



EAST BAY DISCHARGERS AUTHORITY
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A Joint Powers Public Agency

ITEM NO. 13

REGULATORY AFFAIRS COMMITTEE AGENDA

Monday, September 18, 2023

12:00 P.M.

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

Committee Members: Andrews (Chair); Lathi

- 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. Update on Total Residual Chlorine Effluent Limit**
(The Committee will receive a report on a proposed blanket permit amendment.)
- RA6. PFAS Article in Western City Magazine**
(The Committee will review a recent article summarizing PFAS regulations)
- RA7. BACWA Key Regulatory Issues Summary**
(The Committee will review BACWA's issues summary.)
- RA8. Regulatory Reporting Checklist**
(The Committee will review a checklist of completed regulatory reporting items.)
- RA9. Update on Watershed Permit for Nutrients**
(The Committee will receive a status update on negotiation of the Nutrients Watershed Permit)
- RA10. 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.

Agenda Explanation
East Bay Dischargers Authority
Regulatory Affairs Committee
September 18, 2023

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. 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, November 13, 2023 at 12:00 p.m.**

ITEM NO. RA5 UPDATE ON TOTAL RESIDUAL CHLORINE EFFLUENT LIMIT

Recommendation

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

Background

EBDA's National Pollutant Discharge Elimination System (NPDES) Permit, as with all NPDES permits for discharge to San Francisco Bay, contains a limit on total residual chlorine of 0.0 mg/L as an instantaneous maximum. To ensure consistent compliance with this limit, EBDA adds an excess of dechlorinating agent, sodium bisulfite (SBS). By detecting SBS in the effluent, EBDA can demonstrate at all times that chlorine cannot be present. While this approach ensures consistent compliance with permit requirements, it results in significant unnecessary SBS discharges to the Bay. With chemical costs continuing to rise, this use of extra SBS without clear environmental benefit diverts resources from higher priority investments.

For the past decade, the Bay Area Clean Water Agencies (BACWA) has been working with the San Francisco Bay Regional Water Quality Control Board (Water Board) on an approach to revising total residual chlorine discharge limits to prevent SBS overdosing while continuing to protect environmental health. In 2020, the Water Board adopted an amendment to the Basin Plan, the document governing water quality standards for the region, that removed the 0.0 mg/L instantaneous maximum standard and replaced it with an EPA-established water quality-based criterion of 0.013 mg/L as a one-hour average. Prior to implementing the new criterion in permits, EPA Region IX needed to approve the Basin Plan Amendment. Unfortunately, EPA Region IX determined that they were unable to approve the Basin Plan Amendment due to concerns raised by other federal agencies that the new standard would not be sufficiently protective of endangered species.

Discussion

Undeterred by EPA's lack of approval of the Basin Plan Amendment, Water Board staff continued to think creatively about ways to implement protective yet practical effluent limits for total residual chlorine. To that end, in August 2023 they released a new Tentative Order amending all NPDES permits in the region to revise chlorine limits. Rather than relying on the change to the Basin Plan, this blanket permit amendment uses the Basin Plan's narrative toxicity objective to support use of the 0.013 mg/L one-hour average standard. To satisfy the concerns of EPA Region IX and the federal species agencies, the blanket permit amendment also requires dischargers to establish an operational control plan that targets 0.0 mg/L chlorine at the point where their discharge enters the Bay.

For shallow water dischargers to the Bay, including Oro Loma, Union, and San Leandro's near-shore permits, the 0.0 mg/L instantaneous maximum will be implemented as 0.013 mg/L over a one-hour average. While the averaging period provides some additional flexibility, this permit amendment is unlikely to change operations much for those discharges. For deep water discharges including EBDA's, this permit amendment provides

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significant benefit in terms of additional flexibility and reduced chemical use. Because EBDA discharges to the deepest part of the Bay, EBDA's effluent limit is calculated with a dilution factor of 74:1, making it 0.98 mg/L over a one-hour average. With potential future introduction of brine from Cargill, the buoyancy of the effluent and hence the dilution factor would change slightly, bringing the effluent limit to 0.94 mg/L. Staff expects that either limit will be met without utilizing SBS for large portions of the year. Staff plans to do some pilot testing to establish a set point for chlorine residual at the compliance monitoring point at the Marina Dechlorination Facility that will ensure that chlorine residual is zero by the time it travels seven miles through the outfall to the Bay discharge location.

The Tentative Order is currently out for public comment. EPA Region IX has reviewed it and informally provided concurrence with the approach. Water Board staff is planning to bring the order to the Water Board for approval on November 8, 2023, with an effective date of January 1, 2024.

ITEM NO. RA6 PFAS ARTICLE IN WESTERN CITY MAGAZINE

Recommendation

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

Background

Per- and polyfluoroalkyl substances (PFAS) are a large group of human-made substances that are very resistant to heat, water, and oil. PFAS have been used extensively 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. All PFAS are persistent in the environment, can accumulate within the human body, and have demonstrated toxicity at relatively low concentrations. PFOA and PFOS, two of the most common PFAS compounds, were found in the blood of nearly all people tested in several national surveys.

As a result of public attention on the issue of PFAS, there is a lot of activity at the national, state, and local levels on regulations, legislation, and research. The Regulatory Affairs Committee's [April 2023 Staff Report](#) contained a summary of recent developments.

Discussion

The attached article was published in the July issue of Western City Magazine, the publication of the League of California Cities. The article was drafted by Adam Link, Executive Director of the California Association of Sanitation Agencies (CASA), and it provides an excellent overview of regulatory efforts on PFAS and potential impacts to water and wastewater agencies. The article can also be accessed here: <https://www.westerncity.com/article/efforts-limit-forever-chemicals-are-underway-what-does-mean-cities>



Local agencies that provide water and wastewater service to millions of Californians are now being asked to measure how many PFAS are present in their systems.

July 1, 2023 | [Features](#) | Adam Link

Efforts to limit 'forever chemicals' are underway. What does this mean for cities?

Adam Link is the executive director of the California Association of Sanitation Agencies and can be reached at alink@casaweb.org.

No suite of chemicals has garnered more attention in recent years than PFAS, frequently referred to as “forever chemicals.” Rarely mentioned a decade ago, these chemicals have prompted multiple major lawsuits, state and federal legislative action, and even a [2019 legal thriller](#). But how much attention is this issue getting from the public? And should cities be concerned?

How can PFAS impact local water and wastewater agencies?

PFAS are a class of virtually indestructible, human-made chemicals that are resistant to heat, water, and oil. They are also ubiquitous: PFAS can be found in nonstick cookware, cosmetics, textiles, and numerous other household products. Scientists have found PFAS across the globe — from polar ice to the dust in our homes.

Research also suggests that acute and long-term exposure to PFAS may cause significant health risks, including reproductive health issues, greater risk of some cancers, and reduced immune responses.

State and federal efforts to address PFAS have significantly impacted local water and wastewater agencies and will continue to drive local agency action for years to come. However, the sheer number of PFAS chemicals — both past and present — makes it technically and financially prohibitive to treat our way out of this problem. Moreover, public utilities often have little control over what enters their systems.

Local agencies that provide water and wastewater service to millions of Californians are now being asked to measure how many PFAS are present in their systems, and in some cases, take action to shut down sources with higher concentrations.



The U.S. Environmental Protection Agency proposed maximum contaminant levels for two types of PFAS (PFOA and PFOS) in drinking water, which could impact local water and wastewater agencies.

What action is the federal government taking to tackle PFAS concerns?

The U.S. Environmental Protection Agency (EPA) began implementing a “**whole-agency approach**” to PFAS in 2021. The plan includes, among other efforts, developing the **Effluent Limitations Guidelines program** and guidance for **reducing discharges of PFAS** from industrial sources to publicly owned treatment plants.

Also of critical importance are the proposed maximum contaminant levels for two types of PFAS (PFOA and PFOS) in drinking water, which are now going through public comment. While specific to drinking water, this will ultimately drive further regulation that could impact other water sectors, particularly local water and wastewater agencies, more broadly.

Most notable though is the effort to designate PFOA and PFOS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act — informally referred to as **Superfund**. This designation is concerning for water and wastewater agencies that recycle water and/or land apply biosolids, as it would immediately trigger potential liability.

This could draw those agencies into significant third-party litigation or enforcement actions even if they contribute comparatively minimal amounts of PFAS to a site. Superfund was designed as a polluter pays model to hold entities that produce and utilize various contaminants accountable. Without clarifying exempt activities for water and wastewater agencies, a hazardous substances designation could undermine that model and improperly hold the public responsible for the actions of PFAS manufacturers.

