



EAST BAY DISCHARGERS AUTHORITY  
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*A Joint Powers Public Agency*

**ITEM NO. 10**

**REGULATORY AFFAIRS COMMITTEE AGENDA**

**Wednesday, June 14, 2023**

**2:00 P.M.**

**East Bay Dischargers Authority  
2651 Grant Avenue, San Lorenzo, CA 94580**

**Committee Members: Lathi (Chair); Johnson**

**RA1. Call to Order**

**RA2. Roll Call**

**RA3. Public Forum**

**RA4. EBDA NPDES Compliance – See Item No. OM4**  
(The Committee will review NPDES Permit compliance data.)

**RA5. BACWA Key Regulatory Issues Matrix**  
(The Committee will review BACWA's issue summary.)

**RA6. Regulatory Reporting Checklist**  
(The Committee will review a checklist of completed regulatory reporting items.)

**RA7. Resolution Adopting Findings of Certification of the Environmental Impact Report for the Cargill Mixed Sea Salts Processing and Brine Discharge Project**  
(The Committee will consider the resolution.)

**RA8. Adjournment**

Any member of the public may address the Committee at the commencement of the meeting on any matter within the jurisdiction of the Committee. This should not relate to any item on the agenda. Each person addressing the Committee should limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Committee on any agenda item should do so at the time the item is considered. Oral comments should be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available and are to be completed prior to speaking.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Administration Manager at (510) 278-5910 or [juanita@ebda.org](mailto:juanita@ebda.org).

Agenda Explanation  
East Bay Dischargers Authority  
Regulatory Affairs Committee  
June 14, 2023

Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are also posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>

**Next Scheduled Regulatory Affairs Committee meeting:  
Monday, September 18, 2023 at 12:00 p.m.**

**ITEM NO. RA5 BACWA KEY REGULATORY ISSUES MATRIX**

**Recommendation**

For the Committee's information only; no action is required.

**Background**

Periodically, BACWA's Regulatory Program Manager updates a Key Regulatory Issues Summary that contains succinct information on regulatory issues of interest to Bay Area wastewater agencies. The Summary matrix contains background, challenges and recent updates, next steps for BACWA, and links to key resources and documents.

**Discussion**

The most recent issue summary is attached. This latest version highlights updates made in purple. Previous versions are available at <https://bacwa.org/regulatory-issues-summaries/>.



## KEY REGULATORY ISSUE SUMMARY

### Updated May 2, 2023

Action items for member agencies are in **bold**

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New updates in this version are shown in Purple highlighting

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>NUTRIENTS IN SAN FRANCISCO BAY</b>			
<ul style="list-style-type: none"> <li>San Francisco Bay receives some of the highest nitrogen loads among estuaries worldwide, yet has not historically experienced the water quality problems typical of other nutrient-enriched estuaries. It is not known whether this level of nitrogen loading, which will continue to increase in proportion to human population increase, is sustainable over the long term.</li> <li>Because of the complexity of the science behind nutrient impacts in SF Bay, stakeholders in the region are participating in the Nutrient Management Strategy (NMS) steering committee to prioritize scientific studies and ensure that all science to be used for policy decisions is conducted under one umbrella.</li> </ul>	<ul style="list-style-type: none"> <li>For FY23, BACWA is contributing \$1.8M to fund scientific research needed to make management decisions for the 3<sup>rd</sup> Watershed Permit. This funding is required by the 2<sup>nd</sup> Watershed Permit.</li> <li>The focus of current scientific efforts is improving model representation of biogeochemistry, light attenuation, dissolved oxygen, and Harmful Algal Bloom dynamics. Field and lab observations are supporting these improvements.</li> <li>The science team is developing an Assessment Framework for Open Bay habitats and Lower South Bay sloughs.</li> <li>In summer 2022, a harmful algae bloom in San Francisco Bay brought increased public attention to this topic. The NMS science team is assisting with data interpretation, and has revised the science plan accordingly.</li> </ul>	<ul style="list-style-type: none"> <li><b>Continue to participate in NMS steering committee, Nutrient Technical Workgroup, and planning subcommittee meetings, and provide funding for scientific studies.</b></li> <li><b>Working with NMS stakeholders, identify preliminary scenarios for nutrient modeling of the Bay.</b></li> <li>Continue to assist with preparation of a brief “State of the Science” document summarizing the scientific accomplishments of the NMS team for public use.</li> <li>Continue to engage with Nutrient Technical Team and BACWA’s Nutrient Management Strategy technical consultant, Mike Connor, to provide review of recent work products and charge questions for the science team.</li> </ul>	<p>BACWA Nutrients Page: <a href="https://bacwa.org/nutrients/">https://bacwa.org/nutrients/</a></p> <p>NMS FY23 Program Plan (Revised Dec. 2022) <a href="https://docs.google.com/document/d/11WlrDMpUw_OBQ6Lj-qj67sOLwl490lk_RWW431e9nuU">https://docs.google.com/document/d/11WlrDMpUw_OBQ6Lj-qj67sOLwl490lk_RWW431e9nuU</a></p> <p>NMS Work Products <a href="https://sfbaynutrients.sfei.org/books/reports-and-work-products">https://sfbaynutrients.sfei.org/books/reports-and-work-products</a></p> <p>SFEI Presentation on Science of 2022 Bloom <a href="https://docs.google.com/presentation/d/1R468fFPMfq1d1xY6cHFU-uta9aMCynx5/">https://docs.google.com/presentation/d/1R468fFPMfq1d1xY6cHFU-uta9aMCynx5/</a></p> <p>BACWA Nutrient FAQ <a href="https://bacwa.org/wp-content/uploads/2023/01/BACWA-Nutrient-Fact-Sheet.pdf">https://bacwa.org/wp-content/uploads/2023/01/BACWA-Nutrient-Fact-Sheet.pdf</a></p>

## SF BAY NUTRIENT WATERSHED PERMIT

<ul style="list-style-type: none"> <li>• The 1<sup>st</sup> Nutrient Watershed Permit was adopted in 2014, and required a regional study on Nutrient Treatment by Optimization and Upgrades, completed in 2018.</li> <li>• The 2<sup>nd</sup> Nutrient Watershed Permit was adopted in 2019. It includes: <ul style="list-style-type: none"> <li>○ Continued individual POTW nutrient monitoring and reporting;</li> <li>○ Continued group annual reporting;</li> <li>○ Significantly increased funding for science;</li> <li>○ Regional assessment of the feasibility and cost for reducing nutrients through nature-based systems and recycled water;</li> <li>○ Establishing current performance for Total Inorganic Nitrogen (TIN), and “load targets” for nutrient loads based on 2014 to 2017 load data plus a 15% buffer for growth and variability</li> <li>○ Recognition of “early actors” who are planning projects that will substantially decrease TIN loads.</li> </ul> </li> <li>• Through the nutrient surcharge levied on permittees, BACWA funds compliance with the following provisions on behalf of its members: <ul style="list-style-type: none"> <li>○ Group Annual Reporting</li> <li>○ Regional Studies on Nature-Based Systems and Recycled Water</li> <li>○ Support of scientific studies through the Regional Monitoring Program (RMP) with \$11M over the five-year permit term.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Studies related to Recycled Water and Nature-Based Systems are underway, and will be completed by the due date of July 1, 2023.</li> <li>• Each year by February 1, BACWA submits a Group Annual Report on behalf of its members. The report summarizes trends in nutrient concentrations and loading for each agency, and for all the agencies as a whole. The annual reporting period in the 2<sup>nd</sup> Watershed Permit is based on a water year (Oct. 1 – Sept. 30). In the dry season of 2022, TIN loads were the second lowest since monitoring began in July 2012 (only 2021 was lower).</li> <li>• In response to the summer 2022 algae bloom, Regional Water Board staff have signaled that the 3<sup>rd</sup> Watershed Permit is likely to include nutrient load reduction requirements (see presentation at right). The magnitude, timing, and format of these reductions have yet to be determined.</li> <li>• BACWA staff met with the 18 largest wastewater treatment plants (representing 95% of the regional TIN load from POTWs) to identify projects that could reduce nutrient loads during the term of the 3<sup>rd</sup> Watershed Permit and beyond.</li> </ul>	<ul style="list-style-type: none"> <li>• BACWA continues to convene a Nutrient Strategy Team to develop BACWA’s key tenets for the 3<sup>rd</sup> Watershed Permit, and <b>members are encouraged to participate</b>. The Nutrient Strategy Team is actively engaging with the Regional Water Board to expand upon the key tenets and discuss implementation details for the 3<sup>rd</sup> Watershed Permit, such as how and when load reductions would be required.</li> <li>• Review draft reports by consultant teams from HDR and SFEI for the Nutrient Removal by Recycled Water Evaluation and the Nature-Based Solutions study. Individual agency reports have been drafted, and draft summary reports will be available by May 2023. <b>Agency sign-off on the final reports will be required.</b></li> <li>• Agencies will continue to report nutrient monitoring data both through CIWQS and directly to BACWA.</li> </ul>	<p>2nd Nutrient Watershed Permit:  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2019/R2-2019-0017.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2019/R2-2019-0017.pdf</a></p> <p>Special Studies of Recycled Water and Nature-Based Solutions:  <a href="https://bacwa.org/document-category/2nd-watershed-permit-studies/">https://bacwa.org/document-category/2nd-watershed-permit-studies/</a></p> <p>Optimization/Upgrade Study Information:  <a href="https://bacwa.org/document-category/optimization-and-upgrade-studies/">https://bacwa.org/document-category/optimization-and-upgrade-studies/</a></p> <p>BACWA Group Nutrient Annual Reports:  <a href="http://bacwa.org/document-category/nutrient-annual-reports/">http://bacwa.org/document-category/nutrient-annual-reports/</a></p> <p>Presentations to SF Board of Supervisors Land Use and Transportation Committee (October 2022)  <a href="https://sfgov.legistar.com/View.ashx?M=F&amp;ID=11339273&amp;GUID=863B565D-6662-419D-B519-87D5FBB4BAE3">https://sfgov.legistar.com/View.ashx?M=F&amp;ID=11339273&amp;GUID=863B565D-6662-419D-B519-87D5FBB4BAE3</a></p> <p>BACWA Presentation to East Bay Leadership Council  <a href="https://bacwa.org/document/sf-bay-nutrient-management-presentation-to-eblc-2023-04-18/">https://bacwa.org/document/sf-bay-nutrient-management-presentation-to-eblc-2023-04-18/</a></p>
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**CHLORINE RESIDUAL COMPLIANCE**

