

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2005 –

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR THE SAN FRANCISCO BAY REGION TO INCORPORATE 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 for the San Francisco Bay Region (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 (Attachment 1) amending the Basin Plan to incorporate a TMDL for mercury in the San Francisco Bay.
3. At the March 16, 2005 Meeting the State Water Board adopted Resolution No. 2005–0026 “Regarding an amendment to the Water Quality Control Plan for the San Francisco Bay region to incorporate a total maximum daily load (TMDL) for mercury in San Francisco Bay.” That resolution stipulates that the TMDLs for the control of mercury in the Sacramento-San Joaquin Rivers Delta (Delta), Guadalupe River, and the San Francisco Bay be integrated and that specified issues be addressed.
4. The San Francisco Bay Water Board and the Central Valley Regional Water Quality Control Board (Central Valley Water Board) have provided adequate assurances to the State Water Board that development of the TMDLs has been and is being coordinated.
5. The State Water Board finds that the TMDL bird egg target is acceptable as a monitoring target.
6. The State Water Board finds that the proposed TMDL for mercury is an adequate and acceptable program of implementation directed to the narrative bioaccumulation water quality objective in the Basin Plan, as required by Clean Water Act section 303(d)(1)(C) and California Water Code section 13242.
7. The State Water Board finds that given California’s gold rush legacy and the number of unremediated and abandoned mines and mining areas, the effort to restore mercury-impaired waters in California would be best accomplished with the active participation of the U.S. Environmental Protection Agency (USEPA), which should use its full authority to commence a comprehensive effort to abate these facilities’ contribution to this problem.
8. The San Francisco Bay Water Board staff prepared documents and followed procedures satisfying environmental documentation requirements in accordance with the California Environmental Quality Act and other State laws and regulations.
9. San Francisco Bay Water Board Resolution No. R2–2004–0082 delegated to the San Francisco Bay Water Board Executive Officer authority to make minor, non-substantive corrections to the

adopted amendment, if needed, for clarity or consistency. It appeared that the bird-egg target as reflected in the Basin Plan amendment was inconsistent with the intent stated in the San Francisco Bay Water Board's supporting staff report. San Francisco Bay Water Board staff indicated that the inconsistency was occasioned by a typographical error, where part of the target was inadvertently omitted from the regulatory language. By memorandum dated March 7, 2005, the San Francisco Bay Water Board Executive Officer made the necessary correction to the amendment (Attachment 2).

10. The USEPA has objected to the TMDL in that it is not clear whether the TMDL will result in attainment of the numeric water quality objective of 0.025 micrograms per liter ($\mu\text{g/L}$) calculated as a four-day average, which is an objective that is applicable to those portions of the San Francisco Bay that are north of the Dumbarton Bridge.

10.11. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Boards may revise Basin Plans, and section 13242, which requires a program of implementation of water quality objectives.

11.12. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by OAL. Additionally, the TMDL must be approved by the USEPA.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan to incorporate a TMDL for mercury in San Francisco Bay adopted under San Francisco Bay Water Board Resolution No. R2-2004-0082, as corrected by the Executive Officer (Attachment 2).
2. Authorizes the Executive Director to submit the amendment and administrative record for this action to OAL and the TMDL to USEPA for approval after the San Francisco Bay Water Board has acted to vacate or otherwise address the 4-day revise, withdraw, or take other appropriate action to address the marine waters four-day average water quality objective for mercury and the State Water Board has approved such action.

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 September 7, 2005.

Debbie Irvin
Clerk to the Board