations  
Gov. Code - Government Code  
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

## 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 9. San Diego Region

*Section 3989.7, Total Maximum Daily Load for Dissolved Copper, Lead and Zinc in Chollas Creek, Tributary to San Diego Bay, of Title 23 of the California Code of Regulations is to be updated to incorporate the following:*

(a) [...]

(b) On February 8, 2017, the San Diego Regional Water Quality Control Board adopted Resolution No. R9-2017-0015, amending the Basin Plan to adopt site-specific water effect ratios (WERs) for dissolved copper and dissolved zinc in Chollas Creek during wet weather and to update the numeric targets for the Chollas Creek dissolved copper and zinc TMDLs to incorporate site-specific WERs. The California Toxics Rule [40 C.F.R.131.38] sets forth the method for calculating acute and chronic water quality criteria for metals as a function of hardness and a WER. Pursuant to 40 C.F.R. section 131.38(b)(2) and (c)(4)(iii), the default value of the WER is 1, unless there is a site-specific WER for a given pollutant. The site-specific WERs for Chollas Creek replace the default WER and will be used to calculate the criteria maximum concentration and criteria continuous concentration for dissolved copper and dissolved zinc and to evaluate if the numeric targets for the Chollas Creek dissolved copper and dissolved zinc TMDLs have been attained during wet weather.