

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2007-XXXX

AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS

FOR
THE CONTROL OF DIAZINON AND CHLORPYRIFOS RUNOFF INTO THE
SACRAMENTO AND FEATHER RIVERS

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. In 1975 the Central Valley Water Board adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan), which has been amended occasionally.
2. The Basin Plan may be amended in accordance with the Water Code Section 13240, et seq.
3. Water Code section 13241 authorizes the Central Valley Water Board to establish water quality objectives and Water Code section 13242 sets forth the requirements for a program for implementation for achieving water quality objectives.
4. Water Code section 13243 authorizes the Central Valley Water Board to specify certain conditions or areas where the discharges of certain types of waste will not be permitted.
5. The Sacramento River has been identified under the federal Clean Water Act Section 303(d) as impaired due to elevated concentrations of diazinon.
6. The Feather River has been identified under the federal Clean Water Act Section 303(d) as impaired due to elevated concentrations of diazinon and chlorpyrifos.
7. The Central Valley Water Board recognizes that new information has been submitted which calls into question the scientific basis for the existing diazinon objectives; therefore, a Basin Plan Amendment is appropriate.
8. The Central Valley Water Board recognizes that the Basin Plan does not include numeric water quality objectives for chlorpyrifos, nor a plan to

- address combined diazinon and chlorpyrifos concentrations in the Sacramento and Feather Rivers; therefore, a Basin Plan Amendment is appropriate.
9. The Basin Plan currently requires the Central Valley Water Board to review the allocations and implementation provisions for diazinon discharges to the Sacramento and Feather Rivers by 30 June 2007.
 10. In a judgment denying a writ, the Sacramento County Superior Court required the Central Valley Water Board to reconsider the diazinon objectives no later than 30 June 2007 (*Makhteshim Agan of North America v. State Water Resources Control Board; Regional Water Quality Control Board-Central Valley Region, Sac. Cty. Sup. Ct. - Case No. 04CS00871*).
 11. The proposed amendment modifies Basin Plan Chapter III (Water Quality Objectives) to revise the site-specific numeric objective for diazinon and establish site-specific numeric objectives for chlorpyrifos in the Sacramento and Feather Rivers.
 12. The proposed amendment identifies the requirement to meet the additive formula already in Basin Plan Chapter IV (Implementation), for the additive toxicity of diazinon and chlorpyrifos.
 13. The proposed amendment modifies Basin Plan Chapter IV (Implementation) to modify the existing implementation program to reduce pesticide runoff and diazinon and chlorpyrifos discharges into the Sacramento and Feather Rivers, including the establishment of loading capacity and allocation requirements of a Total Maximum Daily Load (TMDL).
 14. The proposed amendment modifies Basin Plan Chapter V (Surveillance and Monitoring) to include monitoring requirements to allow the Central Valley Water Board to assess progress in reducing diazinon and chlorpyrifos discharges and preventing toxicity from pesticide runoff.
 15. The proposed amendment requires dischargers of diazinon and chlorpyrifos to develop and implement a plan to ensure the loading capacity of diazinon and chlorpyrifos in the Sacramento and Feather Rivers is not exceeded.
 16. The Central Valley Water Board has considered the factors set forth in Water Code section 13241, including economic considerations, in developing this proposed amendment. The costs of implementing the proposed amendment are reasonable relative to the water quality benefits to be derived from implementing the proposed amendment, considering

