

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Carrie Austin)
MEETING DATE: August 9, 2006

ITEM: 7

SUBJECT: **Proposed Amendment to the Water Quality Control Plan (Basin Plan) for the San Francisco Bay Region to Establish New Water Quality Objectives and a Revised Total Maximum Daily Load (TMDL) and Implementation Plan for Mercury in San Francisco Bay - Hearing to Consider Adoption of Proposed Basin Plan Amendment**

CHRONOLOGY: September 2004 – Water Board adopted Mercury TMDL Basin Plan Amendment
September 2005 - State Board remanded TMDL to Water Board for revisions
November 2005 – Status report to Water Board on State Board’s Remand
June 2006 - Testimony hearing on proposed revised Basin Plan Amendment

DISCUSSION: At this hearing, the Board will consider adopting a Resolution (Appendix A) revising the 2004 Basin Plan Amendment to incorporate:

- Two new water quality objectives for mercury in Bay fish
- A revised TMDL for mercury in the Bay, responsive to the Remand
- An implementation plan to achieve the TMDL and water quality objectives

In response to the State Board’s Remand and Water Board direction to staff at its November 2005 meeting, we circulated a proposed revised Basin Plan Amendment in April 2006. We have further revised the proposed Basin Plan Amendment (Appendix B) as an outgrowth of comments received during the public comment period, which ended June 5, and also comments and questions raised by Board members and the public at the testimony hearing held in June. The Staff Report (Appendix C) and the Responses to Comments (Appendix D) contain supporting documentation. The Responses to Comments addresses all written comments received by June 5 (Appendix E) and public testimony and issues raised at the June hearing (Appendix F).

In the Introduction section of the Responses to Comments, we summarize key issues raised by Board members and/or multiple commenters. These include: US EPA’s support for the new water quality objectives and revised TMDL; enforceable limits in wastewater permits, reduction of wastewater wasteload allocations, the urban stormwater runoff “deemed in compliance” statement, pollutant offsets, and our CEQA and regulatory analyses.

The key revisions to the proposed Basin Plan Amendment made as an outgrowth of these comments include the following:

- ◆ Wastewater compliance trigger response steps have been augmented to clarify that dischargers must implement corrective actions when a trigger is exceeded,

and that the Board will pursue enforcement action against dischargers that do not respond to exceedances or do not implement timely actions.

- ◆ The “deemed in compliance with receiving water limitations” statement associated with implementing urban storm water requirements has been deleted.
- ◆ Specific reference to methylmercury has been added to the requirements for dischargers to conduct studies to better understand mercury fate and effects in the Bay, and the Adaptive Implementation section has been revised to acknowledge that new evidence regarding methylmercury might justify a methylmercury TMDL or allocations in the future.

We believe that the proposed new water quality objectives and revised TMDL and implementation plan are responsive to the Remand. The new water quality objectives resolve issues raised by the State Board regarding the TMDL’s wildlife numeric target and a current water quality objective for mercury in Bay waters. Revised wasteload allocations and implementation plan requirements address its concerns that the TMDL may not require all wastewater sources to implement the most effective pollution prevention practices and treatment technologies. We have made clarifying revisions to the dredging implementation requirements to ensure consistency with the Long Term Management Strategy for the Disposal of Dredged Material in the San Francisco Bay Region. We also made revisions calling for more specific activities, including methylmercury monitoring, that will reduce actual and potential exposure to mercury, and mitigate health impacts to those people and communities most likely to be affected by mercury in the Bay, such as subsistence fishers and their families.

It is important to note that not all issues raised by the Remand need to be resolved by amending the Basin Plan. For example, the Remand calls for an inventory of mercury mine and Bay-margin cleanup sites and proposed strategies to remediate priority sources. We view this as a call to directly implement the TMDL, and, as such, we are compiling such an inventory and developing remediation strategies.

As we worked to compile our responses to comments, we met with many interested parties to discuss their concerns and the rationale for our response. We are grateful to these stakeholders for the time and effort they have put into this process of review and discussion. We feel the Basin Plan Amendment has benefited significantly from stakeholders’ dedication to this process as we worked to understand stakeholders’ views. We have strived to accommodate all concerns while maintaining the goals of this Basin Plan Amendment to comply with the Remand, to establish mercury water quality objectives that protect human health and wildlife, and to implement the Mercury TMDL as soon as possible and in the most efficient manner.

RECOMMEN-
DATION

Adopt the Tentative Resolution

APPENDICES:

- A. Tentative Resolution with Exhibit A, Proposed Basin Plan Amendment
- B. Proposed Basin Plan Amendment showing all revisions since April 2006
- C. Staff Report
- D. Responses to Comments
- E. Written Comments
- F. June 14, 2006 Hearing Transcript