<ul style="list-style-type: none"> <li>• The Basin Plan chlorine residual effluent limit is 0.0 mg/L. Chlorine residual is the most frequent parameter for violations for Region 2 POTWs. Because there are 24 hourly reporting events each day, the “opportunities” for violations are enormous. However, the actual violation rates are infinitesimal (~0.001%).</li> <li>• Agencies are overdosing their effluent with the dechlorination agent, sodium bisulfite, to prevent chlorine violations, a practice which costs more than \$1 million regionally each year.</li> <li>• The Regional Water Board worked with BACWA to develop a Basin Plan Amendment modifying the effluent limit for chlorine residual.</li> </ul>	<ul style="list-style-type: none"> <li>• The Basin Plan Amendment includes: <ul style="list-style-type: none"> <li>○ A 0.013 mg/L Water Quality Objective in marine and estuarine waters, which will be applied as a WQBEL in permits and calculated incorporating dilution. The WQBEL will be applied as a 1-hour average.</li> <li>○ A Minimum Level (ML), or Reporting Limit of 0.05 mg/L for online continuous monitoring system.</li> </ul> </li> <li>• The Basin Plan Amendment was adopted by the Regional Water Board in 2020, and approved by the State Water Board and Office of Administrative Law in 2021. Unfortunately, the EPA does <u>not</u> plan to approve the Basin Plan Amendment due to concerns expressed by federal natural resource agencies about potential chlorine toxicity to fish.</li> <li>• Sections of the Basin Plan Amendment related to removal of Oil &amp; Grease effluent limits are in effect. This change is being implemented in reissued NPDES permits. The blanket permit amendment for Oil &amp; Grease that was meant to implement the change region-wide will not go into effect.</li> </ul>	<ul style="list-style-type: none"> <li>• Engage with Regional Water Board staff to identify an alternative regulatory strategy for modifying chlorine effluent limits. Regional Water Board staff are currently exploring regulatory options.</li> </ul>	<p>Background and Status information about Basin Plan Amendment: <a href="https://www.waterboards.ca.gov/sanfranciscobay/water_issue_s/programs/planningtmdls/amendments/chlorinebpa.html">https://www.waterboards.ca.gov/sanfranciscobay/water_issue_s/programs/planningtmdls/amendments/chlorinebpa.html</a></p> <p>Final Basin Plan Amendment adopted by Regional Water Board: <a href="https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/chlorinebpa/2_Chlorine_Resolution_R2-2020-0031.pdf">https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/chlorinebpa/2_Chlorine_Resolution_R2-2020-0031.pdf</a></p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>PESTICIDES</b>			
<ul style="list-style-type: none"> <li>• Pesticides are regulated via FIFRA, and not the Clean Water Act. POTWs do not have the authority to regulate pesticide use in their service area, but may be responsible for pesticide impacts to their treatment processes or to surface water.</li> <li>• Through BAPPG, BACWA aims to proactively support a scientific and regulatory advocacy program so that pesticides will not impact POTWs' primary functions of collecting and treating wastewater, recycling water, and managing biosolids, or impact receiving waters via the "down the drain" route.</li> </ul>	<ul style="list-style-type: none"> <li>• EPA reviews all registered pesticides at least once every 15 years. Each review allows opportunity for public comment.</li> <li>• BACWA continues to fund consultant support to write comment letters advocating for the consideration of POTW and surface water issues by EPA and the California Department of Pesticide Registration (CalDPR). Funding for pesticide regulatory outreach in FY23 is \$60K. The pesticides regulatory team also supports the California Stormwater Quality Association (CASQA) on outreach work related to urban pesticide use.</li> <li>• The Regional Water Board leverages BACWA's efforts to provide their own comment letters.</li> <li>• With chronic toxicity limits likely in the near term, POTWs will be in compliance jeopardy if pesticides contribute to toxicity.</li> <li>• Baywise.org has launched webpages on flea and tick control messaging to pet owners and veterinarians.</li> <li>• In January 2023, CalDPR released a Sustainable Pest Management Roadmap. The Roadmap identifies actions that would enhance understanding of pesticide use in urban areas and enhance outreach to urban pesticide users.</li> </ul>	<ul style="list-style-type: none"> <li>• Advocate for implementation of specific actions from the Sustainable Pesticide Management Roadmap, and for additional resources to be directed to CalDPR to support implementation.</li> <li>• Continue to comment on EPA pesticide re-registrations and CalDPR actions.</li> <li>• Engage with EPA on proposed changes to the regulatory approval process for pesticides (see comment letter at right).</li> <li>• Work with veterinary associations on messaging with respect to flea and tick control alternatives.</li> <li>• Continue to develop summaries of EPA actions on pesticides.</li> <li>• Look for opportunities to work with CalDPR on pesticides research.</li> <li>• Work with other regional associations, such as the CASQA to collaborate on funding pesticide regulatory outreach.</li> </ul>	<p>BACWA Pesticide Regulatory Support Page:  <a href="https://bacwa.org/bappg-pesticides/">https://bacwa.org/bappg-pesticides/</a></p> <p>Baywise flea and tick pages:  <a href="https://baywise.org/residential/pets/keep-pets-free-of-fleas-and-ticks/">https://baywise.org/residential/pets/keep-pets-free-of-fleas-and-ticks/</a>  <a href="https://baywise.org/residential/pets/">https://baywise.org/residential/pets/</a></p> <p>BACWA-CASQA Urban Pesticides Collaboration Fact Sheet:  <a href="https://bacwa.org/wp-content/uploads/2022/08/CASQA-BACWA-Factsheet-July2022.pdf">https://bacwa.org/wp-content/uploads/2022/08/CASQA-BACWA-Factsheet-July2022.pdf</a></p> <p>CalDPR Sustainable Pest Management Roadmap  <a href="https://www.cdpr.ca.gov/docs/pressrls/2023/012623.htm">https://www.cdpr.ca.gov/docs/pressrls/2023/012623.htm</a></p> <p>BACWA coalition letter on modernizing the pesticide approval process  <a href="https://bacwa.org/document/bacwa-nacwa-coalition-comments-on-fda-epa-pesticide-modernization-2023-04-25/">https://bacwa.org/document/bacwa-nacwa-coalition-comments-on-fda-epa-pesticide-modernization-2023-04-25/</a></p>



Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>MERCURY AND PCBs</b>			
<ul style="list-style-type: none"> <li>• The Mercury &amp; PCBs Watershed Permit was reissued by the Regional Water Board in December 2022. The Watershed Permit is based on the TMDLs for each of these pollutants.</li> <li>• Aggregate mercury and PCBs loads have been well below waste load allocations through 2021, the last year for which data have been compiled.</li> <li>• Method 1668C for measuring PCB congeners has not been promulgated by EPA. Data collected during the first permit term varied widely depending on which laboratory performed the analyses. BACWA Laboratory Committee developed an updated PCB Protocol to reduce variability between laboratories running Method 1668C, effective January 1, 2014. Data have been more consistent since the distribution of this document.</li> <li>• In 2017, EPA adopted federal pretreatment program rules requiring dental offices to install dental amalgam separators. The rule is intended to reduce dental office discharge of mercury. The compliance date was July 14, 2020.</li> </ul>	<ul style="list-style-type: none"> <li>• The Mercury &amp; PCBs Watershed Permit requires risk reduction program funding. For FY24, BACWA has budgeted \$12,500 to support risk reduction activities related to fish consumption.</li> <li>• In January 2022, monitoring requirements for mercury were reduced for most dischargers by a blanket NPDES Permit amendment (Order R2-2021-0028) (see link at right). Revised monitoring frequencies are also reflected in the reissued permit.</li> <li>• As part of the 2021 Triennial Review of the Basin Plan, the Regional Water Board has prioritized designation of three new beneficial uses: Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB) and Subsistence Fishing (SUB). Water bodies designated with these beneficial uses could also be assigned lower mercury objectives.</li> <li>• The Mercury &amp; PCBs Watershed Permit reissued in December 2022 is very similar to the 2017 Permit. Effluent limitations are unchanged. The only significant difference is a reduction in the monitoring frequency for PCB Congeners for some agencies.</li> </ul>	<ul style="list-style-type: none"> <li>• Coordinate with local community-based organizations and Water Boards staff to develop concepts for risk reduction activities that BACWA could support during the term of the reissued permit. Later in FY24, BACWA may solicit proposals to support risk reduction activities during the term of the reissued permit.</li> <li>• Continue outreach to dentists BAPPG and BACWA's pretreatment committee. Per federal rules, all dental facilities were required to submit one-time compliance reports by October 2020.</li> <li>• Schedule risk reduction presentations by the current grantees to the Regional Water Board in 2023.</li> <li>• Track potential Basin Plan Amendments resulting from the Triennial Review project related to new beneficial use designations. The new designations are not expected to impact the bay-wide mercury TMDL in the near term, but there could be localized or longer-term impacts.</li> </ul>	<p>2022 Mercury &amp; PCBs Watershed Permit (Effective Feb. 1, 2023)  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0038.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0038.pdf</a></p> <p>Risk Reduction Materials:  <a href="https://bacwa.org/mercurypcb-risk-reduction-materials/">https://bacwa.org/mercurypcb-risk-reduction-materials/</a></p> <p>BACWA PCBs Protocol:  <a href="https://bacwa.org/wp-content/uploads/2014/02/PCBs-Sampling-Analysis-and-Reporting-Protocols-Dec13.pdf">https://bacwa.org/wp-content/uploads/2014/02/PCBs-Sampling-Analysis-and-Reporting-Protocols-Dec13.pdf</a></p> <p>One-Time Compliance Report for Dental Offices:  <a href="https://www.waterboards.ca.gov/water_issues/programs/npdes/docs/drinkingwater/one-time_compliance_report_for_dental_offices.pdf">https://www.waterboards.ca.gov/water_issues/programs/npdes/docs/drinkingwater/one-time_compliance_report_for_dental_offices.pdf</a></p> <p>NPDES Permit Amendment for Monitoring and Reporting  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</a></p>