Federal lawmakers recently introduced legislation that would **provide an explicit exemption for water and wastewater agencies** in most circumstances. It remains to be seen whether the proposal can muster the bipartisan support needed to get through Congress. The California Association of Sanitation Agencies (CASA) is working closely with other stakeholders to ensure the financial responsibility for cleanup does not fall on local agencies.

What is the state doing to address PFAS concerns?

California has similarly focused on PFAS in recent years, with the state targeting the removal of PFAS from various consumer products. This includes banning PFAS in **juvenile products, textiles, food packaging, and cosmetics**. The state also began phasing out PFAS in **firefighting foams** in 2022 and recently banned the use of PFAS in **carpets and floor coverings**.

Since 2019, CASA has co-hosted a policy roundtable with **Clean Water Action**, relevant agencies, and community stakeholders to advance public policy proposals that stop PFAS at the source. As part of this, CASA co-sponsored **a bill in 2022** that would have required certain manufacturers and producers to publicly disclose whether their products contained PFAS. Unfortunately, Gov. Gavin Newsom vetoed this legislation, but similar federal efforts are ongoing through the EPA's Toxics Release Inventory.

This session, CASA and the Environmental Working Group are co-sponsoring [AB 727 \(Weber\)](#), which would ban the sale of cleaning products containing PFAS in California. Another pending bill, [AB 246 \(Papan\)](#), would ban the sale of feminine hygiene products containing PFAS. Statewide policies that remove PFAS from consumer products are an important and necessary strategy to protect both the public and clean water agencies, as many of these products have a direct pathway to the wastewater system.

As the old saying goes, an ounce of prevention is worth a pound of cure. This is particularly true with PFAS. Currently, there is no viable way to fully address these chemicals once they are in the environment.



The California Office of Environmental Health Hazard Assessment proposed public health goals for two PFAS chemicals, which would impact drinking water and other water sources.

What do cities need to know about state regulations?

Regulatory actions at the state level have mostly come from the State Water Resources Control Board and the Office of Environmental Health Hazard Assessment (OEHHA). OEHHA proposed [public health goals for two PFAS chemicals](#), which would impact drinking water and other water sources. OEHHA plans to release a revised proposal in the coming year and accept public comment. The resulting final public health goal will result in a new maximum contaminant level for many water suppliers.

The Water Board also issued a statewide order in 2020 requiring wastewater agencies to monitor and report for 31 PFAS chemicals in influent, effluent, and biosolids. [Preliminary data](#) shows that residential inputs are a comparatively substantial source of PFAS in wastewater systems. Since it involves everyday household products and uses, this source is not controllable through local pretreatment and enforcement programs, which typically focus on industrial sources.

The Water Board also concluded that most of the wastewater agency data submissions were at non-detectable or low-level concentrations. The State Water Board is currently examining how these chemical compounds move through the treatment process and how to measure and monitor them. More action is likely.

How can local agencies communicate about PFAS?

Communicating with the general public about PFAS is a complex and difficult process. Several water and wastewater agencies have put together [toolkits](#) and [guidance](#) on how to discuss PFAS with ratepayers and the public. CASA also has a fact sheet that summarizes the impacts of PFAS from a [local agency perspective](#).

Generally, agencies should be straightforward about the potential health risks of PFAS and their ubiquity but contextualize the relative amounts of PFAS that people may encounter. Because of their persistent nature and widespread use, PFAS management is particularly challenging for water and wastewater agencies. Local officials should emphasize any proactive actions taken and inform the public that removing PFAS from products is the most effective management strategy.

Are there any pending lawsuits that could impact local agencies?

Thousands of lawsuits have been filed against PFAS manufacturers in the last decade, with a considerable uptick in the last few years. In 2020, the Orange County Water District and ten Orange County public water agencies filed a lawsuit against several manufacturers claiming that PFAS contaminated local groundwater, drinking water, and real property. The plaintiffs are seeking to protect ratepayers and ensure that remediation costs, including treatment and replacement water, are borne by the companies that developed and manufactured PFAS.

In late 2022, California Attorney General Rob Bonta filed a lawsuit against PFAS manufacturers — including 3M and DuPont — for endangering public health, causing irreparable harm to the state's natural resources, and engaging in a widespread campaign to deceive the public. In his lawsuit, the Attorney General cited the impacts to water and wastewater systems as one of the drivers for the action.

Similar suits have been filed in other parts of the country, some of which have resulted in sizeable settlements. For example, in 2018, Minnesota settled its lawsuit against PFAS manufacturer 3M for \$850 million.

What's next?

Although PFAS have been top of mind for local agencies for several years, we are only beginning to determine how to best manage, communicate, and ultimately assess liability for the cleanup. The landscape will no doubt change in the coming decade as litigation proceeds, health impacts are better understood, and new technologies are explored.

For now, it is important for local agencies to properly message the risks and actions to their ratepayers, and to support efforts to emphasize source control and removal measures. Local agencies can be part of the solution by advocating for better source control, product stewardship, pretreatment, and the polluter pays principle.

CASA is the leading voice for clean water agencies on regulatory, legislative, and legal issues. It represents more than 130 local public agencies engaged in the collection, treatment, and recycling of wastewater and biosolids to protect public health and the environment. For more information about CASA's efforts on PFAS or other priority issues, email Adam Link at alink@casaweb.org.

ITEM NO. RA7 BACWA KEY REGULATORY ISSUES SUMMARY

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 September 5, 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
NUTRIENTS IN SAN FRANCISCO BAY			
<ul style="list-style-type: none"> 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. 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. 	<ul style="list-style-type: none"> For FY24, BACWA is contributing \$1.8M to fund scientific research needed to make management decisions for the 3rd Watershed Permit. This payment completes the science funding requirement in the 2nd Watershed Permit. The focus of current scientific efforts is improving model representation of biogeochemistry, light attenuation, dissolved oxygen, and harmful algal bloom dynamics. The science team is also developing an Assessment Framework for Open Bay habitats and Lower South Bay sloughs. In summer 2022, a harmful algae bloom in San Francisco Bay brought increased public attention to this topic. A smaller bloom recurred in summer 2023. In both cases, the NMS science team modified the science plan to conduct monitoring and assist with data interpretation. 	<ul style="list-style-type: none"> Continue to participate in NMS steering committee, Nutrient Technical Workgroup, and planning subcommittee meetings, and provide funding for scientific studies. Continue to assist with preparation of a brief “State of the Science” document summarizing the scientific accomplishments of the NMS team for public use. 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. 	<p>BACWA Nutrients Page: https://bacwa.org/nutrients/</p> <p>NMS FY24 Program Plan (Adopted May 2023) https://drive.google.com/drive/folders/1cZYArziJWiYUsWPPR1OEuk52p9Sg7vn9</p> <p>NMS Work Products https://sfbaynutrients.sfei.org/books/reports-and-work-products</p> <p>BACWA Nutrient FAQ https://bacwa.org/wp-content/uploads/2023/01/BACWA-Nutrient-Fact-Sheet.pdf</p> <p>2023 SF Bay Algal Bloom https://bacwa.org/general/2023-algal-bloom-in-sf-bay-updated-8-3-2023/</p>

