

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT (Thomas Mumley)
MEETING DATE: February 13, 2008

ITEM: 8

SUBJECT: Proposed Amendment to the Water Quality Control Plan (Basin Plan) to Establish a Total Maximum Daily Load (TMDL) and Implementation Plan for Polychlorinated Biphenyls (PCBs) in San Francisco Bay - Hearing to Consider Adoption of the Proposed Basin Plan Amendment

CHRONOLOGY: September 12, 2007, Testimony Hearing

DISCUSSION: This is the second hearing on a Basin Plan amendment to establish a Total Maximum Daily Load (TMDL) and Implementation Plan for Polychlorinated Biphenyls (PCBs) in San Francisco Bay. At this hearing, the Board will be asked to consider adopting a Resolution (Appendix A) amending the Basin Plan to establish the PCBs TMDL and Implementation Plan. We will discuss revisions to the Basin Plan amendment (Appendix B) and supporting documentation that were made in response to stakeholder comments received during two public comment periods, and comments raised by Board members at the September 2007 testimony hearing. Additional documentation in this package includes our revised Staff Report (Appendix C), Responses to Comments (Appendix D), copies of all written comments received during the public comment periods (Appendix E), and the transcript of the September testimony hearing (Appendix F).

The proposed Basin Plan amendment will establish the following:

- A numeric target for PCBs in fish tissue protective of human health and wildlife
- A TMDL expressed as a total annual PCBs load to San Francisco Bay of 10 kilograms and allocations of the TMDL to the various external PCBs sources
- A phased Implementation Plan to attain allocations that includes a monitoring program to evaluate progress in meeting the target, TMDL, and allocations
- An adaptive implementation strategy to track and evaluate implementation actions while conducting studies to resolve uncertainties and improve our understanding of sources and loadings and fate of PCBs in the Bay

Since the September 2007 testimony hearing, we have engaged in a time-intensive effort to consider and prepare responses to all comments. This effort led to revisions to the Basin Plan amendment and supporting Staff Report. Modifications were made in response to comments regarding uncertainties in source and loading analyses and associated allocations, attainment of the Central Valley allocation, implementation of wastewater allocations in NPDES permits, details and better explanation of the phased implementation plan for urban

stormwater, more information on the phased, adaptive implementation steps and schedule, and CEQA analysis and economic considerations.

We circulated the revised Basin Plan amendment and supporting Staff Report in December 2007 for a second 45-day public comment period. As an outgrowth of the additional comments received, we have made some additional modifications to the Basin Plan amendment and supporting Staff Report. These consist mainly of further details and discussion in the Staff Report on implementation of wastewater allocations in NPDES permits and a call for an annual report to the Board on implementation progress and review and evaluation of new information.

The Responses to Comments document (Appendix D) includes responses to the fourteen comment letters submitted during the first comment period and an additional eleven comment letters submitted during the second comment period. It also includes responses to the peer review comments and comments made by Board members during the September hearing. Many of the comments reflect support for the TMDL, and we resolved many concerns by clarifying the intent and substance of TMDL components or implementation requirements. The introduction section of the Responses to Comments document contains an overview of the key comments raised and how we resolved or propose to resolve them. We were not able to resolve all concerns primarily due to conflicting perspectives from stakeholders. These include:

- Conflicting concerns that the numeric target is either not protective enough or is overly protective of the human health risks posed by PCBs in the Bay
- Conflicting concerns regarding individual wasteload allocations for wastewater discharges and implementation of the allocations in future NPDES permits, particularly the feasibility of calculating effluent limits based on the existing available data
- Concerns over the feasibility and cost of attainment of the allocations for urban stormwater runoff
- Conflicting concerns regarding clean up of in-Bay contaminated sediments
- Conflicting concerns over the adequacy, stringency and specificity of implementation actions and the need for a detailed schedule of implementation actions

As we advised the Board in September, the prevailing theme behind many of the issues raised is the inherent complexity of the PCBs problem and its solution. The challenge is to establish a TMDL and allocations that will attain water quality standards while considering uncertainties and implementation opportunities and challenges. Our proposed phased, adaptive implementation approach outlined in the TMDL is to take “no regrets” actions to control PCBs discharging to San Francisco Bay, rather than continue studying the dynamics of the estuary before taking actions. As noted above, we will provide annual reports on implementation progress to the Board allowing for public input and review of new information as it becomes available. We expect this will lead to modifications to the TMDL and

allocations within six to ten years and a more detailed implementation plan that will ensure attainment of water quality standards in a timely manner and include consideration of the feasibility, costs, and environmental impacts of actions.

RECOMMEN- Adopt the proposed Basin Plan amendment.
DATION:

APPENDICES: A. Tentative Resolution with Exhibit A, Proposed Basin Plan Amendment
B. Proposed Basin Plan amendment showing changes
C. Supporting Staff Report
D. Responses to Comments
E. Comment Letters
F. September 12, 2007 Hearing Transcript