## STATE WATER BOARD TOXICITY PROVISIONS

<ul style="list-style-type: none"> <li>• The State Water Board has been working since before 2012 to establish Toxicity Provisions in the SIP that would introduce uniform Whole Effluent Toxicity Requirements for the state.</li> <li>• During individual permit reissuances since 2015, the Regional Water Board has been performing RPAs for chronic toxicity and giving chronic toxicity limits to agencies with Reasonable Potential.</li> <li>• Proposed Final Statewide Toxicity Provisions were released in October 2020, incorporating revisions to previous versions from 2018 to 2020. The Provisions establish: <ul style="list-style-type: none"> <li>○ Use of Test of Significant Toxicity (TST) as statistical method to determine toxicity replacing EC25/IC25 (with concerns it will lead to more false positive results);</li> <li>○ Numeric limits for chronic toxicity for POTWs &gt;5 MGD and with a pretreatment program; smaller POTWs would receive effluent targets and only receive limits if Reasonable Potential is established;</li> <li>○ Regional Water Board discretion on whether to require RPAs for acute toxicity;</li> <li>○ For POTWs with <i>Ceriodaphnia dubia</i> as most sensitive species, numeric targets rather than limits until after completion of state-wide study on lab/ testing issues (Dec. 31, 2023).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The State Water Board first adopted the Statewide Toxicity Provisions in December 2020. In October 2021, the State Water Board affirmed that the Statewide Toxicity Provisions were adopted as state policy for water quality control for all inland surface waters and estuaries.</li> <li>• USEPA approved the Statewide Toxicity Provisions on May 1, 2023.</li> <li>• Since 2016, agencies have had the option to skip sensitive species screening upon permit reissuance and pay the avoided funds to the RMP to be used for CECs studies. Under the Toxicity Provisions, agencies will be required by the provisions to do sensitive species screening once every 15 years.</li> <li>• BACWA joined SCAP, CVCWA and NACWA in a lawsuit alleging EPA did not follow proper procedure in requiring use of the TST, which has not been officially promulgated. The lawsuit was dismissed. POTWs' only recourse is to challenge individual permits that include the procedure.</li> <li>• The State Water Board is collaborating with stakeholders on a special study to improve the quality of <i>Ceriodaphnia dubia</i> testing. The first phase of this multi-laboratory study of toxicity testing has been completed, and a second intercalibration round of testing will be conducted in late spring and summer 2023.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Begin conducting toxicity testing using the Statewide Toxicity Provisions.</b> Member agencies with individual NPDES permits reissued after August 2022 will automatically transition to new toxicity testing requirements on June 1, 2023.</li> <li>• <b>Plan to conduct a species sensitivity screening</b> to comply with the Toxicity Provisions, which require a study no more than 10 years old be used to determine a "Tier I" species for use in compliance monitoring.</li> <li>• <b>Continue to review draft NPDES permits implementing the Toxicity Provisions.</b> As of August 2022, all reissued individual NPDES permits contain language implementing the Toxicity Provisions. Regional Water Board staff developed this language with BACWA member input. Although the new language is mostly standardized, small changes may be necessary to clarify details of the new provisions.</li> <li>• Share information on the special study on the <i>Ceriodaphnia dubia</i> test method with agencies who have that species in their permits.</li> </ul>	<p>SWRCB Toxicity Page:  <a href="http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml">http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml</a></p> <p>Toxicity Workshop Presentations from 2017 BACWA Workshop:  <a href="https://bacwa.org/bacwa-toxicity-workshop-september-18-2017/">https://bacwa.org/bacwa-toxicity-workshop-september-18-2017/</a></p> <p>Regional Water Board presentation on implementation of Statewide Toxicity Provisions from December 2020: <a href="https://bacwa.org/wp-content/uploads/2021/01/Slides-from-RWQCB-Regarding-R2-Tox-Language-in-NPDES-Permits-2020-12-08.pdf">https://bacwa.org/wp-content/uploads/2021/01/Slides-from-RWQCB-Regarding-R2-Tox-Language-in-NPDES-Permits-2020-12-08.pdf</a></p> <p><i>Ceriodaphnia</i> Quality Assurance Study  <a href="https://www.sccwrp.org/about/research-areas/additional-research-areas/ceriodaphnia-toxicity-testing-quality-assurance/">https://www.sccwrp.org/about/research-areas/additional-research-areas/ceriodaphnia-toxicity-testing-quality-assurance/</a></p> <p>USEPA Approval of Statewide Toxicity Provisions  <a href="https://bacwa.org/wp-content/uploads/2023/05/05.01.2023-EPA-CWA-303c-Approval-of-California-Toxicity-Provisions.pdf">https://bacwa.org/wp-content/uploads/2023/05/05.01.2023-EPA-CWA-303c-Approval-of-California-Toxicity-Provisions.pdf</a></p>
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**COMPOUNDS OF EMERGING CONCERN (CECS)**

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| <ul style="list-style-type: none"> <li>• Pharmaceuticals and other trace compounds of emerging concern (CECs) are ubiquitous in wastewater at low concentrations and have unknown effects on aquatic organisms.</li> <li>• The State Water Board has formed a Pretreatment and CECs Unit.</li> <li>• Region 2's CEC strategy focuses on monitoring/tracking concentrations of constituents with high occurrence and high potential toxicity. Much of what the State Water Board is considering for its monitoring program is already being implemented in Region 2 through the RMP.</li> </ul> | <ul style="list-style-type: none"> <li>• The Regional Water Board has stated that voluntary and representative participation in RMP CECs studies is key to avoiding regulatory mandates for CECs monitoring. These studies are informational and not for compliance purposes. BACWA developed a White Paper on representative participation to support facility selection for these studies.</li> <li>• Bay dischargers are continuing to provide supplemental funding for RMP CECs studies through the NPDES Permit Amendment adopted in December 2021 by the Regional Water Board.</li> <li>• The State Water Board has recently increased its focus on CECs. In November 2022, a State Water Board Science Advisory Panel released a report identifying risk-based and occurrence-based monitoring strategies in aquatic ecosystems. Similar approaches are already in use in the Bay Area by the RMP.</li> </ul> | <ul style="list-style-type: none"> <li>• Continue to participate in the RMP Emerging Contaminants Workgroup.</li> <li>• Participate in RMP studies by collecting wastewater samples at member facilities. Studies in FY23 include ethoxylated surfactants and quaternary ammonia compounds, in addition to the Regional PFAS Study and OPC-funded microplastic study (see next page).</li> <li>• Update the 2020 White Paper created for use by the RMP or others in selecting representative POTWs for participation in CEC studies. The 2020 White Paper will be updated to note recently completed and ongoing studies of CECs in Bay Area wastewater.</li> </ul> | <p>RMP Emerging Contaminant Workgroup:<br/> <a href="http://www.sfei.org/rmp/ecwg#ab-1-4">http://www.sfei.org/rmp/ecwg#ab-1-4</a></p> <p>BACWA CECs White Paper:<br/> <a href="https://bacwa.org/document/bacwa-cec-white-paper-updated-june-2020/">https://bacwa.org/document/bacwa-cec-white-paper-updated-june-2020/</a></p> <p>NPDES Permit Amendment for Monitoring and Reporting<br/> <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</a></p> <p>State Water Board CECs webpage:<br/> <a href="https://www.waterboards.ca.gov/water_issues/programs/cec/index.html">https://www.waterboards.ca.gov/water_issues/programs/cec/index.html</a></p> |
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>MICROPLASTICS</b>			
<ul style="list-style-type: none"> <li>• Microplastic pollution is an environmental threat with the potential to impact wastewater disposal and reuse, as well as biosolids end uses.</li> <li>• Microplastics have been a focus of the RMP in recent years. BACWA has participated in the Workgroup and developed a POTW Fact Sheet. One conclusion of the RMP work is that POTWs contribute much lower microplastic loads than stormwater. As a result, the RMP is focusing future microplastics sampling efforts on stormwater pathways.</li> </ul>	<ul style="list-style-type: none"> <li>• In February 2022, the Ocean Protection Council (OPC) adopted a Statewide Microplastics Strategy that calls for increased water recycling, additional monitoring of wastewater, source control in wastewater, and additional scientific research.</li> <li>• In 2021, the OPC funded a study investigating microplastic removal through wastewater treatment processes. The study is being carried out by SCCWRP. The study commenced in 2021 with a pilot study involving BACWA member agency participation. Full-scale sampling and analysis of influent, effluent, and biosolids is planned to be completed in 2023.</li> <li>• The Draft 2024 California Integrated Report (303(d) List) notes that San Francisco Bay is “potentially threatened” by microplastics. Due to data limitations, the Bay is <u>not</u> proposed to be listed as an impaired water body during this listing cycle.</li> <li>• Additional research to improve scientific understanding of microplastics in aquatic ecosystems will be needed to support a future impairment determination for San Francisco Bay. The Water Boards and Ocean Protection Council are supporting allocation of funding towards these research efforts.</li> <li>• Ongoing microplastics investigations by the RMP are focused on tire particles in stormwater.</li> </ul>	<ul style="list-style-type: none"> <li>• Continue to participate in the RMP Microplastics Workgroup.</li> <li>• Three BACWA member agencies are participating in the OPC-funded microplastic study. As of May 2023, sampling efforts are ongoing.</li> <li>• Continue tracking State Water Board and Ocean Protection Council actions via the CASA Microplastics Workgroup. CASA is working with SCCWRP to provide additional funding for testing of new sample collection and/or analysis methods.</li> </ul>	<p>BACWA Microplastics Fact Sheet:  <a href="https://bacwa.org/wp-content/uploads/2019/09/BACWA-Microplastics-flyer.pdf">https://bacwa.org/wp-content/uploads/2019/09/BACWA-Microplastics-flyer.pdf</a></p> <p>SFEI Microplastics project:  <a href="https://www.sfei.org/projects/microplastics">https://www.sfei.org/projects/microplastics</a></p> <p>Ocean Protection Council Microplastics Strategy:  <a href="https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/2022_0223/Item_6_Exhibit_A_Statewide_Microplastics_Strategy.pdf">https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/2022_0223/Item_6_Exhibit_A_Statewide_Microplastics_Strategy.pdf</a></p> <p>2024 California Integrated Report / 303(d) List  <a href="https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html">https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html</a></p>

**PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)**

<ul style="list-style-type: none"> <li>• Per- and polyfluoroalkyl substances (PFAS) are a group of human-made substances that are very resistant to heat, water, and oil. PFAS have been used in surface coating and protectant formulations. Common PFAS-containing products are non-stick cookware, cardboard/paper food packaging, water-resistant clothing, carpets, and fire-fighting foam.</li> <li>• Perfluorooctane sulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) are two types of PFAS no longer manufactured in the US; however, other types of PFAS are still produced and used in the US.</li> <li>• All PFAS are persistent in the environment, can accumulate within the human body, and have demonstrated toxicity at relatively low concentrations.</li> <li>• Potential regulatory efforts to address PFAS focus on drinking water in order to minimize human ingestion of these chemicals, although regulators have also expressed concern about uptake into food from biosolids.</li> <li>• In July 2020, the SWRCB issued an investigative order for POTWs. At that time, BACWA obtained SWRCB approval to fund and conduct a Regional PFAS Study in lieu of the investigative order.</li> <li>• In April 2021, the formation of an “EPA Council on PFAS” was announced.</li> </ul>	<ul style="list-style-type: none"> <li>• The EPA and State of California are developing drinking water standards for PFAS compounds. <ul style="list-style-type: none"> <li>○ DDW has developed drinking water notification levels (NLs) and response levels for PFOA, PFOS, and Perfluorobutane Sulfonic Acid (PFBS), Perfluorohexane Sulfonic Acid (PFHxS).</li> <li>○ EPA has released final health advisories for PFOA (0.004 ng/L) and PFOS (0.02 ng/L).</li> <li>○ In February 2023, EPA proposed Maximum Contaminant Levels for PFOA and PFOS as individual contaminants, and PFHxS, PFNA, PFBS, and HFPO-DA (commonly referred to as GenX Chemicals) as a PFAS mixture. By design, these MCLs are very close to the current limits of quantification.</li> </ul> </li> <li>• EPA is conducting pretreatment standards rulemaking for three types of industrial users: Metal Finishing, Organic Chemicals, Plastics and Synthetic Fibers, and landfills.</li> <li>• EPA is developing a new analytical method for PFAS in complex matrices like wastewater. Draft Method 1633 is expected to be finalized later in 2023.</li> <li>• In August 2022, EPA proposed a rule designating PFOA and PFOS as hazardous substances under CERCLA (the Superfund law). BACWA submitted a comment letter on the proposal (link at right).</li> <li>• In late 2022, EPA issued permitting guidance for pretreatment programs and NPDES permits. It recommends use of Draft Method 1633.</li> </ul>	<ul style="list-style-type: none"> <li>• BACWA’s Regional PFAS Study is being conducted by SFEI in two phases: <ul style="list-style-type: none"> <li>○ In Phase 1, fourteen representative facilities collected samples in Q4 2020 for influent, effluent, RO concentrate, and biosolids. BACWA prepared a Fact Sheet regarding Phase 1 results (see link at right).</li> <li>○ Sample collection for Phase 2 of the PFAS Regional Study was completed in mid-2022 and included sampling of influent, effluent, and biosolids; residential sewersheds, commercial and industrial users; hauled organic waste used as digester feed; and groundwater. Phase 2 study results will be shared with members in May 2023 once QA/QC is complete.</li> </ul> </li> <li>• BACWA’s Phase 2 study results could support new legislative efforts in 2023. For example, BAPPG submitted comments on legislation banning PFAS in menstrual products (AB246).</li> <li>• BACWA will continue tracking developments at the federal, state and regional level, in particular to understand the impact of the CERCLA designation on biosolids reporting.</li> </ul>	<p>BACWA PFAS Documents: <a href="https://bacwa.org/pfas-links/">https://bacwa.org/pfas-links/</a></p> <p>SWRCB PFAS Resources: <a href="https://www.waterboards.ca.gov/pfas/">https://www.waterboards.ca.gov/pfas/</a></p> <p>EPA PFAS Resources <a href="https://www.epa.gov/pfas">https://www.epa.gov/pfas</a></p> <p>EPA PFAS Strategic Roadmap <a href="https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024">https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</a></p> <p>EPA Proposed Drinking Water Regulations <a href="https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024">https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</a></p> <p>2022 PFAS Legislation Outcomes for CA: <a href="https://www.cwea.org/news/pfas-legislation-we-have-seen-in-2022/">https://www.cwea.org/news/pfas-legislation-we-have-seen-in-2022/</a></p> <p>BACWA Comment Letter on CERCLA Designation: <a href="https://bacwa.org/wp-content/uploads/2022/11/BACWA-PFAS-CERCLA-Ltr-2022-11-07.pdf">https://bacwa.org/wp-content/uploads/2022/11/BACWA-PFAS-CERCLA-Ltr-2022-11-07.pdf</a></p> <p>EPA NPDES Permitting Guidance (Dec. 2022) <a href="https://www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Me mo_December_2022.pdf">https://www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Me mo_December_2022.pdf</a></p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>SANITARY SEWER SYSTEMS GENERAL ORDER</b>			
<ul style="list-style-type: none"> <li>In 2022, the State Water Board reissued the statewide Sanitary Sewer Systems General Order (SSS-WDR). The reissued order replaces the 2006 Order and the 2013 Monitoring and Reporting Program. BACWA and partner organizations were successful in working with the State Water Board to make many favorable modifications to the draft prior to its final adoption.</li> <li>The State Water Board's goals for the update were: <ul style="list-style-type: none"> <li>Updating the 2006 Order</li> <li>Clarifying compliance expectations and enhancing enforceability</li> <li>Addressing system resiliency, including climate change impacts</li> <li>Identifying valuable data and eliminating non-valuable reporting requirements</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The reissued order effective date is June 5, 2023.</li> <li>The reissued SSS-WDR contains numerous new and modified requirements, such as: <ul style="list-style-type: none"> <li>A prohibition on discharges to groundwater;</li> <li>Reduced spill reporting requirements for small spills (spills from laterals or &lt;50 gallons);</li> <li>New spill monitoring requirements such as photo documentation and faster water quality sampling;</li> <li>New requirements for preparation of Sewer System Management Plans (SSMPs), including a focus on system resiliency, prioritizing corrective actions, and coordinating with stormwater agencies;</li> <li>Modified annual reporting requirements;</li> <li>New mapping requirements; and</li> <li>Modified timelines for preparation of audits and SSMPs. The State Water Board has prepared an online tool to assist agencies in determining compliance dates (at right).</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li><b>Sanitary Sewer System Agencies must certify continuing coverage in the reissued WDR by June 4th.</b> Other key deadlines before June 5<sup>th</sup> order effective date include: <ul style="list-style-type: none"> <li>Uploading existing SSMPs to CIWQS</li> <li>Updating Spill Emergency Response Plans</li> <li>Identifying an appropriate Legally Responsible Official</li> </ul> </li> <li>Work with the Collection System committee and CASA to identify and fulfill member needs for guidance and templates materials, such as guidance for Sewer System Management Plans.</li> <li>Continue to coordinate with CASA and CWEA on training opportunities for members as they transition to enrollment under the new SSS-WDR.</li> </ul>	<p>State Water Board SSS-WDR page: (includes training video on certifying continued coverage by June 4th)  <a href="https://www.waterboards.ca.gov/water_issues/programs/ssol/">https://www.waterboards.ca.gov/water_issues/programs/ssol/</a></p> <p>Reissued SSS-WDR (General Order 2022-0103-DWQ), Effective June 5, 2023  <a href="https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo_2022-0103-dwq.pdf">https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo_2022-0103-dwq.pdf</a></p> <p>Materials from Clean Water Summit Partners Webinars on Reissued SSS-WDR  <a href="https://casaweb.org/resources/speaker-presentations/">https://casaweb.org/resources/speaker-presentations/</a></p> <p>SSMP and Audit Due Dates Lookup Tool from State Water Board  <a href="https://www.waterboards.ca.gov/water_issues/programs/ssol/lookup/">https://www.waterboards.ca.gov/water_issues/programs/ssol/lookup/</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>LABORATORY ACCREDITATION</b>			
<ul style="list-style-type: none"> <li>• In May 2020, the State Water Board adopted new comprehensive regulations for the Environmental Laboratory Accreditation Program.</li> <li>• Adoption of the new regulations was required by AB 1438, legislation that became effective in 2018.</li> <li>• The new ELAP regulations are replacing the current state-specific accreditation standards with a national laboratory standard established by The NELAC Institute (TNI).</li> </ul>	<ul style="list-style-type: none"> <li>• The new ELAP regulations became effective as of <b>January 1, 2021</b>. Compliance with TNI standards is required beginning <b>January 1, 2024</b>.</li> <li>• Adoption of TNI standards poses a challenge since there are more than 1,000 individual requirements. Setup costs may include: <ul style="list-style-type: none"> <li>○ Hiring and/or training staff;</li> <li>○ Hiring consultants to set up the TNI documentation framework;</li> <li>○ Purchasing Laboratory Information Management System (LIMS) software;</li> <li>○ Purchasing documents and training material from TNI, etc.</li> </ul> </li> <li>• The new standards will be a particular burden on small laboratories, which may choose to close if they cannot economically meet the new standards.</li> <li>• ELAP's "Roadmap to ELAP Accreditation" Program is the outreach and training component of the new regulations. ELAP staff have presented to the Lab Committee in June 2020, February 2021, April 2021, June 2022, and April 2023.</li> <li>• The BACWA Lab Committee began providing monthly TNI training sessions beginning in July 2021. BACWA has provided funding for the TNI training sessions to continue through FY23.</li> </ul>	<ul style="list-style-type: none"> <li>• Offer monthly training sessions to BACWA members. The free virtual training sessions are open to BACWA members holding a valid copy of the 2016 TNI Standard, and are occurring on the 3<sup>rd</sup> Tuesday of each month. Training is provided by Diane Lawver of Quality Assurance Solutions, LLC, and other subject matter experts. BACWA's TNI training sessions are recorded, and a link is available upon request.</li> <li>• Communicate with ELAP staff on behalf of BACWA's Laboratory Committee as new guidance and training materials are developed for TNI implementation and methods updates.</li> <li>• Continue to work through BACWA's Laboratory Committee to support members as they navigate laboratory accreditation under the new TNI standards.</li> <li>• Publicize training opportunities offered by consultants, ELAP, and others.</li> <li>• Provide a forum for BACWA laboratories to share experiences and lessons learned from various approaches to TNI implementation.</li> </ul>	<p>State Water Board's 'Roadmap to ELAP Accreditation' page:  <a href="https://www.waterboards.ca.gov/drinking_water/certlic/labs/roadmap_to_elap_accreditation.html">https://www.waterboards.ca.gov/drinking_water/certlic/labs/roadmap_to_elap_accreditation.html</a></p> <p>Roadmap to Accreditation Presentation to BACWA Lab Committee:  <a href="https://bacwa.org/wp-content/uploads/2020/06/California-ELAP-Regulations-BACWA_06092020.pdf">https://bacwa.org/wp-content/uploads/2020/06/California-ELAP-Regulations-BACWA_06092020.pdf</a></p> <p>State Water Board's ELAP regulations page:  <a href="http://www.waterboards.ca.gov/drinking_water/certlic/labs/elap_regulations.shtml">http://www.waterboards.ca.gov/drinking_water/certlic/labs/elap_regulations.shtml</a></p> <p>Monthly Training Session flyer:  <a href="https://bacwa.org/wp-content/uploads/2021/07/BACWA-Lab-TNI-Training-Series-Flyer.pdf">https://bacwa.org/wp-content/uploads/2021/07/BACWA-Lab-TNI-Training-Series-Flyer.pdf</a></p> <p>ELAP Timeline Guidance Tool:  <a href="https://www.waterboards.ca.gov/drinking_water/certlic/labs/docs/2022/elap-scheduler-1-1.xlsx">https://www.waterboards.ca.gov/drinking_water/certlic/labs/docs/2022/elap-scheduler-1-1.xlsx</a></p>