- the size of the geographic area affected by the amendment, and that the estimated costs of compliance with this amendment duplicate to some extent the costs of complying with existing Basin Plan water quality objectives, the Irrigated Lands Conditional Waiver, and pesticide use regulations from the Department of Pesticide Regulation.
17. The proposed amendment includes an estimate of the cost of the proposed implementation program to agriculture and identifies potential sources of financing, as required by Water Code section 13141.
 18. The scientific portions and scientific basis of the proposed amendment are based on source material that has already been peer reviewed in accordance with Health and Safety Code section 57004. The proposed amendment is itself just a new application of earlier adequately peer reviewed work products. The proposed amendment does not depart from the scientific approach of the other Basin Plan amendments from which it is derived (R5-2005-0138 and R5-2006-0061).
 19. The Central Valley Water Board finds that the scientific portions of the Basin Plan Amendment are based on sound scientific knowledge, methods, and practices in accordance with Health and Safety Code Section 57004.
 20. The Central Valley Water Board finds that the proposed amendment is consistent with the State Water Resources Control Board Resolution No. 68-16, in that the changes to water quality objectives (i) consider maximum benefit to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies, and the proposed amendment is consistent with the federal Antidegradation Policy (40 CFR part 131.12). The proposed amendment requires actions to be taken to implement management practices to ensure compliance with water quality objectives. Such actions are of maximum benefit to the people of the state. Control of discharges of diazinon and chlorpyrifos to the Sacramento and Feather Rivers is necessary to protect beneficial uses of the Sacramento and Feather Rivers. The proposed amendment will not unreasonably affect present and anticipated beneficial uses nor result in water quality less than described in applicable policies because the amendment is intended to result in compliance with water quality objectives. The actions to be taken are not expected to cause other impacts on water quality.
 21. The regulatory action proposed meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).

22. The basin planning process has been certified as an exempt regulatory program as specified in Title 23 California Code of Regulations (23 CCR) Section 3782 and is exempt from the California Environmental Quality Act requirements for preparing environmental documents (Public Resources Code, Section 21000 et seq.).
23. The Central Valley Water Board staff held scoping meetings on 23 May 2006 and 15 February 2007 and a public workshop on 2 April 2006 to receive comments on the draft amendment and to identify any significant issues that must be considered.
24. Central Valley Water Board staff has prepared a draft amendment and a staff report dated April 2007.
25. Central Valley Water Board staff completed an environmental checklist that concluded that the proposed amendment results in no potential for adverse effect, either individually or cumulatively, on fish, wildlife, or the environment.
26. Central Valley Water Board staff has circulated a Notice of Public Hearing, Notice of Filing, a written staff report, and environmental checklist, and a draft proposed amendment to interested individuals and public agencies, including persons having special expertise with regard to the environmental effects involved with the proposed amendment, for review and comment in accordance with state and federal environmental regulations (23 CCR Section 3775, 40 CFR 25, and 40 CFR 131).
27. The Central Valley Water Board held a public hearing on **[3 or 4]** May 2007, for the purpose of receiving testimony on the draft Basin Plan amendment. Notice of the public hearing was sent to all interested persons and published in accordance with California Water Code, section 13244.
28. Based on the record as a whole, including draft Basin Plan amendments, the environmental document, accompanying written documentation, and public comments received, the Central Valley Water Board concurs with staff's conclusion that the amendments will not result in adverse effects on fish, wildlife, or the environment, and therefore no mitigation measures are proposed.
29. A Basin Plan amendment must be approved by the State Water Board, Office of Administrative Law (OAL), and the United States Environmental Protection Agency (USEPA) before becoming effective.

30. The Central Valley Water Board finds that the amendment to the Basin Plan was developed in accordance with California Water Code Section 13240, et seq.

THEREFORE BE IT RESOLVED:

1. Pursuant to Section 13240, et seq. of the California Water Code, the Central Valley Water Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendment to the Basin Plan as set forth in Attachment 1.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of Section 13245 of the California Water Code.
3. The Central Valley Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of Sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA for approval. The Central Valley Water Board specifically requests U.S. EPA approval of all Basin Plan amendment provisions that require U.S. EPA approval.
4. If during its approval process the Central Valley Water Board staff, State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Valley Water Board of any such changes.
5. The environmental documents prepared by Central Valley Water Board staff pursuant to Public Resources Code Section 21080.5 are hereby certified and, following approval of the Basin Plan amendment by the OAL, the Executive Officer shall file a Notice of Decision with the State Clearinghouse.

I, PAMELA C. CREEDON, 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 Valley Region, on **[3 or 4]** May 2007.

PAMELA C. CREEDON, Executive Officer

Attachments: Attachment 1: Amendment to Basin Plan for the Control of Diazinon and Chlorpyrifos Runoff into the Sacramento and Feather Rivers