

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2009-0082**

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY REGION (BASIN PLAN) TO ESTABLISH NEW WATER QUALITY OBJECTIVES, TOTAL MAXIMUM DAILY LOADS (TMDLs), AND AN IMPLEMENTATION PLAN FOR MERCURY IN THE GUADALUPE RIVER WATERSHED

WHEREAS:

1. On October 8, 2008, the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board) adopted [Resolution R2-2008-0089](#) amending the Basin Plan to establish new water quality objectives, vacate an existing water quality objective, and establish TMDLs for Guadalupe River Watershed.
2. The amendment meets the necessity standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
3. San Francisco Bay Water Board found that the adoption of this amendment would be consistent with the State Antidegradation Policy ([State Water Board Resolution No. 68-16](#)) and federal antidegradation requirements (40 Code of Federal Regulations 131.6).
4. 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 responses to public and peer review comments comply with the requirements of the State Water Resources Control Board's (State Water Board's) certified regulatory CEQA process, as set forth in California Code of Regulations title 23, section 3775 et seq.
5. State Water Board staff finds that the Basin Plan amendment is in conformance with Water Code section 13240 and 13242, which specifies that Regional Water Quality Control Boards may revise Basin Plans and implement programs for achieving water quality objectives. The State Water Board also finds that the TMDL is consistent with the requirements of federal Clean Water Act section 303(d).
6. The amendment establishes numeric targets equal to the fish tissue water quality objectives. These objectives and targets are fully protective of aquatic organisms and wildlife, including piscivorous (fish-eating) birds, which are at the highest risk due to bioaccumulation of methylmercury. These targets are also protective of humans who consume as much as one meal per week of watershed fish.
7. The amendment establishes a numeric fish tissue target of 0.05 mg methylmercury per kilogram of fish on a wet weight basis for fish size 5-15 cm in length, and establishes a numeric fish tissue target of 0.1 mg methylmercury per kilogram of fish on a wet weight basis for fish size >15-35 cm in length. These TMDLs will also ensure compliance with the allocation assigned by the San Francisco Bay mercury TMDL to the Guadalupe River watershed.
8. It is the understanding and intent of the State Water Board that the San Francisco Bay Water Board will look to upstream responsible parties for removal and remediation in the deposition areas, and the only expectation for creekside property owners who are not undertaking actions in the creekbed and banks is to provide reasonable access for bank remediation activities.

9. The State Water Board recognizes that high quality streams support healthy ecosystems with multiple beneficial uses, and that others, due to legacy pollution sources, hydro-modification and other stressors may not provide the same level of beneficial use support. Conversely, streams that actually provide a high level of subsistence or cultural fishing may require more stringent objectives to protect the use.
10. The Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The TMDL 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 R2-2008-0089.
2. Authorizes the Executive Director, or designee, to transmit the amendment adopted under San Francisco Bay Water Board Resolution R2-2008-0012 to OAL and the TMDL to the U.S. EPA for approval.
3. The State Water Board directs the San Francisco Bay Water Board to consider the concepts of tiered beneficial uses and tiered objectives, and to monitor therefor, in order to ensure that subsistence fishing and cultural beneficial uses are protected and restored appropriately during revisions to this TMDL.

#### 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 November 17, 2009.

AYE: Chairman Charles R. Hoppin  
Vice Chair Frances Spivy-Weber  
Board Member Tam M. Doduc  
Board Member Arthur G. Baggett, Jr.  
Board Member Walter G. Pettit

NAY: None

ABSENT: None

ABSTAIN: None



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Jeanine Townsend  
Clerk to the Board