## PHASE-OUT OF BIOSOLIDS AS ALTERNATIVE DAILY COVER

<ul style="list-style-type: none"> <li>Regulatory drivers are indicating that biosolids used as alternative daily cover (ADC) or disposed in landfills will be phased out. SB 1383, adopted in September 2016 requires organics diversion: <ul style="list-style-type: none"> <li>-50% by 2020 (relative to 2014)</li> <li>-75% by 2025 (relative to 2014)</li> </ul> CalRecycle is the state agency responsible for implementation. </li> <li>Regulations implementing SB 1383 went into effect in 2022. Jurisdictions can begin local enforcement January 1, 2024, and compliance is required by January 1, 2025. Requirements include: <ul style="list-style-type: none"> <li>Diverted biosolids must be anaerobically digested and/or composted to qualify as landfill reduction.</li> <li>CalRecycle is accepting applications to qualify other specific treatment technologies as landfill reduction (per Article 2 of SB 1383).</li> <li>Local ordinances restricting land application are disallowed.</li> </ul> </li> <li>While the regulations implementing SB 1383 do not explicitly forbid biosolids disposal/reuse in landfills, it is assumed that since biosolids are a relatively "clean" waste stream that can be easily diverted, landfills will stop accepting biosolids.</li> <li>The Bay Area Biosolids Coalition (BABC) was formed to find sustainable, cost-effective, all-weather options for biosolids management. BABC is a BACWA Project of Special Benefit.</li> </ul>	<ul style="list-style-type: none"> <li>BACWA's 2021 Biosolids Trends Survey Report compiles member agency activities in 2018-2020, as well as survey responses regarding SB 1383 implementation.</li> <li>Jurisdictions that divert organic waste must also procure the end products of diversion, such as biogas, biomethane, and compost (but not biosolids). Procurement rules are being phased in over three years (2023 to 2025) and there are interim rules regarding procurement of biogas from POTWs.</li> <li>Currently, some County ordinances restrict the beneficial use of biosolids. CalRecycle considers bans on land application to be unenforceable and has agreed to approach counties with restrictive ordinances to conduct outreach and assess compliance.</li> <li>AB 1857, signed in 2022, removes a diversion credit for municipal solid waste incinerators. CalRecycle will soon prepare draft regulations implementing the law, which could be applicable to biosolids treated using pyrolysis.</li> <li>The <i>Biosolids in the Baylands</i> white paper was released in 2022 by the San Francisco Bay Joint Venture. The white paper identifies data gaps that need to be filled. Studies funded by BACWA and BABC (e.g., PFAS) and other current studies will be considered to help fill remaining data gaps before identifying new monitoring requirements at land applications sites.</li> </ul>	<ul style="list-style-type: none"> <li>Engage through CASA and BABC to follow development of regulations implementing AB 1857, with the goal of avoiding limits on POTWs using pyrolysis for organic waste management.</li> <li>Continue to engage with the Regional Water Board regarding supplemental monitoring requirements for biosolids land application sites in the Baylands.</li> <li>Actively work through CASA with California Air Resource Board, CalRecycle, State Water Board, and California Department of Food and Agriculture to develop sustainable long-term options for biosolids beneficial use.</li> <li>Meet with BAAQMD regularly in 2023 to discuss alignment of state and local regulations.</li> </ul>	<p>BACWA 2021 Biosolids Trends Survey Report: <a href="https://bacwa.org/wp-content/uploads/2021/12/BACWA-2021-Biosolids-Trends-Survey-Report.pdf">https://bacwa.org/wp-content/uploads/2021/12/BACWA-2021-Biosolids-Trends-Survey-Report.pdf</a></p> <p>BABC website: <a href="http://www.bayareabiosolids.com/">http://www.bayareabiosolids.com/</a></p> <p>CASA White Paper on SB 1383 Implementation: <a href="https://bacwa.org/document/summary-of-sb-1383-and-its-implementation-casa-2020/">https://bacwa.org/document/summary-of-sb-1383-and-its-implementation-casa-2020/</a></p> <p>CalRecycle website for California Short-Lived Climate Pollutant Reduction Strategy <a href="https://www.calrecycle.ca.gov/organics/slcp">https://www.calrecycle.ca.gov/organics/slcp</a></p> <p>CalRecycle Procurement FAQ (Updated per AB 1985) <a href="https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/">https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/</a></p> <p><i>Biosolids in the Baylands</i> White Paper <a href="https://bacwa.org/wp-content/uploads/2022/07/Biosolids-in-the-Baylands-White-Paper-March-2022.pdf">https://bacwa.org/wp-content/uploads/2022/07/Biosolids-in-the-Baylands-White-Paper-March-2022.pdf</a></p> <p>Viewpoint Video <a href="https://www.viewpointproject.com/ptv-segments-biosolids/">https://www.viewpointproject.com/ptv-segments-biosolids/</a></p>
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## CLIMATE CHANGE MITIGATION