SF BAY NUTRIENT WATERSHED PERMIT

<ul style="list-style-type: none"> • The 1st Nutrient Watershed Permit was adopted in 2014, and required a regional study on Nutrient Treatment by Optimization and Upgrades, completed in 2018. • The 2nd Nutrient Watershed Permit was adopted in 2019. It includes: <ul style="list-style-type: none"> ○ Continued individual POTW nutrient monitoring and reporting; ○ Continued group annual reporting; ○ Significantly increased funding for science; ○ Regional assessment of the feasibility and cost for reducing nutrients through nature-based systems and recycled water; ○ 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 ○ Recognition of “early actors” who are planning projects that will substantially decrease TIN loads. • 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"> ○ Group Annual Reporting ○ Regional Studies on Nature-Based Systems and Recycled Water ○ Support of scientific studies through the Regional Monitoring Program (RMP) with \$11M over the five-year permit term. 	<ul style="list-style-type: none"> • Studies related to Recycled Water and Nature-Based Systems were completed in June 2023, as required by the 2nd Nutrient Watershed Permit. • 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 2nd Watershed Permit is based on a water year (Oct. 1 – Sept. 30). HDR will begin collected . • In response to the summer 2022 algae bloom, Regional Water Board staff signaled that the 3rd Watershed Permit is likely to include nutrient load reduction requirements. • The current concept proposed by the Regional Water Board is for the permit to contain interim limits for dry season TIN loads that are effective immediately and “final limits” that become effective after 10 years. The 10-year clock could be modified in subsequent permits if the “final limits” become more stringent, so the term “final” only applies to this specific permitting action. • The recurrence of a smaller algae bloom in summer 2023 has increased public and regulator awareness of the issue, making significant nutrient load reductions more likely to be required. • The NMS modeling team is developing and testing several load reduction scenarios to inform the 3rd Nutrient Watershed Permit. 	<ul style="list-style-type: none"> • BACWA continues to convene a Nutrient Strategy Team to develop BACWA’s key tenets for the 3rd Watershed Permit, and members are encouraged to participate. The Nutrient Strategy Team is actively engaging with the Regional Water Board to expand upon the key tenets and discuss implementation details for the 3rd Watershed Permit, including the magnitude and timing of required load reductions. • BACWA staff will continue to confer with larger wastewater treatment plants to identify projects that could reduce nutrient loads during the term of the 3rd Watershed Permit and beyond. This information is needed for development of the 3rd Watershed Permit fact sheet to support the compliance schedule that is anticipated to precede the final limits. • Agencies will continue to report nutrient monitoring data both through CIWQS and directly to BACWA. Submittals for the 2022-2023 water year will be due to HDR in November 2023. 	<p>2nd Nutrient Watershed Permit: https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2019/R2-2019-0017.pdf</p> <p>Special Studies of Recycled Water and Nature-Based Solutions: https://bacwa.org/document-category/2nd-watershed-permit-studies/</p> <p>Optimization/Upgrade Study Information: https://bacwa.org/document-category/optimization-and-upgrade-studies/</p> <p>BACWA Group Nutrient Annual Reports: http://bacwa.org/document-category/nutrient-annual-reports/</p> <p>Presentations from 2023 BACWA Annual Members Meeting https://bacwa.org/document-category/2023-annual-meeting/</p> <p>BACWA Summary of Status of 3rd Watershed Permit Negotiations https://bacwa.org/wp-content/uploads/2023/09/WSP-Negotiations-Update-2023-09-05.pdf</p>
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CHLORINE RESIDUAL COMPLIANCE

<ul style="list-style-type: none"> • 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%). • 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. • Regional Water Board staff and BACWA have worked together for more than decade to modify the effluent limit for chlorine residual. 	<ul style="list-style-type: none"> • In 2020, the Regional Water Board adopted a Basin Plan Amendment that incorporated EPA’s ambient water quality criteria for chlorine into the Basin Plan. Since the Basin Plan Amendment was not approved by EPA, it did not go into effect. • In August 2023, the Regional Water Board issued a Tentative Order NPDES Permit Amendment that modifies effluent limits for residual chlorine for most dischargers. The revised limits are based on a translation of the Basin Plan’s existing narrative toxicity objective. The NPDES Permit Amendment includes: <ul style="list-style-type: none"> ○ Limits calculated based on a 0.013 mg/L water quality objective in marine and estuarine waters, and incorporating dilution for deep water dischargers. The limits will be applied as a 1-hour average. ○ A Minimum Level of 0.05 mg/L for online continuous monitoring systems. • The Tentative Order NPDES Permit Amendment requires most dischargers to prepare a Chlorine Process Control Plan targeting a chlorine residual of 0.0 mg/L at discharge points. The Chlorine Process Control Plan is part of the Operation and Maintenance Manual; updates are to be summarized with annual self-monitoring reports (typically due February 1st). 	<ul style="list-style-type: none"> • Review the Tentative Order NPDES Permit Amendment modifying effluent limits for residual chlorine for most dischargers in the region. Comments are due by September 29, 2023. • If the Tentative Order NPDES Permit Amendment is adopted in November 2023, plan to comply with new effluent limits for residual chlorine and new Chlorine Process Control Plan requirements beginning January 1, 2024. • BACWA will provide guidance through the Permits Committee as to how agencies can meet the new chlorine process control requirement. 	<p>Tentative Order Blanket NPDES Permit Amendment (Anticipated Effective Date: January 1, 2024)</p> <p>https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2023/November/Chlorine/Tentative_Order.pdf</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
PESTICIDES			
<ul style="list-style-type: none"> • 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. • 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. 	<ul style="list-style-type: none"> • EPA reviews all registered pesticides at least once every 15 years. Each review allows opportunity for public comment. • 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 FY24 is \$69K. The pesticides regulatory team also supports the California Stormwater Quality Association (CASQA) on outreach work related to urban pesticide use. • The August 2023 version of the BAPPG/BACWA Pesticide Watch List adds indoor uses of Quaternary Ammonia Compounds, whose usage has been increasing in recent years. • The Regional Water Board leverages BACWA's efforts to provide their own comment letters. • Baywise.org has launched webpages on flea and tick control messaging to pet owners and veterinarians. • 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. CalDPR is also pursuing a significant increase to the "Mill Fee," a tax on pesticide sales, to fund some activities identified in the Roadmap. If approved, the increases would begin in FY25. 	<ul style="list-style-type: none"> • Advocate for implementation of specific actions from the Sustainable Pesticide Management Roadmap, and for increases in the Mill Fee to support implementation at CalDPR. • Continue to comment on EPA pesticide re-registrations and CalDPR actions. • Engage with EPA on proposed changes to the regulatory approval process for pesticides. • Work with veterinary associations on messaging with respect to flea and tick control alternatives. • Continue to develop summaries of EPA actions on pesticides. • Look for opportunities to work with CalDPR on pesticides research. • Work with other regional associations, such as CASQA to collaborate on funding pesticide regulatory outreach. 	<p>BACWA Pesticide Regulatory Support Page: https://bacwa.org/bappg-pesticides/</p> <p>Baywise flea and tick pages: https://baywise.org/residential/pets/keep-pets-free-of-fleas-and-ticks/</p> <p>https://baywise.org/residential/pets/</p> <p>BACWA-CASQA Urban Pesticides Collaboration Fact Sheet: https://bacwa.org/wp-content/uploads/2022/08/CASQA-BACWA-Factsheet-July2022.pdf</p> <p>CalDPR Sustainable Pest Management Roadmap https://www.cdpr.ca.gov/docs/pressrls/2023/012623.htm</p> <p>BACWA coalition letter on modernizing the pesticide approval process https://bacwa.org/document/bacwa-nacwa-coalition-comments-on-fda-epa-pesticide-modernization-2023-04-25/</p> <p>BAPPG/BACWA Pesticides Watch List https://bacwa.org/wp-content/uploads/2023/08/FINAL-BACWA-Pesticides-Watch-List-Aug-2023.pdf</p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
MERCURY AND PCBs			
<ul style="list-style-type: none"> • The Mercury & PCBs Watershed Permit is based on Total Maximum Daily Loads (TMDLs) for San Francisco Bay for each of these pollutants. • The Mercury & PCBs Watershed Permit was most recently reissued in December 2022, and it continues to require discharger support for risk reduction activities. BACWA is funding risk reduction activities on behalf of its members to comply with this permit provision. For FY24, BACWA has budgeted \$12,500 to support risk reduction activities related to fish consumption. • Aggregate mercury and PCBs loads have been well below waste load allocations through 2022, the last year for which data have been compiled. • EPA Method 1668C for measuring PCB Congeners has not been promulgated by EPA. Effluent limitations are based on PCB Aroclors quantified using EPA Methods 625.1 or 608.3. • 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. 	<ul style="list-style-type: none"> • 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. • BACWA supported risk reduction programming by two grantees to fulfill requirements of the 2017 Mercury & PCBs Watershed Permit. In August 2023, BACWA arranged for the grantees to present their work to Regional and State Water Board staff (materials linked at right). • Through 2026, State Water Board and Regional Water Board staff are working on a Bioaccumulation Monitoring Program Realignment effort in the San Francisco Bay region. BACWA intends to support risk reduction activities related to this effort, which may include tribal outreach on fishing and fish consumption. • 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. 	<ul style="list-style-type: none"> • Continue to 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 2022 permit. • 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. • 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. 	<p>2022 Mercury & PCBs Watershed Permit (Effective Feb. 1, 2023) https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0038.pdf</p> <p>Risk Reduction Materials (Updated August 2023) https://bacwa.org/mercurypcb-risk-reduction-materials/</p> <p>NPDES Permit Amendment for Monitoring and Reporting https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</p> <p>Mercury and PCB Load Trends 2013- 2022 (Updated July 2023) https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2023/July/6_ssr.pdf</p>

