



KEY REGULATORY ISSUE SUMMARY

Updated January 28, 2015

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

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
PERMITS COMMITTEE			
SF BAY NUTRIENT WATERSHED PERMIT			
<ul style="list-style-type: none"> • The nutrient watershed permit was adopted on April 2014, with an effective date of July 1, 2014. • Through the nutrient surcharge levied on permittees, BACWA will fund compliance with the following provisions of the nutrient watershed permit on behalf of its members: <ul style="list-style-type: none"> ○ Annual reporting ○ Optimization and facilities upgrade studies ○ Support of scientific studies through the RMP at \$880K per year. 	<ul style="list-style-type: none"> • HDR team selected to lead the Optimization and Upgrade studies, and annual reporting. Contract approved September 2014. • The contract is overseen by the contract management group, made up of representatives of member agencies • The scoping and evaluation plans for the optimization/upgrade studies were submitted to the Regional Water Board in December 2014. • BACWA hosted two Nutrient Symposia for its members: In October 2013, on Nutrient Treatment Technologies, and in October, 2014, on Case Studies/Lessons Learned in Nutrient Management in watersheds nationwide. 	<ul style="list-style-type: none"> • Agencies report nutrient monitoring through CIWQS. • All agencies participating in the optimization/upgrade studies should complete a questionnaire about their facilities infrastructure, operations and site constraints. Part A was due January 21, 2015 and Part B will be due February 18, 2015. • HDR team will begin site visits in Spring 2015. • BACWA and SFEI will submit a science implementation plan and schedule update on February 2, 2015. • BACWA will work with HDR to submit the annual monitoring report on October 1, 2015. 	<p>Nutrient Watershed Permit: http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2014/R2-2014-0014.pdf</p> <p>BACWA Nutrient page, including Symposia presentations from 2013 and 2014: http://bacwa.org/nutrients</p> <p>HDR Scope of Work: http://bacwa.org/Portals/0/Nutrients/Scope%20of%20Work.pdf</p>

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NUTRIENTS IN SAN FRANCISCO BAY – SCIENCE			
<ul style="list-style-type: none"> SF Bay has historically been resilient to nutrient impacts because of tidal mixing, clam grazing, and high turbidity. However, the turbidity is decreasing due to capture of sediment by upstream dams, and clam populations are on the decline. There is concern that SF Bay may become nutrient over-enriched in the future. Ammonia discharged from POTWs has been suggested to be disrupting the food-web in Suisun Bay, and ultimately contributing to the decline of pelagic fish populations in the Bay-Delta estuary. 	<ul style="list-style-type: none"> Because of the complexity of the science behind nutrient impacts in the SF Bay, stakeholders in the region are participating in a steering committee to prioritize scientific studies and ensure that all science to be used for policy decisions is conducted under one umbrella. The watershed permit specifies \$880K/yr of funding from POTWs. In 2014, BACWA has provided \$865 to SFEI through the RMP, and \$15K to fund a steering committee facilitator. Agencies are now conducting effluent monitoring under the watershed permit. 	<ul style="list-style-type: none"> Continue to participate in steering committee and provide funding for scientific studies. BACWA, along with the RWB, BayKeeper and SFEI, is participating in a planning committee to provide direction for the steering committee and ensure that action items are carried out. Participate in the Nutrient Technical Workgroup, which is a venue to provide technical input to the process, and is open to the public. 	<p>Nutrient Technical Workgroup page: http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/estuarnne_ntw.shtml</p>
SELENIUM – EPA CRITERIA AND SF BAY TMDLs			
<ul style="list-style-type: none"> EPA is developing ambient water concentration criteria for the SF Bay/Delta based on a previously developed fish tissue objective. EPA has been sued by an NGO for taking too long to release CTR criteria, and are currently in settlement negotiations. While the EPA was planning on releasing the criteria this year, this has been put on hold indefinitely pending the outcome of the lawsuit. The RWB has taken over the development of a selenium objective, with EPA engagement. The methodology developed will be applied in both the North Bay and South Bay TMDL processes. 	<ul style="list-style-type: none"> EPA has a draft recommended freshwater selenium criterion which would apply to the Sacramento and San Joaquin rivers. This could be problematic for the Bay, since the criterion is higher than the likely objective for the North Bay, which receives water from upstream freshwater rivers. The Bay Delta Conservation Plan's (BDCP) EIR acknowledged that the Delta tunnels could increase selenium concentrations in the San Francisco Bay. It then put the burden on the North Bay TMDL process to mitigate these increased concentrations. BACWA provided comments stating that this was not an acceptable strategy. 	<ul style="list-style-type: none"> Continue to engage with the RWB on the development of water quality objectives for selenium in the Bay. Track and comment on initiatives by outside entities such as the BDCP whose activities could impact selenium in the San Francisco Bay. 	<p>Regional Water Board Presentation on TMDL: https://bacwa.box.com/s/xyof61mvjas8r5e0rc7</p> <p>EPA Freshwater Selenium Criterion: http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/estuarnne_ntw.shtml</p> <p>BDCP Public Review Page: http://baydeltaconservationplan.com/PublicReview.aspx</p>