<ul style="list-style-type: none"> <li>• CARB's Climate Change Scoping Plan Update lays out the approach for the State to meet its greenhouse gas (GHG) emissions reduction targets through 2030. The latest Scoping Plan was updated in 2022 targeting carbon neutrality by 2045, including policies addressing: <ul style="list-style-type: none"> <li>○ Short-lived climate pollutants</li> <li>○ Carbon sequestration on Natural and Working Lands</li> <li>○ Largest emitters (transportation, electricity, and industrial sectors)</li> </ul> </li> <li>• SB 1383 (Short-Lived Climate Pollutant Reduction) calls for: <ul style="list-style-type: none"> <li>○ 40% methane reduction by 2030</li> <li>○ 75% diversion of organic waste from landfills by January 1, 2025</li> <li>○ Policy / regulatory development encouraging production/use of biogas</li> </ul> </li> <li>• BAAQMD developed a Clean Air Plan requiring GHG emissions supporting CARB's 2050 target (80% below 1990 levels).</li> <li>• BAAQMD proposed the development of Regulation 13 (climate pollutants) targeting methane and nitrous oxide reductions related to organics diversion and management. After a pause of several years, BAAQMD may revisit Regulation 13 later in 2023.</li> <li>• CARB states POTWs are part of the solution for reducing fugitive methane and encourages diversion of organics to POTWs to use available digester capacity and produce biogas.</li> </ul>	<ul style="list-style-type: none"> <li>• CARB is pursuing rapid fleet conversion to zero-emission vehicles (ZEVs), including medium and heavy-duty vehicles, through the Advanced Clean Fleet rule. The proposed regulations will allow organizations to opt into one of two programs: <ul style="list-style-type: none"> <li>○ <b>Public Fleets:</b> With exceptions, requiring 50% of vehicles added to be ZEV by 2024, and 100% by 2027.</li> <li>○ <b>High Priority Fleet (Group 3):</b> With exceptions, requiring 10% of vehicles added to be ZEV by 2030 and 100% by 2042.</li> </ul> </li> <li>• Complete conversion will be difficult for heavy-duty specialty trucks, and will remove a potential market for biogas. CASA is engaging to request continued allowance of biogas as a sustainable transportation fuel.</li> <li>• In addition to pushing for ZEVs, CARB is proposing changes to the Low Carbon Fuel Standard that reflect increasing emphasis on hydrogen as a transportation fuel. Conversion of biogas into hydrogen is currently in research &amp; development stage.</li> <li>• Many POTWs are exploring energy generation, but BAAQMD air toxics regulations could make such programs more difficult to implement. Direct injection of biogas to PG&amp;E's pipelines or use as a transportation fuel may be more efficient.</li> <li>• In late 2022, EPA released a draft proposal for apportionment of renewable fuel credits (RINs) for food waste-based and sludge-based biogas.</li> </ul>	<ul style="list-style-type: none"> <li>• Closely follow rule development of Regulation 13 (climate pollutants), which BAAQMD plans to revisit later in 2023.</li> <li>• The Advanced Clean Fleet rule was adopted April 28, 2023 with a Board Resolution directing staff to work with CASA to implement SB 1383 and preserve multiple uses of biomethane. BACWA is supporting CASA's enhanced advocacy to CARB to preserve existing pathways that allow biogas to be used for fueling vehicles. The outreach is required so that biogas produced at treatment plants continues to have a permissible and economical end use, and so utilities have reliable power for heavy-duty vehicles.</li> <li>• Look for ways to inform BAAQMD on opportunities and challenges for climate change mitigation by Bay Area POTWs, including education about anaerobic digesters and POTW operations.</li> <li>• Work with PG&amp;E and BAAQMD to explore options for POTWs to inject biogas into PG&amp;E pipelines. In February 2022, the CPUC approved a mandatory biomethane procurement program for CA's four large gas IOUs (including PG&amp;E) under SB 1440. CASA has been discussing the barriers to pipeline injection with CPUC and CalOSHA staff.</li> </ul>	<p>Climate Change Scoping Plan, including 2022 Update:  <a href="https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan">https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan</a></p> <p>CARB Low Carbon Fuel Standard:  <a href="https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard">https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard</a></p> <p>CARB Advanced Clean Fleet Rule:  <a href="https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets">https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets</a></p> <p>SB 1383:  <a href="https://www.calrecycle.ca.gov/organics/slcp">https://www.calrecycle.ca.gov/organics/slcp</a></p> <p>BAAQMD Clean Air Plan:  <a href="http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans">http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans</a></p> <p>BAAQMD Regulation 13  <a href="http://www.baaqmd.gov/rules-and-compliance/rules/regulation-13-climate-pollutants">http://www.baaqmd.gov/rules-and-compliance/rules/regulation-13-climate-pollutants</a></p> <p>EPA Renewable Fuel Standards  <a href="https://www.epa.gov/renewable-fuel-standard-program/proposed-renewable-fuel-standards-2023-2024-and-2025">https://www.epa.gov/renewable-fuel-standard-program/proposed-renewable-fuel-standards-2023-2024-and-2025</a></p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>CLIMATE CHANGE ADAPTATION</b>			
<ul style="list-style-type: none"> <li>Climate change and water resilience are a strategic priority of both the State Water Board and Regional Water Board.</li> <li>In April 2019, Governor Newsom signed Executive Order N-10-19 directing State Agencies to recommend a suite of priorities and actions to build a climate-resilient water system and ensure healthy waterways through the 21st century.</li> <li>Bay Area coordination occurs through Bay Adapt, the Bay Area Climate Adaptation Network (BayCAN), and other venues. BACWA has signed a letter of support for the Bay Adapt Joint Platform.</li> <li>In April 2022, the State released a Climate Adaptation Strategy, including an updated climate change assessment for the Bay Area region.</li> <li>The California Coastal Commission's November 2021 <i>Sea Level Rise Planning Guidance</i> recommends that agencies "understand and plan" for 2.7 feet of sea level rise by 2050.</li> <li>The Regional Water Board is modifying the Basin Plan to address climate change and wetland policy. The changes will occur through multiple Basin Plan amendments.</li> </ul>	<ul style="list-style-type: none"> <li>In 2022, the Regional Water Board adopted a Climate Change Basin Plan amendment addressing dredge and fill procedures near the region's shorelines, especially for climate adaptation projects.</li> <li>Separately from the Basin Plan amendment, the NDPES division has released information regarding NPDES permitting of nature-based solutions.</li> <li>Shallow groundwater response to Sea Level Rise is a concern in low-lying Bay Area communities. Information about current and future depth-to-groundwater maps is summarized in a January 2023 report now available from Pathways Climate Institute and SFEI.</li> <li>In 2023, the Bay Conservation and Development Commission (BCDC) plans to develop "Regional Shoreline Adaptation Guidance" and standards for the Bay Area.</li> </ul>	<ul style="list-style-type: none"> <li>Follow up with members regarding sea level rise planning, as discussed at a member agency roundtable in August 2022. Prepare for engagement with the Regional Water Board on expectations for sea level rise planning</li> <li>Work with members to identify a suitable way to track sea level rise adaptation plans, per the request of Regional Water Board staff.</li> <li>Engage with BCDC during the agency's development of Regional Shoreline Adaptation Plan guidance, which will likely impact most BACWA member agencies. BACWA is participating in an advisory group for the Regional Shoreline Adaptation Plan.</li> <li>Continue to work with Regional Water Board and other resource agencies to look for regulatory solutions to encourage wetlands projects for shoreline resiliency.</li> </ul>	<p>California Coastal Commission's <i>Critical Infrastructure at Risk</i>  <a href="https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf">https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf</a></p> <p>OPC Sea Level Rise Action Plan – August 2022  <a href="https://www.opc.ca.gov/webmaster/media_library/2022/08/SLR-Action-Plan-2022-508.pdf">https://www.opc.ca.gov/webmaster/media_library/2022/08/SLR-Action-Plan-2022-508.pdf</a></p> <p>Climate Change Basin Plan Amendment  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2022/July/7_ssr.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2022/July/7_ssr.pdf</a></p> <p>California Climate Adaptation Strategy  <a href="https://climateresilience.ca.gov">https://climateresilience.ca.gov</a></p> <p>BayCAN Funding Tracker  <a href="https://www.baycanadapt.org/">https://www.baycanadapt.org/</a></p> <p>Bay Adapt Joint Platform  <a href="https://www.bayadapt.org/">https://www.bayadapt.org/</a></p> <p>NPDES Permitting for Nature-Based Solutions  <a href="https://bacwa.org/wp-content/uploads/2022/08/NPD-ES-Permitting-for-Nature-Based-Solutions-5.pdf">https://bacwa.org/wp-content/uploads/2022/08/NPD-ES-Permitting-for-Nature-Based-Solutions-5.pdf</a></p> <p>2023 Report on Shallow Groundwater Response  <a href="https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise">https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise</a></p>