STATE WATER BOARD TOXICITY PROVISIONS

<ul style="list-style-type: none"> • The State Water Board has been working since before 2012 to establish Toxicity Provisions in the State Implementation Plan (SIP) that would introduce uniform Whole Effluent Toxicity requirements for the state. • 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. • The State Water Board adopted the Statewide Toxicity Provisions in October 2021 as state policy for water quality control for all inland surface waters and estuaries. The Provisions establish: <ul style="list-style-type: none"> ○ Use of Test of Significant Toxicity (TST) as statistical method to determine toxicity, replacing EC25/IC25; ○ Numeric limits for chronic toxicity for POTWs >5 MGD and with a pretreatment program; smaller POTWs will receive effluent targets and only receive limits if Reasonable Potential is established; ○ Regional Water Board discretion on whether to require RPAs for acute toxicity; ○ 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). 	<ul style="list-style-type: none"> • EPA approved the Statewide Toxicity Provisions on May 1, 2023, and they became effective on June 1, 2023. Individual NPDES permits reissued in the San Francisco Bay Region are implementing the Toxicity Provisions and requiring use of the TST for chronic toxicity testing. Reissued permits no longer require acute toxicity monitoring. • EPA has not yet approved the Alternate Test Procedure for whole effluent toxicity testing. Until the Alternate Test Procedures are approved, the Regional Water Board has advised that dischargers should use the full five-concentration series for all tests, including routine monitoring and Species Sensitivity Screening Studies. • 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. • The State Water Board is collaborating with stakeholders on a special study to improve the quality of <i>Ceriodaphnia dubia</i> testing. The multi-laboratory study of toxicity testing has been completed, and a draft report with recommendations for laboratories is expected to be released in September 2023. The State Water Board will hold an informational hearing on these recommendations later in September 2023. 	<ul style="list-style-type: none"> • Begin conducting toxicity testing using the Statewide Toxicity Provisions. As of June 2023, member agencies with individual NPDES permits reissued after August 2022 have automatically transitioned to the new toxicity testing requirements. • Plan to conduct a species sensitivity screening 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. • Share information on the special study of the <i>Ceriodaphnia dubia</i> test method as it is finalized in Fall 2023. 	<p>SWRCB Toxicity Page: http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml</p> <p>Toxicity Workshop Presentations from 2017 BACWA Workshop: https://bacwa.org/bacwa-toxicity-workshop-september-18-2017/</p> <p>Regional Water Board presentation on implementation of Statewide Toxicity Provisions from December 2020: https://bacwa.org/wp-content/uploads/2021/01/Slides-from-RWQCB-Regarding-R2-Tox-Language-in-NPDES-Permits-2020-12-08.pdf</p> <p><i>Ceriodaphnia</i> Quality Assurance Study https://www.sccwrp.org/about/research-areas/additional-research-areas/ceriodaphnia-toxicity-testing-quality-assurance/</p> <p>EPA Approval of Statewide Toxicity Provisions https://bacwa.org/wp-content/uploads/2023/05/05.01.2023-EPA-CWA-303c-Approval-of-California-Toxicity-Provisions.pdf</p>
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COMPOUNDS OF EMERGING CONCERN (CECS)

<ul style="list-style-type: none"> • Pharmaceuticals and other trace compounds of emerging concern (CECs) are ubiquitous in wastewater at low concentrations and have unknown effects on aquatic organisms. • The State Water Board has formed a Pretreatment and CECs Unit. • 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. 	<ul style="list-style-type: none"> • 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. • 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. • 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. 	<ul style="list-style-type: none"> • Continue to participate in the RMP Emerging Contaminants Workgroup. • Participate in RMP studies by collecting wastewater samples at member facilities. For the coming year, the Emerging Contaminants Workgroup has proposed to fund a study of organophosphate esters, bisphenols, and other plastic additives in wastewater effluent. This study would be in addition to the ongoing OPC-microplastic study and BACWA-funded Regional PFAS Study. • 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. 	<p>RMP Emerging Contaminant Workgroup: http://www.sfei.org/rmp/ecwg#ab-1-4</p> <p>BACWA CECs White Paper: https://bacwa.org/document/bacwa-cec-white-paper-updated-june-2020/</p> <p>NPDES Permit Amendment for Monitoring and Reporting https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</p> <p>State Water Board CECs webpage: https://www.waterboards.ca.gov/water_issues/programs/cec/index.html</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
MICROPLASTICS			
<ul style="list-style-type: none"> • Microplastic pollution is an environmental threat with the potential to impact wastewater disposal and reuse, as well as biosolids end uses. • 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. 	<ul style="list-style-type: none"> • 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. • OPC is funding a study of microplastic removal through wastewater treatment processes. 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. • 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. • Additional research to improve scientific understanding of microplastics in aquatic ecosystems will be needed to support a future impairment determination for the Bay. The Water Boards and OPC are supporting allocation of funding towards these research efforts. • Ongoing microplastics investigations by the RMP are focused on tire particles in stormwater. • As of September 2023, draft legislation (AB 1628) would require all new washing machines sold in California to come equipped with microfiber filtration, which would reduce the load of microplastic fibers to POTWs. 	<ul style="list-style-type: none"> • Continue to participate in the RMP Microplastics Workgroup. • Three BACWA member agencies are participating in the OPC-funded microplastic study. As of September 2023, sample collection was nearly complete and sample analysis was partially complete. CASA has also funded the study team at the Southern California Coastal Water Research Project (SCCWRP) to complete add-on work comparing results between different sampling methods. • Continue tracking State Water Board and Ocean Protection Council actions via the CASA Microplastics Workgroup. 	<p>BACWA Microplastics Fact Sheet: https://bacwa.org/wp-content/uploads/2019/09/BACWA-Microplastics-flyer.pdf</p> <p>SFEI Microplastics project: https://www.sfei.org/projects/microplastics</p> <p>Ocean Protection Council Microplastics Strategy: https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/2022_0223/Item_6_Exhibit_A_Statewide_Microplastics_Strategy.pdf</p> <p>2024 California Integrated Report / 303(d) List https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html</p>

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)

<ul style="list-style-type: none"> • 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. • 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. • All PFAS are persistent in the environment, can accumulate within the human body, and have demonstrated toxicity at relatively low concentrations. • 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. • 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. • In April 2021, the formation of an “EPA Council on PFAS” was announced. 	<ul style="list-style-type: none"> • The EPA and State of California are developing drinking water standards for PFAS compounds. <ul style="list-style-type: none"> ○ DDW has developed drinking water notification and response levels for PFOA, PFOS, Perfluorobutane Sulfonic Acid (PFBS), and Perfluorohexane Sulfonic Acid (PFHxS). ○ EPA has released final health advisories for PFOA (0.004 ng/L) and PFOS (0.02 ng/L). ○ 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. • EPA is conducting pretreatment standards rulemaking for three types of industrial users: Metal Finishing, Organic Chemicals, Plastics and Synthetic Fibers, and landfills. • 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. • 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). • In late 2022, EPA issued permitting guidance for pretreatment programs and NPDES permits. It recommends use of Draft Method 1633. 	<ul style="list-style-type: none"> • BACWA’s Regional PFAS Study is being conducted by SFEI in two phases: <ul style="list-style-type: none"> ○ In Phase 1 (2020), fourteen facilities collected samples of influent, effluent, reverse osmosis concentrate, and biosolids. BACWA prepared a Fact Sheet regarding Phase 1 results (see link at right). ○ In Phase 2 (2022), six agencies conducted sampling of influent, effluent, and biosolids; residential sewersheds, commercial and industrial users; hauled organic waste used as digester feed; and groundwater. ○ A final report is in preparation summarizing both Phase 1 and Phase 2 results, and a draft will be available in fall 2023. SFEI also plans to present the findings Regional Monitoring Program Annual Meeting in October 2023. • Continue tracking developments at the federal, state and regional level, in particular to understand the impact of the CERCLA designation on biosolids reporting. • Continue to support PFAS source control efforts by participating in monitoring studies, and by supporting regulatory and legislative efforts to limit the use of PFAS. 	<p>BACWA PFAS Documents: https://bacwa.org/pfas-links/</p> <p>SWRCB PFAS Resources: https://www.waterboards.ca.gov/pfas/</p> <p>EPA PFAS Resources https://www.epa.gov/pfas</p> <p>EPA PFAS Strategic Roadmap https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</p> <p>EPA Proposed Drinking Water Regulations https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</p> <p>2022 PFAS Legislation Outcomes for CA: https://www.cwea.org/news/pfas-legislation-we-have-seen-in-2022/</p> <p>BACWA Comment Letter on CERCLA Designation: https://bacwa.org/wp-content/uploads/2022/11/BACWA-PFAS-CERCLA-Ltr-2022-11-07.pdf</p> <p>EPA NPDES Permitting Guidance (Dec. 2022) https://www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Memo_December_2022.pdf</p>
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SANITARY SEWER SYSTEMS GENERAL ORDER

