

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 Aerovista Place, Suite 101
San Luis Obispo, California**

RESOLUTION NO. R3-2013-0011

**ADOPTING A TOTAL MAXIMUM DAILY LOAD FOR CHLORPYRIFOS AND DIAZINON IN
THE PAJARO RIVER WATERSHED
MONTEREY, SAN BENITO, SANTA CLARA, AND SANTA CRUZ COUNTIES**

The California Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) finds:

1. The Central Coast Water Board adopted the Water Quality Control Plan for the Central Coastal Basin (Basin Plan) on March 14, 1975. The Basin Plan designates beneficial uses, water quality objectives, implementation programs for achieving water quality objectives addressing point source and nonpoint source discharges, prohibitions, and incorporates statewide plans and policies. The Basin Plan is periodically reviewed and revised.
2. Section 303(d) of the Clean Water Act requires states to identify and prepare a list of waterbodies that do not meet water quality standards and to establish Total Maximum Daily Loads (TMDLs) for the listed water bodies. TMDLs can be expressed in terms of either mass per time, concentration, or other appropriate measure [40 CFR §130.2(i)].
3. The Pajaro River watershed is the receiving water for approximately 1,300 square miles of land. The watershed is almost 90 miles in length and varies from 7 to 20 miles in width. The Pajaro River watershed drains into the Monterey Bay and is the largest coastal stream between San Francisco Bay and the Salinas River. The watershed is about 60 miles southeast of San Francisco and 120 miles southwest of Sacramento.
4. The Pajaro River and Llagas Creek are listed on the 2008-2010 Clean Water Act 303(d) list of impaired waters as impaired due to the pesticide chlorpyrifos. Due to the Clean Water Act 303(d) listing, the Central Coast Water Board is required to adopt a TMDL and an associated implementation plan (40 CFR 130.6(c)(1), 130.7, Water Code section 13242). This Resolution establishes a TMDL and associated allocations for these impairments.
5. Millers Canal and Furlong Creek are located in the Pajaro River watershed. Millers Canal and Furlong Creek are listed as impaired on the 2008-2010 Clean Water Act section 303(d) list due to the pesticide chlorpyrifos. Central Coast Water Board staff has reevaluated available data and has concluded that Millers Canal and Furlong Creek are not impaired due to chlorpyrifos and will recommend removal of these listings during the next Clean Water Act section 303(d) listing cycle.
6. The Pajaro River and the Pajaro River Estuary are not on the 2008-2010 Clean Water Act 303(d) list of impaired waters for the pesticide diazinon but are impaired due to diazinon. This resolution establishes TMDLs and associated allocations for these impairments.
7. The Central Coast Water Board's goal for establishing a TMDL in the Pajaro River Watershed is to rectify impairment due to chlorpyrifos and diazinon, thereby providing support for designated beneficial uses associated with aquatic life.

