

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2007-0045**

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION TO ESTABLISH MERCURY FISH TISSUE OBJECTIVES, VACATE A MERCURY WATER QUALITY OBJECTIVE, AND ESTABLISH A TOTAL MAXIMUM DAILY LOAD (TMDL) FOR MERCURY IN SAN FRANCISCO BAY

WHEREAS:

1. The San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted a revised Water Quality Control Plan (Basin Plan) on June 21, 1995, which was approved by the State Water Resources Control Board (State Water Board) on July 20, 1995 and by the Office of Administrative Law (OAL) on November 13, 1995.
2. On September 15, 2004, the San Francisco Bay Water Board adopted Resolution No. R2-2004-0082 amending the Basin Plan to incorporate a Total Maximum Daily Load (TMDL) for mercury in the San Francisco Bay.
3. On September 9, 2005, the State Water Board adopted Resolution No. 2005-0060 remanding the TMDL to the San Francisco Bay Water Board for reconsideration.
4. On August 9, 2006, the San Francisco Bay Water Board adopted Resolution R2-2006-0052 ([Attachment 1](#)) amending the Basin Plan to establish fish tissue objectives for mercury for the protection of human health and the protection of wildlife; vacate the marine waters four-day average water quality objective for San Francisco Bay waters; and establish a TMDL for mercury in San Francisco Bay.
5. The implementation provisions for the San Francisco Bay mercury TMDL include statements about individual and group waste load allocations and how those allocations will be implemented and enforced. The State Water Board finds that the Basin Plan amendment language stating the San Francisco Bay Water Board's intentions regarding compliance determinations and enforcement of subsequently adopted National Pollutant Discharge Elimination System (NPDES) permits implementing the TMDL does not preclude the inclusion of individually-enforceable effluent limitations in NPDES permits which are designed to implement the TMDL and which are consistent with the waste load allocations.
6. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans; section 13241 which specifies the requirements for establishing water quality objectives; and section 13242 which requires a program of implementation of water quality objectives.
7. San Francisco Bay Water Board Resolution R2-2006-0052 delegated to its Executive Officer authority to make minor, non-substantive corrections to the adopted amendment, if needed, for clarity or consistency. The State Water Board finds that the provisions of this amendment, as adopted, warranted minor, non-substantive clarification to correct a calculation error caused by using the wrong flow rate for one discharge. The San Francisco Bay Water Board Executive Officer has made the necessary corrections to the amendment (Attachment 2) by memorandum dated May 23, 2007.

8. The San Francisco Bay Water Board found that adoption of this amendment will not have a significant adverse impact on the environment, and that it will result in no potential for adverse effects on wildlife.
9. The San Francisco Bay Water Board found that the analysis contained in the TMDL Staff Report, the California Environmental Quality Act (CEQA) checklist, and the response to comments comply with the requirements of the State Water Board's certified regulatory CEQA process as set forth in California Code of Regulations, Title 23, Section 3775, et seq.
10. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by OAL. The TMDL and water quality objectives must also be approved by the U.S. Environmental Protection Agency (U.S. EPA).

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution No. R2-2006-0052 as corrected by the Executive Officer ([Attachment 2](#)).
2. Anticipates, consistent with prior direction from the State Water Board in Resolution No. 2005-0060 to ensure that all dischargers aggressively implement pollution avoidance practices and consistent with federal regulations requiring permitting authorities to implement any available waste load allocation, that any NPDES permit or permits that implement the San Francisco Bay mercury TMDL will include individual numeric effluent limitations consistent with the assumptions and requirements of waste load allocations for each wastewater discharger, that will be individually-enforceable.
3. Authorizes the Executive Director or designee to transmit the amendment and the administrative record for this action to OAL and the TMDL and water quality objectives to USEPA for approval.

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 17, 2007.

AYE: Tam M. Doduc
Gary Wolff, P.E., Ph.D.
Arthur G. Baggett, Jr.
Charles R. Hoppin
Frances Spivy-Weber

NO: None
ABSENT: None
ABSTAIN: None



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Clerk to the Board