- In 2022, the State Water Board reissued the statewide Sanitary Sewer Systems General Order (SSS-WDR). The reissued order replaced the 2006 Order and the 2013 Monitoring and Reporting Program.
- The State Water Board's goals for the update were:
 - Updating the 2006 Order
 - Clarifying compliance expectations and enhancing enforceability
 - Addressing system resiliency, including climate change impacts
 - Identifying valuable data and eliminating non-valuable reporting requirements

- The reissued order became effective on June 5, 2023.
- The reissued SSS-WDR contains numerous new and modified requirements, such as:
 - A prohibition on discharges to groundwater;
 - Reduced spill reporting requirements for small spills (spills from laterals or <50 gallons);
 - New spill monitoring requirements such as photo documentation and faster water quality sampling;
 - New requirements for preparation of Sewer System Management Plans (SSMPs), including a focus on system resiliency, prioritizing corrective actions, and coordinating with stormwater agencies;
 - Modified annual reporting requirements;
 - New mapping requirements; and
 - 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).
- Maintaining an updated SSMP continues to be a core requirement of the SSS-WDR. Beginning in May 2025, SSMP updates will be required every six years (instead of five) and must contain the 11 updated elements described in the reissued SSS-WDR.

- Work through the Collections System Committee to update a guidance document for Sewer System Management Plans (SSMPs). Previous guidance documents are now outdated due to the SSS-WDR reissuance. BACWA plans to hire a consultant to assist with this task
- Continue to coordinate with CASA and CWEA on training opportunities for members as they transition to enrollment under the new SSS-WDR.

State Water Board SSS-WDR page:
https://www.waterboards.ca.gov/water_issues/programs/ssso/

Reissued SSS-WDR (General Order 2022-0103-DWQ), Effective June 5, 2023
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo-2022-0103-dwg.pdf

Materials from Clean Water Summit Partners Webinars on Reissued SSS-WDR
<https://casaweb.org/resources/speaker-presentations/>

SSMP and Audit Due Dates Lookup Tool from State Water Board
https://www.waterboards.ca.gov/water_issues/programs/ssso/lookup/

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
LABORATORY ACCREDITATION			
<ul style="list-style-type: none"> • In May 2020, the State Water Board adopted new comprehensive regulations for the Environmental Laboratory Accreditation Program. • Adoption of the new regulations was required by AB 1438, legislation that became effective in 2018. • The new ELAP regulations are replacing the current state-specific accreditation standards with a national laboratory standard established by The NELAC Institute (TNI). • Compliance with TNI standards is required beginning January 1, 2024. 	<ul style="list-style-type: none"> • Adoption of TNI standards poses a challenge since there are more than 1,000 individual requirements. Transition costs may include: <ul style="list-style-type: none"> ○ Hiring and/or training staff; ○ Hiring consultants to set up the TNI documentation framework; ○ Purchasing new software; ○ Purchasing documents and training material from TNI, etc. • The new standards will be a particular burden on small laboratories, which may choose to close if they cannot economically meet the new standards. ELAP has reported a 15% reduction in the number of accredited laboratories in California since 2020, and a 25% reduction since 2015. This reduction is contributing to significantly higher ELAP fees for the remaining laboratories. ELAP fees are expected to increase by 30% in FY24. ELAP is investigating fee structure options that would reduce impacts on small laboratories. Fee restructuring will not occur until FY25 or later. • 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 FY24 with a focus on practical tips and Q&A. • ELAP is now implementing EPA's 2021 Method Update Rule. ELAP has advised labs to update any outdated methods by February 2024. 	<ul style="list-style-type: none"> • Offer six training sessions per year 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 3rd Tuesday of alternating months. Diane Lawver of Quality Assurance Solutions, LLC, is providing the training. BACWA's TNI training sessions are recorded, and a link is available upon request. • Follow development of ELAP fee restructuring proposals, and provide comments on behalf of BACWA member agencies. • 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. • Continue to work through BACWA's Laboratory Committee to support members as they navigate laboratory accreditation under the new TNI standards. • Publicize training opportunities offered by consultants, ELAP, and others. 	<p>State Water Board's 'Roadmap to ELAP Accreditation' page: https://www.waterboards.ca.gov/drinking_water/certlic/labs/roadmap_to_elap_accreditation.html</p> <p>State Water Board's ELAP regulations page: http://www.waterboards.ca.gov/drinking_water/certlic/labs/elap_regulations.shtml</p> <p>BACWA Training Session flyer: https://bacwa.org/wp-content/uploads/2023/06/BACWA-Lab-TNI-Training-Series-Flyer-FY24.pdf</p> <p>ELAP Timeline Guidance Tool: https://www.waterboards.ca.gov/drinking_water/certlic/labs/docs/2022/elap-scheduler-1-1.xlsx</p> <p>ELAP Implementation of 2021 Method Update Rule https://www.waterboards.ca.gov/drinking_water/certlic/labs/mur.html</p>

BIOSOLIDS

<ul style="list-style-type: none"> Regulatory drivers are leading to the phase-out of biosolids used as alternative daily cover (ADC) or disposed in landfills. SB 1383, adopted in September 2016 requires organics diversion: <ul style="list-style-type: none"> -50% by 2020 (relative to 2014) -75% by 2025 (relative to 2014) CalRecycle is the state agency responsible for implementation. 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"> Diverted biosolids must be anaerobically digested and/or composted to qualify as landfill reduction. CalRecycle is accepting applications to qualify other specific treatment technologies as landfill reduction (per Article 2 of SB 1383). Local ordinances restricting land application are disallowed. 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. 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. 	<ul style="list-style-type: none"> BACWA's 2021 Biosolids Trends Survey Report compiles member agency activities in 2018-2020, as well as survey responses regarding SB 1383 implementation. 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. CalRecycle is conducting outreach to several counties with restrictive ordinances on land application. As a result, these counties may begin to accept biosolids for land application. CalRecycle is reviewing an application to qualify an alternative technology as landfill reduction per Article 2. CASA and technology providers are seeking additional clarification from CalRecycle on technologies that <i>already</i> comply with SB1383 and need not apply under Article 2. 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 apply to biosolids treated via pyrolysis. The <i>Biosolids in the Baylands</i> white paper identifies data gaps at land application sites in the Baylands. 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 these sites. 	<ul style="list-style-type: none"> Share information about plans for biosolids treatment and use at BABC's November 13th meeting. Several agencies in the greater Bay Area are planning new biosolids treatment approaches (such as pyrolysis) in response to SB 1383 and other regulatory drivers. This meeting is open to all BACWA members. BACWA's next Biosolids Trends Survey Report will be completed in 2024 and will cover 2021-2023. 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. Continue to engage with the Regional Water Board regarding supplemental monitoring requirements for biosolids land application sites in the Baylands. 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. Meet with BAAQMD regularly in 2023 to discuss alignment of state and local regulations. 	<p>BACWA 2021 Biosolids Trends Survey Report: https://bacwa.org/wp-content/uploads/2021/12/BACWA-2021-Biosolids-Trends-Survey-Report.pdf</p> <p>BABC website: http://www.bayareabiosolids.com/</p> <p>CASA White Paper on SB 1383 Implementation: https://bacwa.org/document/summary-of-sb-1383-and-its-implementation-casa-2020/</p> <p>CalRecycle - Short-Lived Climate Pollutant Reduction Strategy https://www.calrecycle.ca.gov/organics/slcp</p> <p>CalRecycle Procurement FAQ (Updated by AB 1985) https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/</p> <p>SB1383 Article 2 Determination https://calrecycle.ca.gov/organic/slcp/recyclingfacilities/article2/</p> <p><i>Biosolids in the Baylands White Paper</i> https://bacwa.org/wp-content/uploads/2022/07/Biosolids-in-the-Baylands-White-Paper-March-2022.pdf</p>
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CLIMATE CHANGE MITIGATION

