

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – SAN FRANCISCO BAY REGIONAL WATER BOARD  
MARCH 15, 2016**

**ITEM 7**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY BASIN TO ESTABLISH A TOTAL MAXIMUM DAILY LOAD (TMDL) AND IMPLEMENTATION PLAN FOR SELENIUM IN NORTH SAN FRANCISCO BAY.

**DISCUSSION**

The San Francisco Bay Water Board adopted the amendment on November 18, 2015, with [Resolution No. R2-2015-0048](#). The amendment establishes: 1) a numeric target for selenium in fish tissue protective of aquatic life, including listed species (e.g., green sturgeon), 2) a numeric target for the water column derived from the fish tissue target, which is more stringent than the current Basin Plan water quality objective, 3) a TMDL expressed as a total annual selenium load to North San Francisco Bay equal to the sum of current loads from external sources, and 4) an Implementation Plan that requires permit effluent limits for petroleum refineries, and includes monitoring of numeric targets, allocations and loads.

North San Francisco Bay is currently attaining the numeric targets proposed in the Basin Plan amendment. For this reason, the TMDL is based on existing current loads and does not call for load reductions. The main goal of the Implementation Plan is to ensure ongoing attainment of numeric targets and to prevent increases in selenium loading with a focus on petroleum refineries because they constitute the largest controllable source of selenium in North San Francisco Bay. Changes in the Delta outflows from the Central Valley watershed may impact selenium loading to North San Francisco Bay, especially if the increased flows originate from the San Joaquin River where there are legacy agricultural sources. Monitoring of selenium concentrations and loads in the San Joaquin River is required to evaluate whether the load allocations for the Central Valley watershed are being attained.

The scientific basis for the TMDL was subjected to an independent, external peer review pursuant to the requirements of California Health and Safety Code section 57004. The scientific peer reviewers provided strong support for the proposed targets, and scientific methods and analyses used to develop the TMDL.

The Water Board publicly noticed and distributed for public review and comment, the proposed Basin Plan amendment, supporting draft Staff Report, and Environmental Checklist, in accordance with applicable State and federal laws and regulations. The Water Board considered the Environmental Checklist, Staff Report, and supporting documentation, and concluded that the Basin Plan amendment will not have a significant impact on the environment.

## **POLICY ISSUE**

Should the State Water Board approve an amendment to the San Francisco Bay Water Board's Basin Plan to establish a TMDL and Implementation Plan for selenium in North San Francisco Bay?

## **FISCAL IMPACT**

San Francisco Bay Water Board staff work associated with or resulting from this action will be addressed with existing and future budgeted resources.

## **REGIONAL BOARD IMPACT**

Approval of this resolution will amend the San Francisco Bay Water Board's Basin Plan.

## **STAFF RECOMMENDATION**

That the State Water Board:

1. Approve the amendment to the Basin Plan adopted under San Francisco Bay Water Board Resolution No. R2-2015-0048.
2. Authorize the Executive Director or designee to submit the amendment as approved and the administrative record for this action to the Office of Administrative Law for approval and the amendment to the U.S. Environmental Protection Agency for approval.

<p>State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies. In particular, this item will assist in fulfilling Action 1 to prepare, adopt, and take steps to carry out Total Maximum Daily Loads (TMDLS), designed to meet water quality standards, for all impaired water bodies by 2030.</p>
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# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY BASIN TO ESTABLISH A TOTAL MAXIMUM DAILY LOAD AND IMPLEMENTATION PLAN FOR SELENIUM IN NORTH SAN FRANCISCO BAY

### WHEREAS:

1. On November 18, 2015, the Regional Water Quality Control Board for the San Francisco Bay Region (San Francisco Bay Water Board) adopted [Resolution No: R2-2015-0048](#) an amendment to the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan amendment), to establish a Total Maximum Daily Load (TMDL) and Implementation Plan for selenium in North San Francisco Bay.
2. The San Francisco Bay Water Board found that the analysis contained in the California Environmental Quality Act (CEQA) "Substitute Environmental Documents" for the proposed Basin Plan amendment, including the CEQA Checklist, the final staff report, titled "Total Maximum Daily Load Selenium in North San Francisco Bay," and the responses to comments complies with the State Water Resources Control Board's (State Water Board's) regulations for the implementation of CEQA, as set forth in the California Code of Regulations, Title 23, sections 3775 through 3781. The State Water Board has reviewed the Substitute Environmental Documents for the Basin Plan amendment and concurs with the San Francisco Bay Water Board's findings and determinations.
3. The San Francisco Bay Water Board also adopted the Basin Plan amendment pursuant to the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subdivision (b).
4. The San Francisco Bay Water Board found the Basin Plan amendment is consistent with the Statement of Policy with Respect to Maintaining the High Quality of Waters in California ([State Water Board Resolution No. 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12), in that it does not allow degradation of water quality, but requires restoration of water quality and attainment of water quality standards.
5. 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, and section 13242, which requires a program of implementation for achieving water quality objectives. The State Water Board also finds that the TMDL, as reflected in the Basin Plan amendment, is consistent with the requirements of section 303(d) of the federal Clean Water Act.
6. A 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 receive approval from the U.S. Environmental Protection Agency (U.S. EPA).

# **D R A F T**

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution No. R2-2015-0048.
2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution No. R2-2015-0048 to OAL for approval of the regulatory provisions and to U.S. EPA for approval of the 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 March 15, 2016.

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Jeanine Townsend  
Clerk to the Board