

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION 2011-0028**

APPROVING AMENDMENTS TO THE WATER QUALITY CONTROL PLAN
FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS FOR THE
CONTROL OF METHYLMERCURY AND TOTAL MERCURY IN THE
SACRAMENTO-SAN JOAQUIN DELTA ESTUARY

WHEREAS:

1. On April 22, 2010, the California Regional Water Quality Control Board, Central Valley Region (“Central Valley Water Board”) adopted [Resolution R5-2010-0043](#) (the “Basin Plan Amendment”). The Basin Plan Amendment amends the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised September 2009 (the “Basin Plan”) to establish a Total Maximum Daily Load (“TMDL”) for methylmercury in the Sacramento-San Joaquin Delta Estuary and the Yolo Bypass. The Basin Plan Amendment also establishes site-specific numeric fish tissue objectives, adds an implementation plan designed to achieve the fish tissue objectives, and clarifies that the beneficial uses of the Sacramento-San Joaquin Delta Estuary and the Yolo Bypass that are to be protected by the Central Valley Water Board include the commercial and sport fishing beneficial uses.¹
2. The Central Valley Water Board found that the analysis contained in the Substitute Environmental Documentation, including the Basin Plan Amendment staff report (which contains an environmental analysis of the Basin Plan Amendment), the completed Environmental Checklist including a Statement of Overriding Considerations, and the Board’s responses to comments, complies with the requirements of the State Water Board’s certified regulatory California Environmental Quality Act process, as set forth in the California Code of Regulations, title 23, section 3775 et seq. Therefore, the Central Valley Water Board approved and adopted the Substitute Environmental Documentation.
3. The Central Valley Water Board found that actions to comply with the Basin Plan Amendment have the potential to cause significant adverse impacts upon the environment. A Statement of Overriding Considerations evaluates the ecological and health benefits of implementing the Basin Plan Amendment in relation to the potentially significant adverse impacts. A fishery with mercury-contaminated fish is an environmental justice issue and is a threat to wildlife. Implementation of the Basin Plan Amendment will result in an overall improvement in water quality in the Delta region and will have a significant positive impact upon the environment by enabling humans and wildlife to safely consume Delta fish. To the extent significant adverse environmental effects could occur, the Central Valley Water Board balanced

¹ Commercial and sport fishing have been protected under the more general beneficial use of “Water Contact Recreation”, which includes “fishing” within its definition.

the economic, legal, social, and other benefits of the Basin Plan Amendment against the potentially unavoidable environmental risks and finds that specific economic, legal, social, and other benefits of the Basin Plan Amendment outweighs the potentially unavoidable adverse environmental effects, such that those effects are considered acceptable. The State Water Board has reviewed the Substitute Environmental Documentation and concurs with the Central Valley Water Board's findings and Statement of Overriding Considerations

4. The Central Valley Water Board found 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.
5. The Central Valley Water Board found that the Basin Plan Amendment is consistent with the Statement of Policy with Respect to Maintaining High Quality of Waters in California ([State Water Board Resolution 68-16](#)) and the federal Antidegradation Policy (40 C.F.R. § 131.12).
6. 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; section 13241, which authorizes Regional Water Quality Control Boards to establish water quality objectives; section 13242, which requires a program of implementation for water quality objectives; and section 13244, which prohibits adoption of amendments by the Regional Water Boards in the absence of a public hearing. The State Water Board also finds that the water quality standards, which are the beneficial use designations and site specific fish tissue objectives, and TMDL, as reflected in the Basin Plan Amendment, are consistent with the requirements of federal Clean Water Act section 303 (c) and (d), respectively.
7. A Basin Plan Amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by OAL. The water quality standards and TMDL must also receive approval from the U.S. Environmental Protection Agency (U.S. EPA).
8. The regulatory action meets the "Necessity" standard of the Administrative Procedures Act, Government Code section 11353, subd. (b). The necessity of developing the TMDL is established in the TMDL project report, the section 303(d) list, and the data contained in the administrative record documenting the mercury impairments in the Sacramento-San Joaquin Delta Estuary.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan Amendment as adopted under Central Valley Water Board Resolution R5-2010-0043.

2. Authorizes the Executive Director or designee to submit the Basin Plan Amendment adopted under Central Valley Water Board Resolution R5-2010-0043, as approved, and the administrative record for this action to the Office of Administrative Law and the water quality standards and TMDL to the U.S. EPA for approval.

CERTIFICATION

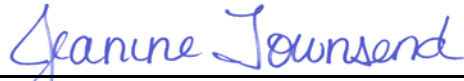
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on June 21, 2011.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None



Jeanine Townsend
Clerk to the Board