<ul style="list-style-type: none"> • 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"> ○ Short-lived climate pollutants ○ Carbon sequestration on Natural and Working Lands ○ Largest emitters (transportation, electricity, and industrial sectors) • SB 1383 (Short-Lived Climate Pollutant Reduction) calls for: <ul style="list-style-type: none"> ○ 40% methane reduction by 2030 ○ 75% diversion of organic waste from landfills by January 1, 2025 ○ Policy / regulatory development encouraging production/use of biogas • BAAQMD developed a Clean Air Plan requiring GHG emissions supporting CARB's 2050 target (80% below 1990 levels). • 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. • 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. 	<ul style="list-style-type: none"> • CARB is pursuing rapid fleet conversion to zero-emission vehicles (ZEVs), including medium and heavy-duty vehicles, through the Advanced Clean Fleet rule. The Advanced Clean Fleet rule allows organization to opt into one of two programs: <ul style="list-style-type: none"> ○ Public Fleets: With exceptions, requiring 50% of vehicles added to be ZEV by 2024, and 100% by 2027. ○ High Priority Fleet (Group 3): With exceptions, requiring 10% of vehicles added to be ZEV by 2030 and 100% by 2042. • 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. • 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 & development stage. • In 2022, the CPUC mandated that CA's four largest gas utilities (including PG&E) procure biomethane. PG&E recently completed a biomethane procurement solicitation and will continue to do so at least annually. • In June 2023, EPA finalized updates to its Renewable Fuel Standard Set Rule allowing apportionment of renewable identification numbers (RINs) or "credits" for food waste-based (D5) and sludge-based (D3) biogas. 	<ul style="list-style-type: none"> • Track implementation of the Advanced Clean Fleet Regulations, which CARB is discussing with a newly formed Truck Regulation Advisory Committee. • Follow the fate of proposed legislation (AB 1594) that could exempt some public utility specialty vehicles from the Advanced Clean Fleet Regulations. • Closely follow rule development of Proposed Regulation 13 (climate pollutants), which BAAQMD plans to revisit later in 2023. • Support CASA's engagement with CARB to preserve multiple uses for biogas, including existing pathways that allow biogas to be used as vehicle fuel. • 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. • Work with PG&E and BAAQMD to explore options for POTWs to inject biogas into PG&E pipelines. 	<p>Climate Change Scoping Plan, including 2022 Update: https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan</p> <p>CARB Low Carbon Fuel Standard: https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard</p> <p>CARB Advanced Clean Fleet Rule: https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets</p> <p>SB 1383: https://www.calrecycle.ca.gov/organics/slcp</p> <p>BAAQMD Regulation 13 http://www.baaqmd.gov/rules-and-compliance/rules/regulation-13-climate-pollutants</p> <p>EPA Renewable Fuel Standards https://www.epa.gov/renewable-fuel-standard-program/final-renewable-fuels-standards-rule-2023-2024-and-2025</p> <p>PG&E Procurement https://www.pge.com/en_US/fo-r-our-business-partners/energy-supply/core-gas-supply/rng-procurement.page</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
CLIMATE CHANGE ADAPTATION			
<ul style="list-style-type: none"> Climate change and water resilience are a strategic priority of both the State Water Board and Regional Water Board. 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. 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. In April 2022, the State released a Climate Adaptation Strategy, including an updated climate change assessment for the Bay Area region. 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 (SLR) by 2050. 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. 	<ul style="list-style-type: none"> 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. Separately from the Basin Plan amendment, the NDPES division has released information regarding permitting of nature-based solutions. Shallow groundwater response to SLR 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. The Bay Conservation and Development Commission (BCDC) is developing regional SLR adaptation planning guidelines for the Bay Area as part of the Regional Shoreline Adaptation Plan. The project kicked off in 2023 and is expected to be complete by September 2024. The guidelines will inform sub-regional implementation plans and are not a regulation. The Ocean Protection Council (OPC) is revising its 2018 SLR guidance to reflect the latest projections for SLR. Previous projections for extreme SLR (i.e., H++ scenario) are now less plausible, but there is increased certainty of SLR to 2050. Updates to the Coastal Commission's "Critical Infrastructure at Risk" SLR planning guidance are expected to follow. 	<ul style="list-style-type: none"> 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. Provide a forum for members to discuss emerging information about climate risks, such as SLR projections and changes in precipitation. Prepare for engagement with the Regional Water Board on expectations for SLR planning. Continue to work with Regional Water Board and other resource agencies to look for regulatory solutions to encourage wetlands projects for shoreline resiliency. 	<p>California Coastal Commission's <i>Critical Infrastructure at Risk</i> https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf</p> <p>California Climate Adaptation Strategy https://climateresilience.ca.gov</p> <p>BayCAN Funding Tracker https://www.baycanadapt.org/</p> <p>Bay Adapt Joint Platform https://www.bayadapt.org/</p> <p>NPDES Permitting for Nature-Based Solutions https://bacwa.org/wp-content/uploads/2022/08/NPDES-Permitting-for-Nature-Based-Solutions-5.pdf</p> <p>2023 Report on Shallow Groundwater Response https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise</p> <p>OPC Plans to Update Sea-Level Rise Guidance https://opc.ca.gov/wp-content/uploads/2023/07/SLR-Task-Force-Process-FAQ-508.pdf</p>

TOXIC AIR CONTAMINANTS

<ul style="list-style-type: none"> • 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. • 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>10 or non-cancer PS>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). • AB 617 (Community Air Protection Program) – requires CARB to harmonize community air monitoring, reporting, & 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. • 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 >500 to >1,700. 	<ul style="list-style-type: none"> • BACWA developed a White Paper on BAAQMD Rule 11-18 to describe its potential impacts on the POTW community. The AIR Committee gathered data on proximity factors from each facility and submitted to BAAQMD for updating prioritization scores. This information will be used in HRA development for POTWs. • 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). • 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. • In July 2023, the EPA announced a proposal to revise its Air Emissions Reporting Requirements (AERR). The proposed revisions are under review to determine how the proposed changes would impact facilities in California. 	<ul style="list-style-type: none"> • Continue participating in the BAAQMD workgroup to discuss toxic air contaminants, rule development, and related air quality regulatory issues. • Report “business as usual” for air toxics through 2028 (through year 2027 data). If BAAQMD requests additional monitoring of air toxics, member agencies should refer to CASA's one-page handout on this topic. CARB is preparing a message to Air Districts confirming POTWs can delay reporting new compounds until the two-step process is complete. 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. • Continue to Participate in CASA Subgroup meetings to plan the "two-step process" study. • For budget planning purposes, BACWA members with permitted capacity ≥ 5 MGD should expect the study to cost approximately \$2,300 per MGD of permitted average dry weather flow. 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. 	<p>BAAQMD Rule 11-18 page: https://www.baaqmd.gov/rules-and-compliance/rules/regulation-11-rule-18-reduction-of-risk-from-air-toxic-emissions-at-existing-facilities</p> <p>BAAQMD Rule 2-5 https://www.baaqmd.gov/rules-and-compliance/rules/reg-2-permits?rule_version=2021%20Amendments</p> <p>CARB page on AB 617 and AB 2588: https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting <i>Final Statement of Reasons</i> https://ww3.arb.ca.gov/board/15day/ctr/fsor.pdf</p> <p>CASA One-Page Handout on Air Toxics Reporting https://bacwa.org/wp-content/uploads/2022/03/CTR-EICG_CASAPageIssue-Approach_March2022.pdf</p> <p>Timing of Rule 11-18 vs. Process for AB 617 https://bacwa.org/document/baaqmd-rule-11-18-vs-carb-two-step-process-for-ab-617-feb-2023/</p> <p>EPA Air Emissions Reporting Requirements https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
RECYCLED WATER			
<ul style="list-style-type: none"> • 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. • 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. • 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. • 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 issued draft regulations for Direct Potable Reuse in July 2023. 	<ul style="list-style-type: none"> • 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. • 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. • In June 2023, BACWA completed a Regional Evaluation of Potential Nutrient Discharge Reduction by Water Recycling, as required by the 2nd Nutrient Watershed Permit. • The State Water Board has launched a “Strike Team” to assess how California will meet new recycled water goals listed in California’s Water Supply Strategy: 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, such as funding. • Regional Water Board staff are preparing a draft Basin Plan Amendment to address NPDES permitting needs of recycled water projects with reverse osmosis concentrate. 	<ul style="list-style-type: none"> • Review draft regulations for Direct Potable Reuse. Work through Recycled Water committee to share information about the proposed regulations and exchange information about projects under consideration by member agencies. • Continue to synthesize information about proposed recycled water projects that will impact nutrient loading to San Francisco Bay. This information will inform negotiations on the 3rd Nutrient Watershed Permit to be reissued in 2024. • Host a workshop with Bay Area water agencies to discuss opportunities and challenges for interagency collaboration on water reuse. • Track California legislation with potential impacts on recycled water funding, mandates, or regulations. 	<p>Water Boards Recycled Water Policy and Regulations https://www.waterboards.ca.gov/water_issues/programs/recycled_water/</p> <p>Direct Potable Reuse framework documents https://www.waterboards.ca.gov/drinking_water/certlic/drinkinewater/direct_potable_reuse.html</p> <p>Volumetric Annual Reporting Data: https://www.waterboards.ca.gov/water_issues/programs/recycled_water/volumetric_annual_reporting.html</p> <p>Special Studies of Recycled Water and Nature-Based Systems: https://bacwa.org/document-category/2nd-watershed-permit-studies/</p> <p>California’s Water Supply Strategy (August 2022) https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf</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	SLR	Sea Level Rise
EC25/IC25	25% Effect Concentration/25% Inhibition Concentration	SSMP	Sewer System Management Plan
ELAP	Environmental Laboratory Accreditation Program	TMDL	Total Maximum Daily Load
ELTAC	Environmental Laboratory Technical Advisory Committee	TIN	Total Inorganic Nitrogen
EPA	United States Environmental Protection Agency	TNI	The NELAC Institute
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act	TST	Test of Significant Toxicity
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. RA8 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 June 1, 2023 through August 31, 2023; there are no outstanding activities.

