

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

**DRAFT RESOLUTION NO. R3-2011-0005**

**ADOPTING TOTAL MAXIMUM DAILY LOADS AND IMPLEMENTATION PLAN FOR  
CHLORPYRIFOS AND DIAZINON IN THE LOWER SALINAS RIVER WATERSHED  
MONTEREY COUNTY**

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

1. The Central Coast Water Board adopted the second edition of the Water Quality Control Plan for the Central Coastal Basin (Basin Plan) on September 8, 1994. The Basin Plan designates beneficial uses, establishes water quality objectives, sets forth implementation plans to achieve water quality objectives addressing point source and nonpoint source discharges, includes prohibitions, and incorporates statewide plans and policies.
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 a Total Maximum Daily Load (TMDL) 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 Salinas River is the receiving water for approximately 4,600 square miles of land. Depending upon seasonal flow conditions, the Salinas River may flow directly into Monterey Bay, or can flow into south Moss Landing Harbor via the Old Salinas River Estuary and Old Salinas River. The lower Salinas River includes all reaches of the Salinas River downstream of Gonzales Road near the city of Gonzales. The Lower Salinas River watershed includes the watershed area from the lower Salinas River at Gonzales Road near the city of Gonzales downstream to Moss Landing Harbor and Monterey Bay. The Lower Salinas River watershed comprises a watershed area of approximately 350 square miles.
4. Moss Landing Harbor, Old Salinas River, Tembladero Slough, Blanco Drain, Salinas Reclamation Canal, lower Salinas River, Espinosa Lake, Quail Creek, and Chualar Creek are listed on the 2010 Clean Water Act 303(d) list of impaired waters as impaired due to the pesticides chlorpyrifos and diazinon. Espinosa Slough is listed on the 2010 Clean Water Act 303(d) list as impaired due to the pesticide diazinon. Due to the Clean Water Act 303(d) listings, the Central Coast Water Board is required to adopt TMDLs and an associated implementation plan (40 CFR 130.6(c)(1), 130.7, Water Code section 13242). This Resolution establishes TMDLs and associated allocations for these impairments.
5. The Old Salinas River Estuary, Salinas River Lagoon (North), Alisal Slough, and Natividad Creek are located in the Lower Salinas River Watershed, are not listed as impaired due to chlorpyrifos or diazinon on the 2010 Clean Water Act 303(d) list of impaired waters, but are impaired due to chlorpyrifos and/or diazinon; the Old Salinas River Estuary is impaired

due to chlorpyrifos and diazinon; the Salinas River Lagoon (North) is impaired due to chlorpyrifos; Alisal Slough and Natividad Creek are impaired due to diazinon. This Resolution establishes TMDLs and associated allocations for these impairments.

6. Impairments for unknown toxicity on the 2010 Clean Water Act section 303d list refer to water column toxicity from a cause unknown at the time of the Clean Water Act section 303(d) list preparation. Impairments for unknown toxicity addressed in this Resolution are caused by the pesticides chlorpyrifos and diazinon. This Resolution establishes TMDLs for chlorpyrifos and diazinon that address Clean Water Act 303(d) listings for unknown toxicity in the Old Salinas River, Tembladero Slough, Alisal Slough, Salinas Reclamation Canal, lower Salinas River, Espinosa Slough, Natividad Creek, Quail Creek, Chualar Creek, Merritt Ditch, and Gabilan Creek.
7. The Central Coast Water Board's goal for establishing TMDLs in the Lower Salinas River Watershed is to rectify impairments due to chlorpyrifos, diazinon, and unknown toxicity, 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, diazinon, and unknown toxicity.
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 Lower Salinas River Watershed TMDLs are set at levels 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 TMDLs for chlorpyrifos and diazinon for the Lower Salinas 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. Central Coast Water Board staff will pursue modification of Agricultural Order conditions or other regulatory means, as necessary, to address remaining impairments from chlorpyrifos, diazinon, or unknown toxicity during the TMDL implementation phase.
13. Central Coast Water Board staff implemented a process to inform interested persons and the public about the TMDLs. Central Coast Water Board staff's efforts to inform the public and solicit comment included a public meeting with interested persons and a public notice and comment period. Public notice of the public hearing was given by mailing a copy of the public notice to all persons requesting such notice and applicable government agencies on February 1, 2011. Relevant documents and notices were also made available on the Central Coast Water Board website. The public notice provided the public a 45-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. This TMDL will become effective upon approval of this Resolution by the Central Coast Water Board.
17. On May 5, 2011, 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 Loads for Chlorpyrifos and Diazinon in the Lower Salinas River Watershed, 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 Lower Salinas 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 TMDLs 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, Roger W. Briggs, 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 May 5, 2011.

---

Roger W. Briggs  
Executive Officer