8. The Final Project Report contains a problem statement, numeric targets, source analysis, total maximum load, linkage analysis, load allocations, margin of safety, an implementation plan, and a monitoring plan. The Final Project Report addresses impairments due to chlorpyrifos and diazinon.
9. The elements of a TMDL are described in 40 CFR 130.2 and 130.7, section 303(d) of the Clean Water Act and USEPA guidance documents. A TMDL is defined as “the sum of individual waste load allocations for point sources and load allocations for nonpoint sources and natural background” (40 CFR 130.2). The Pajaro River Watershed TMDL is set at a level necessary to attain and maintain the applicable numeric water quality standards, taking into account seasonal variations and any lack of knowledge concerning the relationship between effluent limitations and water quality (40 CFR 130.7 (c) (1)). The regulations in 40 CFR 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading, and water quality parameters. TMDLs are often expressed as a mass load of the pollutant but can be expressed as a unit of concentration if appropriate (40 CFR 130.2(i)). Expressing these TMDLs as units of concentration is appropriate because existing concentration-based water quality criteria are used as the basis for the TMDL numeric targets and attaining that concentration-based water quality target will result in protection of the beneficial uses.
10. According to the *Water Quality Control Policy for Addressing Impaired Waters* (State Water Board Resolution 2005-0050), “[i]f the solution to an impairment can be implemented with a single vote of the regional board, it may be implemented by that vote...there is no legal requirement to first adopt the plan [TMDL] through a basin plan amendment” (p. 5). The Central Coast Water Board finds that the TMDL for chlorpyrifos and diazinon for the Pajaro River Watershed will be achieved by implementing an existing action of the Central Coast Water Board, the *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* in the Central Coast Region (Agricultural Order) and accompanying Monitoring and Reporting Program. Therefore, the Central Coast Water Board finds that the existing Agricultural Order will implement the TMDL in lieu of adopting a redundant program.
11. The Monitoring and Reporting Program set forth in the Agricultural Order will provide the information sufficient to confirm that the TMDL is being implemented and numeric targets and allocations will be achieved.
12. Central Coast Water Board staff will conduct a review of implementation activities when monitoring and reporting data are submitted as required by the Agricultural Order, or when other monitoring data and/or reporting data are submitted outside the requirements of the Agricultural Order. Central Coast Water Board staff will pursue modification of Agricultural Order conditions or other regulatory means, as necessary, to address remaining impairments from chlorpyrifos and diazinon during the TMDL implementation phase.
13. Central Coast Water Board staff implemented a process to inform interested persons and the public about the TMDL. Central Coast Water Board staff’s efforts to inform the public and solicit comments included August 22, 2012 and December 10, 2012 public meetings with interested persons. Relevant documents and notices were also made available on the Central Coast Water Board website and hardcopies were mailed to those individuals who do not have email addresses. The public notice provided the public a 30-day public comment period preceding the Central Coast Water Board hearing. Central Coast Water Board staff responded to oral and written comments received from the public. All public comments were considered.
14. Adoption of these TMDLs will not result in any degradation of water quality; in fact, they are designed to improve water quality. Consistent with applicable law, the Agricultural Order requires compliance with water quality standards and protection of beneficial uses. As such,

these TMDLs comply with all requirements of both State and federal anti-degradation requirements (State Board Resolution 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters in California*, and 40CFR 131.12).

15. Existing actions by the Central Coast Water Board make any further regulatory action (i.e., any "project") unnecessary. Therefore, this action is not a "project" that requires compliance with the California Environmental Quality Act (CEQA) (California Public Resources Code §21000 et seq.). The Central Coast Water Board is not directly undertaking an activity, funding an activity, or issuing a permit or other entitlement for use (Public Resources Code section 21065; 14 Cal. Code of Regs. §15378). The Agricultural Order is subject to, and in compliance with, the requirements of CEQA.
16. The U.S. Environmental Protection Agency's TMDL guidance (USEPA, 1991 Guidance for Water Quality-Based Decisions) explicitly states that TMDLs and implementation of water quality-based controls should not be delayed because of lack of information and uncertainties about pollution problems, particularly with respect to nonpoint sources. More information about the spatial extent and nature of water quality impairments can be collected during TMDL implementation.
17. This TMDL will become effective upon approval of this Resolution by the Central Coast Water Board.
18. On July 11, 2013, in San Luis Obispo California, the Central Coast Water Board held a public hearing and heard and considered all public comments and evidence in the record.

THEREFORE, be it resolved that:

1. The Central Coast Water Board, after considering the entire record, including the oral testimony at the hearing, hereby adopts the Total Maximum Daily Load for Chlorpyrifos and Diazinon in the Pajaro River Watershed, Monterey, San Benito, Santa Clara, and Santa Cruz Counties, California, as shown in the Final Project Report.
2. The Central Coast Water Board finds that an existing action of the Central Coast Water Board, *Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands* and associated monitoring program, is an appropriate plan for implementation of the TMDL, will be adequate to correct the impairments, and is expected to result in attainment of water quality standards with respect to chlorpyrifos and diazinon in the Pajaro River Watershed. At this time, any further regulatory action to create another program of implementation by the Water Board would be redundant and unnecessary.
3. The Central Coast Water Board may revoke these findings if it finds that the Agricultural Order and associated monitoring and reporting program are not adequately implemented or are no longer adequate to resolve the impairment.
4. The Central Coast Water Board's Executive Officer is directed to submit the TMDL to the U.S. Environmental Protection Agency (USEPA) for review. If during its approval process the USEPA determines that minor, non-substantive corrections to the language of the TMDL are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Coast Water Board of any such changes.

I, Kenneth A. Harris Jr., Interim Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Central Coastal Region on July 11, 2013.

Kenneth A. Harris Jr.
Interim Executive Officer