<i>Authority</i>	<i>Required Action</i>	<i>Occurrence</i>	<i>Date Completed</i>
State Compensation Insurance Fund	Workers' Compensation Insurance Renewal	Annual	6/1/2023
CalPERS	Post Commission approved Compensation Plan to EBDA website	Annual	6/15/2023
Bay Area Air Quality Management District	Complete <i>Data Update</i> form Plant #14531 - Permit Expiration Date: Aug 1	Annual	6/20/2023
Bay Area Air Quality Management District	Complete <i>Data Update</i> form Plant #14528 - Permit Expiration Date: Nov 1	Annual	6/20/2023
Secretary of State	Statement of Facts/Roster of Public Agencies Filing (FY changes to Commission)	Annual	6/22/2023
County of Alameda, Clerk/Recorder	Statement of Facts/Roster of Public Agencies Filing (FY changes to Commission)	Annual	6/22/2023
State Compensation Insurance Fund	Payroll Report, Semi-Annual Jan 01 - Jul 01	Semi-Annual	7/11/2023
CalPERS	Out-of-Class Appointment Reporting	Annual	7/12/2023
CalPERS	SSSA Annual Information Request	Annual	7/12/2023
Bay Area Air Quality Management District	Pay renewal fee for <i>Permit to Operate</i> Plant #14531	Annual	7/17/2023
State Water Resources Control Board	NPDES Quarterly Report (Apr-Jun)	Quarterly	7/27/2023
Department of Toxic Substances Control	EPA ID Number (CAL000072039) Verification Questionnaire and Manifest Fees Assessment	Annual	7/27/2023
Bureau of Labor Statistics	Report monthly employment figures, include Commissioners and Staff	Monthly	8/17/2023
East Bay Dischargers Authority	Website review/update	Monthly	8/17/2023
State of California	Annual posting of EE Reimbursements Report to EBDA Website (GC §53065.5)	Annual	8/17/2023
State Water Resources Control Board	NPDES monthly reports	Monthly	8/28/2023
Regional Water Quality Control Board	Recycled Water monthly reports	Monthly	8/28/2023
ADP Business Payroll	Print Payroll Quarter-End Tax Returns	Quarterly	8/28/2023
Bureau of Automotive Repairs	Annual reporting transmittal (ART) Update with new vehicle information - SUBMIT BY DECEMBER 31	Annual	8/28/2023
Oro Loma Sanitary District	Lease Fees	Annual	8/31/2023

ITEM NO. RA9 UPDATE ON WATERSHED PERMIT FOR NUTRIENTS

Recommendation

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

Background

While the loads of nutrients such as nitrogen and phosphorus to San Francisco Bay are higher than other estuaries, the Bay has historically been very resilient, and negative impacts of nutrient enrichment such as eutrophication have not occurred. Scientists believe this resilience to stem at least in part from high turbidity (i.e., the Bay is cloudy); which blocks the light that phytoplankton need to grow; presence of filter-feeding clams, which reduce phytoplankton concentrations; and strong tidal mixing, which reduces nutrient concentrations.

Over the last decade, concerning trends caused the scientific and regulatory community to question whether the Bay's resilience is weakening. Dams in upstream watersheds have decreased the Bay's turbidity by trapping sediments, and clam populations have been on the decline. At the same time, climate conditions are changing.

To begin to proactively address these nutrient-related risks, Bay Area wastewater agencies, through the Bay Area Clean Water Agencies (BACWA), have participated since 2012 in a positive collaboration with a wide variety of stakeholders to implement a Nutrient Management Strategy that focuses on conducting scientific research and modeling to determine the effects of nutrients on the Bay ecosystem, and protective levels of nutrient loading going forward.

BACWA worked closely with staff of the San Francisco Bay Regional Water Quality Control Board (Water Board) to negotiate a Watershed Permit for nutrients, which was issued in 2014 and reissued in 2019. The current permit contains the following key elements:

- Influent and effluent monitoring and continued annual regional reporting.
- Increased funding for scientific research.
- A regional assessment of the feasibility and cost for reducing nutrients through multi-benefit nature-based solutions, including wetlands and horizontal levees.
- A regional assessment of nutrient reductions through water recycling.
- Inclusion of load targets for 2024.
- Recognition of agencies implementing early action projects that will reduce nutrient loads during this permit term.

In late July of 2022, public reports started noting discoloration in the Bay, particularly around the Oakland estuary and Lake Merritt, a tidally influenced impoundment. Scientists identified the cause to be a harmful algae bloom, which ultimately spread throughout the deep channels of the Central Bay and into the South Bay. The algae species was identified

as *Heterosigma akashiwo*, which has been observed intermittently in various locations around the Bay over the past 20 years, after first being detected here in 2002. *Heterosigma akashiwo* can be toxic to fish, although the nature of that toxicity is not well understood. In addition, the bloom caused unprecedented decreases in dissolved oxygen in the Bay. These effects combined to cause significant fish kills around the Bay in areas the bloom was observed.

While it is unclear exactly what triggered this bloom, its timing did correspond with a prolonged period of unusually clear skies in the Bay Area, making available more light than usual for photosynthesis. Scientists believe that the bloom was nitrogen limited, meaning that nitrogen loads to the Bay sustained the bloom and likely contributed to its extent and duration. This conclusion, along with the increased media attention garnered by the event, has led to public and political pressure on wastewater agencies and on the regulators, particularly the Water Board, to act quickly to reduce nutrient loads to the Bay, with a goal of preventing or lessening the impact of future blooms. A brief, and thankfully less consequential, recurrence of the bloom this summer has amplified that pressure.

Discussion

EBDA and our partners with BACWA are currently negotiating the third nutrients Watershed Permit, which is expected to be issued in Spring 2024. The attached document summarizes the status of negotiations.

At the September 21 Commission Meeting, EBDA's General Manager will provide a presentation summarizing the history of nitrogen regulation for the Bay, the current status of negotiations, and what it is likely to mean for EBDA's member agencies.

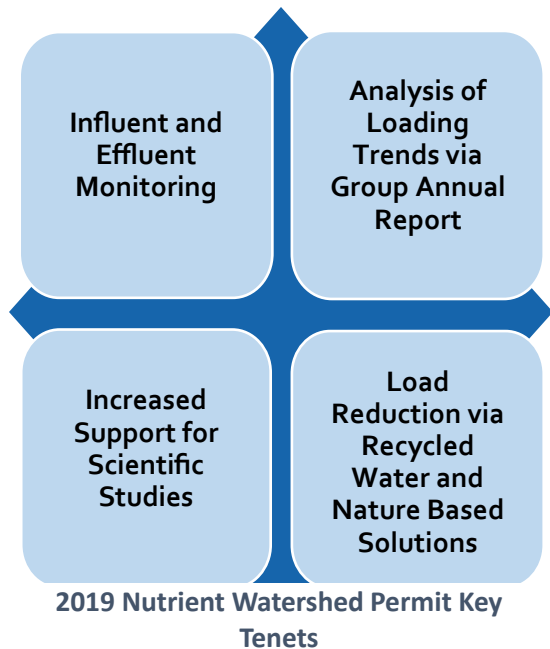


Nutrient Watershed Permit Negotiations

September 2023 Status Update

Background

The [Nutrient Watershed Permit](#) (Watershed Permit), first issued by the San Francisco Bay Regional Water Quality Control Board (Water Board) in 2014 and most recently reissued in 2019, governs nutrient discharges from POTWs to the San Francisco Bay. The key tenets of the current Watershed Permit are below:



- **Monitoring** of nitrogen and phosphorus species in effluent, and in influent for larger agencies.
- **Group reporting of loads to the SF Bay**, with analysis of observed trends. [See the latest Group Annual Report](#).
- **Support for scientific studies** to better understand the impact of nutrients on the Bay. The scientific effort is led by the San Francisco Estuary Institute (SFEI), and guided via the [Nutrient Management Strategy](#), a collaborative governance effort that includes stakeholders throughout the region.
- **Evaluation of nutrient load reduction opportunities** by recycled water, and by nature-based solutions. These [two studies were completed and submitted](#) to the Water Board on July 1, 2023. The 2014 Watershed Permit required an evaluation of nutrient removal opportunities by optimization, sidestream treatment and upgrades, and [was submitted](#) in 2018. Together, the three studies provide a range of approaches to reducing nutrients.