**TOXIC AIR CONTAMINANTS**

<ul style="list-style-type: none"> <li>• Regulation 11, Rule 18 (Rule 11-18), adopted in 2017, is BAAQMD's local effort to protect public health from toxic air pollution from existing facilities, including POTWs.</li> <li>• Per the Rule, BAAQMD will conduct site-specific Health Risk Screening Analyses (HRSAs) and determine each facility's prioritization score (PS). BAAQMD will conduct Health Risk Assessments (HRAs) for all facilities with a cancer PS&gt;10 or non-cancer PS&gt;1.0. After verifying the model inputs, if the facility still has PS above that threshold, that facility would need to develop and implement a Risk Reduction Plan that may include employing Best Available Retrofit Control Technology for Toxics (TBARCT).</li> <li>• AB 617 (Community Air Protection Program) – requires CARB to harmonize community air monitoring, reporting, &amp; local emissions reduction programs for air toxics and GHGs). POTWs within communities already impacted by air pollution may have to accelerate implementation of risk reduction measures.</li> <li>• AB 2588 (Air Toxics “Hot Spots” Program) - Establishes a statewide program for the inventory of air toxics emissions from individual facilities, as well as requirements for risk assessment and public notification of potential health risks. 2020 updates expanded compound list from &gt;500 to &gt;1,700.</li> </ul>	<ul style="list-style-type: none"> <li>• BACWA developed a White Paper on BAAQMD Rule 11-18 to describe its potential impacts on the POTW community.</li> <li>• In response to planning and budgeting challenges identified by the AIR Committee, BAAQMD moved all POTWs to Phase 2 to give sufficient time to update the model's inputs, and plan for emissions reduction or TBARCT, as needed.</li> <li>• AIR Committee gathered data on proximity factors from each facility and submitted to BAAQMD for updating prioritization scores, which will be use in HRA development.</li> <li>• In the <i>Final Statement of Reasons</i> for rulemaking on AB 617 and AB 2588, CARB provided the wastewater sector time to develop a short-list of relevant compounds and perform a pooled emissions estimating effort to update outdated default emission factors (through 2028).</li> <li>• In December 2021, BAAQMD amended Rule 2-5 to reduce allowable levels of toxic air contaminants in new source permitting. In March 2022, BAAQMD and BACWA convened a working group to address concerns related to toxic air contaminants and rule-making, which is meeting quarterly. BACWA is coordinating with BAAQMD about implementation of the two-step process and its timing relative to BAAQMD Rule 11-18 and 2-5.</li> </ul>	<ul style="list-style-type: none"> <li>• Continue participating in the BAAQMD working group to discuss toxic air contaminants, rule development, and related air quality regulatory issues.</li> <li>• <b>Report “business as usual” for air toxics through 2028 (for year 2027 data).</b> If BAAQMD requests additional monitoring of air toxics, member agencies should refer to the one-page handout on this topic prepared by CASA. The wastewater sector has until 2028 to perform a statewide “two-step process” to determine a shortlist of compounds relevant to the wastewater sector to report.</li> <li>• Continue to Participate in CASA Subgroup meetings to plan the "two-step process" study.</li> <li>• <b>For budget planning purposes, BACWA members with permitted capacity &gt; 5 MGD should expect the study to cost approximately \$2,300 per MGD of permitted average dry weather flow.</b> Study costs will be refined and spread over four fiscal years. BACWA will assist CASA in collecting funds for this effort from participants who are BACWA's members. BACWA members should anticipate budgeting for this process beginning in FY25.</li> </ul>	<p>BAAQMD Rule 11-18 page: <a href="https://www.baaqmd.gov/rules-and-compliance/rules/regulation-11-rule-18-reduction-of-risk-from-air-toxic-emissions-at-existing-facilities">https://www.baaqmd.gov/rules-and-compliance/rules/regulation-11-rule-18-reduction-of-risk-from-air-toxic-emissions-at-existing-facilities</a></p> <p>BAAQMD Rule 2-5 <a href="https://www.baaqmd.gov/rules-and-compliance/rules/reg-2-permits?rule_version=2021%20Amendments">https://www.baaqmd.gov/rules-and-compliance/rules/reg-2-permits?rule_version=2021%20Amendments</a></p> <p>Rule 11-18 Process Flowchart: <a href="https://bacwa.org/document/baaqmd-11-18-process-flowchart-08-17-17/">https://bacwa.org/document/baaqmd-11-18-process-flowchart-08-17-17/</a></p> <p>CARB page on AB 617 and AB 2588: <a href="https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting">https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting</a> <i>Final Statement of Reasons</i> <a href="https://ww3.arb.ca.gov/board/15day/ctr/fsor.pdf">https://ww3.arb.ca.gov/board/15day/ctr/fsor.pdf</a></p> <p>CASA One-Page Handout on Air Toxics Reporting <a href="https://bacwa.org/wp-content/uploads/2022/03/CTR-EICG_CASAOnePageIssue-Approach_March2022.pdf">https://bacwa.org/wp-content/uploads/2022/03/CTR-EICG_CASAOnePageIssue-Approach_March2022.pdf</a></p> <p>Timing of Rule 11-18 vs. Process for AB 617 <a href="https://bacwa.org/document/baaqmd-rule-11-18-vs-carb-two-step-process-for-ab-617-feb-2023/">https://bacwa.org/document/baaqmd-rule-11-18-vs-carb-two-step-process-for-ab-617-feb-2023/</a></p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>RECYCLED WATER</b>			
<ul style="list-style-type: none"> <li>Approximately 10 percent of the municipal wastewater of Region 2 POTWs is currently recycled. Expansion of recycled water projects is a goal of many BACWA members, but implementation is slowed by high costs, regulatory uncertainty, and administrative requirements.</li> <li>As of 2018, the State Water Board has adopted uniform water recycling criteria for two types of Indirect Potable Reuse: surface water augmentation and groundwater augmentation.</li> <li>As of 2020, virtually all recycled water in Region 2 was produced at centralized facilities using municipal wastewater, and was treated to meet standards for non-potable reuse.</li> <li>The State Water Board is developing regulations for Direct Potable Reuse. Regulations for raw water augmentation must be adopted by December 31, 2023. The State Water Board is pursuing a regulatory path that also includes treated water augmentation. The State Water Board will issue draft regulations for Direct Potable Reuse in spring 2023.</li> </ul>	<ul style="list-style-type: none"> <li>Beginning in 2020, all agencies have been required to report monthly wastewater and recycled water volumes into the State’s Geotracker database. The 2023 survey included new questions about future plans for increased recycled water production.</li> <li>The State Water Board is currently developing standards for onsite treatment and reuse of non-potable water in multi-family, mixed use, and commercial buildings. Draft regulatory concepts for onsite non-potable reuse were released in August 2022. The State Water Board is expected to begin rulemaking for onsite non-potable recycled water by late spring and complete the regulations by the end of 2023.</li> <li>BACWA is currently completing a Regional Evaluation of Potential Nutrient Discharge Reduction by Water Recycling, as required by the 2<sup>nd</sup> Nutrient Watershed Permit.</li> <li>The State Water Board is launching a “Strike Team” to assess how California will meet new recycled water goals listed in California’s Water Supply Strategy (August 2022). The new goals call for 800,000 acre-feet per year of recycled water by 2030 and 1.8 million acre-feet per year by 2040. The Strike Team will also document challenges to meeting these goals, including but not limited to funding.</li> </ul>	<ul style="list-style-type: none"> <li><b>This spring, BACWA members should plan to sign off on individual facility reports and review the draft overall report for the Regional Evaluation of Potential Nutrient Discharge Reduction.</b> The consultant team has completed most individual reports, and will produce the overall draft report by May 2023. The overall report, including individual facility reports, must be submitted by July 1, 2023.</li> <li>Review draft regulations for Direct Potable Reuse and Onsite Non-potable Reuse and work through Recycled Water committee to develop comments, as needed.</li> <li>Track California legislation with potential impacts on recycled water funding, mandates, or regulations.</li> </ul>	<p>Water Boards Recycled Water Policy and Regulations  <a href="https://www.waterboards.ca.gov/water_issues/programs/recycled_water/">https://www.waterboards.ca.gov/water_issues/programs/recycled_water/</a></p> <p>Direct Potable Reuse framework documents  <a href="https://www.waterboards.ca.gov/drinking_water/certlic/drinkinwater/direct_potable_reuse.html">https://www.waterboards.ca.gov/drinking_water/certlic/drinkinwater/direct_potable_reuse.html</a></p> <p>Volumetric Annual Reporting Data:  <a href="https://www.waterboards.ca.gov/water_issues/programs/recycled_water/volumetric_annual_reporting.html">https://www.waterboards.ca.gov/water_issues/programs/recycled_water/volumetric_annual_reporting.html</a></p> <p>Special Studies of Recycled Water and Nature-Based Systems:  <a href="https://bacwa.org/document-category/2nd-watershed-permit-studies/">https://bacwa.org/document-category/2nd-watershed-permit-studies/</a></p> <p>California’s Water Supply Strategy (August 2022)  <a href="https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf">https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf</a></p>

Previously covered issues with no updates can be found in previous [BACWA issues summaries](#).

**ACRONYMS**

ADC	Alternate Daily Cover	PCB	Polychlorinated Biphenyl
BAAQMD	Bay Area Air Quality Management District	PFAS	Per- and Polyfluoroalkyl Substances
BACT	Best Available Control Technology	PFBS	Perfluorobutane Sulfonic Acid
BCDC	Bay Conservation and Development Commission	PFHxS	Perfluorohexane Sulfonic Acid
BTU/SCF	British thermal units per standard cubic foot	PFOA	Perfluorooctanoic Acid
CalDPR	California Department of Pesticide Registration	PFOS	Perfluorooctane Sulfonic Acid
CARB	California Air Resources Board	POTW	Publicly Owned Treatment Works
CASA	California Association of Sanitation Agencies	PS	Prioritization Score
CAP	Criteria Air Pollutant	RMP	Regional Monitoring Program
CEC	Compound of Emerging Concern	RPA	Reasonable Potential Analysis
CIWQS	California Integrated Water Quality System	SCAP	Southern California Alliance of POTWs
CVCWA	Central Valley Clean Water Agencies	SF Bay	San Francisco Bay
CWEA	California Water Environment Association	SFEI	San Francisco Estuary Institute
DDW	Division of Drinking Water, State Water Resources Control Board	SSMP	Sewer System Management Plan
EC25/IC25	25% Effect Concentration/25% Inhibition Concentration	TMDL	Total Maximum Daily Load
ELAP	Environmental Laboratory Accreditation Program	TIN	Total Inorganic Nitrogen
ELTAC	Environmental Laboratory Technical Advisory Committee	TNI	The NELAC Institute
EPA	United States Environmental Protection Agency	TST	Test of Significant Toxicity
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act	WQBEL	Water Quality Based Effluent Limitation
FY	Fiscal Year	WQO	Water Quality Objective
GHG	Greenhouse Gas	ZEV	Zero-Emission Vehicle
HRSA	Health Risk Screening Analyses		
HRA	Health Risk Assessment		
MCL	Minimum Contaminant Level (Drinking Water)		
MGD	Million Gallons per Day		
NACWA	National Association of Clean Water Agencies		
NELAC	National Environmental Laboratory Accreditation Conference		
NMS	Nutrient Management Strategy		
OEHHA	Office of Environmental Health Hazard Assessment		
OPC	Ocean Protection Council		



**ITEM NO. RA6 REGULATORY REPORTING CHECKLIST**

**Recommendation**

For the Committee’s information only; no action is required.

**Background**

Authority staff maintains a checklist of all regulatory reporting and related tasks to ensure timely and complete reporting.

**Discussion**

The following checklist is extracted from a complete list of routine regulatory activities addressed throughout the year. The following items were completed during the period of February 1, 2023 through May 31, 2023; there are no outstanding activities.

<i>Authority</i>	<i>Required Action</i>	<i>Occurrence</i>	<i>Date Completed</i>
Bay Area Air Quality Management District	Complete <i>Data Update</i> form Plant #13187 - Permit Expiration Date: May 1, 2023	Annual	2/10/2023
State Controller’s Office	Government Compensation in CA Report (GCC)	Annual	3/8/2023
Bay Area Air Quality Management District	Pay renewal fee for <i>Permit to Operate</i> Plant #13187	Annual	3/14/2023
System for Award Management	Renew entity registration (See: sam.gov) Renewal Date: March 25, 2023	Annual	3/21/2023
Alliant Insurance Services, Inc	CSRMA Property Insurance Program Renewal	Annual	3/29/2023
Fair Political Practices Commission	Statement of Economic Interests, Form 700 filing with Alameda County	Annual	4/3/2023
Alliant Insurance Services, Inc	CSRMA AMVP Auto Physical Damage Insurance Program Renewal	Annual	4/18/2023
State Water Resources Control Board	NPDES Quarterly Report (Jan-Mar)	Quarterly	4/27/2023
State Water Resources Control Board	Influent and Recycled Water Volumetric Reporting	Annual	4/27/2023
ADP Business Payroll	Payroll Quarter-End Tax Return Download	Quarterly	5/3/2023
Bureau of Labor Statistics	Report monthly employment figures, include Commissioners and Staff	Monthly	5/15/2023
East Bay Dischargers Authority	Website review/update	Monthly	5/15/2023
Regional Water Quality Control Board	Recycled Water monthly reports	Monthly	5/25/2023
State Water Resources Control Board	NPDES monthly reports	Monthly	5/30/2023
Regional Monitoring Program % SFEI	Participant Fee Installment (See: annual invoice)	Semi-Annual	5/31/2023

**ITEM NO. RA7 RESOLUTION ADOPTING FINDINGS OF CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE CARGILL MIXED SEA SALTS PROCESSING AND BRINE DISCHARGE PROJECT**

**Recommendation**

Approve a resolution certifying the Environmental Impact Report (EIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project

**Background**

At its July 2020 meeting, the Commission approved a non-binding Term Sheet with Cargill, Incorporated (Cargill) to jointly develop a project to introduce mixed sea salt (MSS) brine from Cargill's Newark facility into EBDA's system for discharge to San Francisco Bay (Project). In February 2021, the Commission approved a California Environmental Quality Act (CEQA) Review and Reimbursement Agreement between EBDA and Cargill. Under the agreement, EBDA committed to act as the CEQA Lead Agency to analyze environmental impacts associated with the overall Project, which includes construction of a pump station at Cargill's facility, a pipeline connecting Cargill's facility to EBDA's transport system downstream of the Oro Loma Effluent Pump Station (OLEPS), and discharge of the MSS brine through EBDA's system.