The Bay Area Clean Water Agencies ([BACWA](#)) has provided a mechanism for group compliance with the permit provisions, and has served as a venue for group negotiation of permit provisions with the Water Board. The Water Board plans to reissue the Nutrient Watershed Permit in 2024, when the 2019 permit expires.

Establishment of nitrogen limits

BACWA and the Water Board have been discussing the 2024 reissuance of the Watershed Permit for several years. Based on our scientific understanding, nitrogen is the primary nutrient of concern in the San Francisco Bay, since limiting its concentration can limit algal growth. Loads to the Bay during the dry season appear to have the greatest impact on the Bay, since during the dry season there is more sunlight available for algal growth, and less flushing of the Bay. Prior to summer 2022, it had been anticipated that the 2024 Watershed Permit would include dry season nitrogen load caps based on current performance. However, in the summer of 2022, a harmful algal bloom in the San Francisco Bay resulted in a large fish kill. Another algal bloom occurred in 2023. While we do not fully understand the triggers for these blooms, we do understand that nutrients contribute to the magnitude of algal blooms once initiated. As a result, the Water Board has informed BACWA that it intends to require nitrogen load reductions in the 2024 Watershed Permit.

As of August 2023, BACWA and Water Board staff are in conversation about how to implement nutrient load reductions within the 2024 Watershed Permit, including details related to the magnitude and timing of load reductions. There is still significant uncertainty in the science about what nutrient levels would be protective of San Francisco Bay.

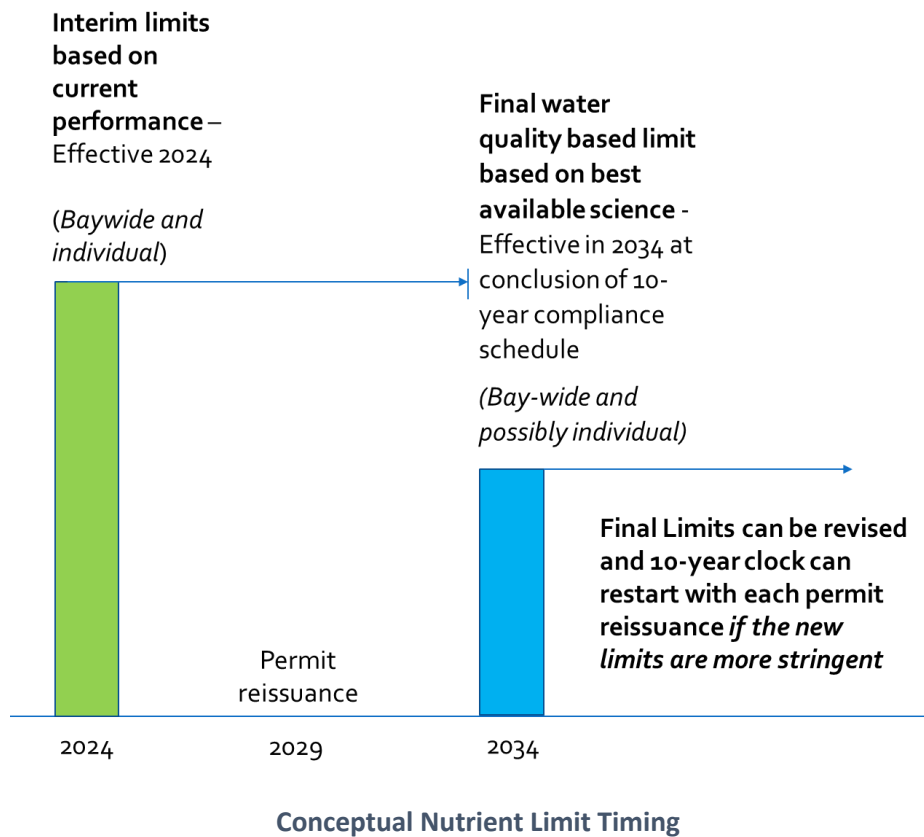
The Water Board has stated that they intend to make a finding of Reasonable Potential that wastewater discharges may cause or contribute to an exceedance of the San Francisco Bay Region's Basin Plan's narrative biostimulatory objective, which states:

Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses. Changes in chlorophyll a and associated phytoplankton communities follow complex dynamics that are sometimes associated with a discharge of biostimulatory substances. Irregular and extreme levels of chlorophyll a or phytoplankton blooms may indicate exceedance of this objective and require investigation.

BACWA and Water Board staff are working with SFEI's science team to translate the narrative objective to numeric, water-quality based effluent limits. It is anticipated that the effluent limits will be expressed as Bay-wide, mass-based effluent limits for total inorganic nitrogen that apply only during the dry season (May to October). The Water Board has stated that each agency will also be given an individual final limit, but BACWA's position is that individual limits are premature, as both the science, as well as agencies' planning efforts, are still in rapid development.

As the limits are established, the Water Board plans to issue a [compliance schedule](#), which would give permittees 10 years to achieve the final limits. If ongoing scientific research indicates that the final limits established in 2024 are not sufficiently protective, then the limit may be revised at future permit reissuances, with the 10-year clock able to restart with each reduction in the limit.

While agencies are working to meet the final limits, they will be given interim limits based on current performance. These will be expressed as both a Bay-wide limit and as individual limits; exactly how current performance will be defined remains under discussion. An agency that exceeds its individual limit will not be found to be in non-compliance unless the Bay-wide limit is also exceeded. These interim limits may be updated at the 2029 Watershed Permit reissuance based on performance data at that time. The timing and establishment of interim and final limits is illustrated below:



BACWA's Vision for the 2024 Watershed Permit

BACWA and its members are committed to the protection and enhancement of the San Francisco Bay ecosystem. As such, we understand the importance of implementing projects that will reduce nutrient loading to the Bay. We also understand that there is significant uncertainty regarding the impacts of our actions, and the worst possible outcome is to spend billions of public dollars and not have a positive effect on the environment. As such, it is of utmost importance that we proceed with care, and work with the Water Board to craft a thoughtful and strategic permit.

There are three broad categories under which BACWA members are proceeding with nutrient reduction projects:

- **Near-term actions** that can be implemented quickly and relatively cheaply. These projects include optimization of existing facilities, use of emerging technology to achieve nutrient removal using existing processes, and adaptation of excess dry weather capacity to implement nutrient treatment. While these projects can be brought online in the near term, they typically have limited potential for large-scale nitrogen load reductions.
- **Synergistic upgrades** that are consistent with agencies' capital planning schedules and priorities. Many agencies are in planning and construction of upgrades, several of which are expected to

be commissioned over the term of the 2024 Watershed Permit. An agency that has not yet begun the upgrade planning process may take over ten years to complete construction.

- **Multi-benefit projects** such as nature-based solutions and recycled water. These projects provide drought resilience, shoreline protection, and/or habitat enhancement, and are therefore highly desirable where feasible. However, they may take longer than traditional upgrades to implement since they are dependent on external factors such as multi-agency permitting, interagency agreements, land acquisition, and others.

Since the Watershed Permit will establish limits on a Bay-wide basis, our region has a unique opportunity to pursue an “all of the above approach” with each agency selecting a path that makes sense for their facility and community. We also have the opportunity to establish a trading program that would allow agencies with higher barriers to removing nutrients to support agencies that can move more quickly and cheaply to remove nutrients.

Our current challenge is to structure the Watershed Permit in support of this multipronged approach. A Watershed Permit that does not leave room for flexibility would result in insufficient time for community engagement, lack of consideration for competing environmental priorities, stranded capital assets, and higher costs due to competition among agencies for funding, contractors, and other resources.

BACWA’s vision for the 2024 Watershed Permit is to structure the required nutrient load reductions such that member agencies can (1) reduce nutrient loads quickly where possible, (2) plan for synergistic upgrades, and (3) have sufficient time to pursue multi-benefit projects as a preferred solution to address nutrients.

BACWA will provide periodic updates as the negotiation process continues to evolve.