Following a Request for Proposals process, Ascent Environmental, Inc. (Ascent) was selected as the consultant to perform the environmental impacts analysis for the project. The Commission approved a contract with Ascent in June 2021, and subsequently amended it in November 2021.

Ascent prepared, and EBDA released, a Draft EIR analyzing the environmental impacts of the proposed Project for public review and comment in January 2023. On June 5, 2023, EBDA released the Final EIR, including responses to comments received on the Draft EIR. The EIR is posted on [EBDA's website](#) and has been provided to Commission for its review and certification.

**Discussion**

Approval of a project under CEQA requires three steps: (1) certification of the environmental review document (in this case, the EIR); (2) adoption of CEQA findings regarding the environmental impacts of the project and adoption of mitigation measures; and (3) approval of the project.

Here, the Commission is only considering the first step of the process—certification of the EIR. After the Commission has certified the EIR, the Commission may then consider whether to approve the project. Approval of the proposed Project would occur if the Commission approves a Project Development and Operating Agreement with Cargill, which staff is currently negotiating with Cargill. The Agreement, along with the required CEQA findings based on the certified EIR, will be brought to the Commission for consideration in the coming months.

If the Authority certifies the EIR, other agencies may then rely upon it for approval of actions related to the proposed Project. Union City is expected to rely on the certified EIR when it considers Cargill's proposal to place underground pipeline when Union City constructs its bike lane project, tentatively scheduled for consideration and possible approval in July and August 2023.

**EAST BAY DISCHARGERS COMMISSION**  
**EAST BAY DISCHARGERS AUTHORITY**  
**ALAMEDA COUNTY, CALIFORNIA**

RESOLUTION NO. 23-06

INTRODUCED BY \_\_\_\_\_

**RESOLUTION ADOPTING FINDINGS OF CERTIFICATION OF THE  
ENVIRONMENTAL IMPACT REPORT FOR THE CARGILL MIXED SEA SALTS  
PROCESSING AND BRINE DISCHARGE PROJECT**

**WHEREAS**, Cargill, Incorporated (Cargill) has proposed construction of new pipelines and pumping facilities within Cargill's Solar Salt Facility in Newark, CA, and construction of approximately 16 miles of new underground pipeline to connect the Solar Salt Facility to East Bay Dischargers Authority's outfall system on the site of the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant (Project), and

**WHEREAS**, as proposed by Cargill, the Project would enhance extraction of additional salts from the mixed sea salts (MSS) inventory, dissolve the residual MSS to produce a brine to be blended with and further diluted by Member Agency effluent and then discharged back into the Bay, in accordance with the Authority's National Pollutant Discharge Elimination System (NPDES) permit, and

**WHEREAS**, the Authority prepared an Environmental Impact Report (SCH #2022050436) (EIR) consisting of the Draft EIR and Responses to Comments/Final EIR pursuant to the California Environmental Quality Act (CEQA; Public Resources Code § 21000 et seq.) to analyze the environmental effects of the Project, and

**WHEREAS**, CEQA and section 15000 et. seq. of Title 14 of the California Code of Regulations (CEQA Guidelines), which govern the preparation, content, and processing of environmental impact reports, have been fully implemented in the preparation of the EIR; and

**WHEREAS**, the Authority filed a notice of preparation (NOP) on May 20, 2022 for a Draft EIR for the proposed Project, and distributed a revised NOP on July 8, 2022, and

**WHEREAS**, the Authority prepared and on January 4, 2023 distributed the Draft EIR for the project for a 45-day public review and comment period, which concluded on February 17, 2023, and

**WHEREAS**, the Draft EIR was posted at the State Clearinghouse, and the notice

of availability of the Draft EIR was mailed to relevant public agencies, responsible and trustee agencies, and interested parties, and

**WHEREAS**, the Authority held a public meeting to present the findings from and receive comments on the Draft EIR on January 24, 2023, and

**WHEREAS**, the Authority prepared a Responses to Comments/Final EIR which was released to the public, including commenting agencies, on June 5, 2023, which responded to all comments received on the Draft EIR during the comment period; and

**WHEREAS**, a full description of the proposed Project analyzed in the EIR is included in Chapter 2 of the Draft EIR with additional information provided in the Final EIR, all of which are incorporated herein by reference, and

**WHEREAS**, the EIR describes the objectives that EBDA and Cargill seek to achieve with the proposed project are as follows:

- Provide wastewater disposal capacity and services to Cargill in a manner that provides economic advantage to EBDA Member Agencies, with emphasis on offsetting and reducing expenses to EBDA and its ratepayers, and furthers the purpose and goals of EBDA's Joint Powers Agreement.
- Further EBDA's sustainability objectives, including those in support of reclamation and reuse of wastewater, by creating or facilitating the creation of permanent infrastructure available for future regional water recycling efforts by EBDA and/or EBDA Member Agencies.
- Balance any impacts due to disruption to local jurisdictions with impacts to sensitive environments.
- Develop new infrastructure to process MSS brine with minimal exposure to disruptions, including connecting with and optimizing existing EBDA infrastructure to use EBDA's excess capacity for processing and blending MSS brine.
- Utilize strategic connection to an existing deep-water outfall to minimize impacts to water quality and aquatic resources in receiving waters associated with the discharge of residual MSS brine.
- Facilitate the timely harvest of liquid bittern from the MSS in Cargill's Solar Salt Facility on-site ponds and ensure that MSS brine is efficiently, sustainably, and responsibly handled at all stages, including collection, transmission, and disposal.
- Prevent operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds due to sea level rise, and

**WHEREAS**, the EIR, Chapter 5, describes and evaluates the environmental impacts of the following alternatives in the EIR: No Project Alternative, In-Pipe Alternative, and Bayside Parallel Pipe Alternative, and

**WHEREAS**, notice of and access to the Final EIR was provided to those state and

local agencies and interested parties who commented on the DEIR and posted on the Authority's website, and

**WHEREAS**, pursuant to CEQA Guidelines, responses to public agency comments on the Draft EIR have been published and made available to all commenting agencies at least 10 days prior to the final certification hearing, and

**WHEREAS**, in accordance with CEQA section 21167.6(e), the record of proceedings for the Authority's decision on the EIR, without limitation, shall include the following documents:

- The NOPs (May 20, 2022, revised July 8, 2022) and all other public notices issued by the Authority in conjunction with the scoping period for the Draft EIR on the proposed project;
- All comments submitted by agencies, organizations, and members of the public during the scoping period in response to the NOP;
- The Draft EIR (January 4, 2023) for the project (State Clearinghouse No. 2022050436);
- All comments submitted by agencies, organizations, and members of the public during the comment period on the Draft EIR;
- The Final EIR for the project (June 5, 2023), including comments received on the Draft EIR and responses to those comments, as well as revisions to the Draft EIR;
- Documents cited or referenced in the Draft EIR and Final EIR;
- All findings and resolutions adopted by the Authority in connection with the Project and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents related to the project prepared by the Authority, its consultants, and responsible or trustee agencies with respect to the Authority's compliance with the requirements of CEQA and with respect to the Authority's action on the project;
- All documents submitted to the Authority by other public agencies or members of the public in connection with the Project;
- All minutes and/or verbatim transcripts, as available, of all public meetings held by the Authority in connection with the project;
- Any documentary or other evidence submitted to the Authority at such public meetings;
- Any other materials required to be in the record of proceedings by CEQA section 21167.6(e), and

**WHEREAS**, all files have been made available to the Commission in considering these findings, and

**WHEREAS**, the Commission has had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR, and



**WHEREAS**, the Authority recognizes that the FEIR incorporates information obtained and produced after the DEIR was completed, and that the FEIR contains additions, clarifications, and modifications, and

**WHEREAS**, the Authority has reviewed and considered the FEIR and all of this information, and the new information added in the FEIR merely clarifies and makes insignificant changes to an adequate DEIR, and does not add significant new information to the DEIR or that the public was deprived of a meaningful opportunity to review and comment on the DEIR, that would require recirculation of the EIR under CEQA.

**WHEREAS**, the Authority finds that the changes and modifications made to the EIR after the DEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or CEQA Guidelines section 15088.5.

**WHEREAS**, the EIR has been reviewed and recommended for certification by the Regulatory Affairs Committee.

**NOW, THEREFORE, BE IT RESOLVED** that the Authority hereby certifies the EIR for the Project, pursuant to CEQA Guidelines, section 15090(a), based on the following findings:

- That the EIR has been completed in compliance with CEQA and the CEQA guidelines.
- The Authority has independently reviewed and considered the record and the EIR prior to certifying the EIR.
- The EIR represents the independent judgment, review and analysis of the Authority.
- The EIR provides information to the decision-makers and the public on the environmental consequences of the proposed Project.
- The EIR adequately discusses the potential adverse environmental effects, ways in which such affects might be mitigated, and alternatives to the Project which would reduce or avoid the adverse effects.

These findings are based on substantial evidence in the entire administrative record, and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

The Authority further certifies that the EIR is adequate to support all actions in connection with the approval of the Project, approval of any alternatives to the Project, and any minor modifications to the Project or alternatives described in the EIR, and all other actions and recommendations necessary for approval of the Project. These certification findings will be included and incorporated by reference into each and every

staff report, motion or resolution associated with the Authority's future approval of the Project.

The documents and other materials that constitute the record of proceedings upon which the Commission has based its decision may be obtained from the Authority as the official custodian of the record of proceedings.

**SAN LORENZO, CALIFORNIA, JUNE 15, 2023 ADOPTED BY THE FOLLOWING VOTE:**

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
CHAIR  
EAST BAY DISCHARGERS AUTHORITY

ATTEST: \_\_\_\_\_  
GENERAL MANAGER  
EAST BAY DISCHARGERS AUTHORITY  
EX OFFICIO SECRETARY