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ELECTRONIC REPORTING			
<ul style="list-style-type: none"> EPA has issued a NPR that would make all federal and state reporting electronic for NPDES permittees. EPA issued a supplemental notice to clarify and seek further comment on the proposed Reporting Rule, with comments due January 30, 2015. State Board has completed eSMR 2.5, which will allow for electronic submittal of EPA required self-monitoring data through an extension to CIWQS. 	<ul style="list-style-type: none"> BACWA worked with Tri-TAC (now CASA Regulatory Committee) on a December 2013 comment letter on the federal rule. CASA submitted a comment letter on the supplemental notice on January 30. CIWQS received Federal certification through the Cross-Media Electronic Reporting Rule (CROMERR) in July 2014, so California dischargers should be able to submit electronic discharge monitoring reports by the federal deadline. However, there is still a question over how other information that is not yet collected by CIWQS, such as pretreatment and biosolids, will be submitted. CROMERR does not currently accept the SSO portion of CIWQS due to insufficient security, and biosolids data is not reported to CIWQS. 	<ul style="list-style-type: none"> Dischargers began reporting electronically to the State through eSMR 2.5 on October 1, 2014. Track Federal efforts to incorporate spill/bypass and reporting. Wait for EPA's response to the comments submitted to their supplemental notice. 	<p>EPA Fact Sheet on NPR: http://www2.epa.gov/sites/production/files/2013-08/documents/npdes-electronic-reporting-rule-factsheet.pdf</p> <p>State Water Board's page on eSMR2.5 http://www.swrcb.ca.gov/ciwqs/esmr25.shtml</p> <p>CROMERR Certification: http://www.gpo.gov/fdsys/pkg/FR-2014-07-02/pdf/2014-15547.pdf</p>
MERCURY/PCB WATERSHED PERMIT			
<ul style="list-style-type: none"> Mercury/PCB Watershed Permit adopted on 12/12/12 with 1/1/13 effective date. Aggregate PCB and mercury loads for 2013 were well below wasteload allocations. Method 1668c for PCB congeners has still not been promulgated by EPA. Data collected during the first permit term varied widely depending on which laboratory did the analyses. 	<ul style="list-style-type: none"> The permit requires continued requirement of risk reduction program funding and annual reporting of effort (BACWA submits letter). This has been an ongoing challenge, since there is no regional risk reduction effort to fund at the present time. BACWA Laboratory Committee developed an updated PCB Protocol to reduce variability between laboratories running Method 1668C, effective January 1, 2014. 	<ul style="list-style-type: none"> BACWA is working with partners in the public health and regulatory community to develop work plan for risk reduction during the current permit term. This will likely involve providing funding to community-based organizations to work directly with affected communities who eat fish caught from the San Francisco Bay. 	<p>2013 Mercury/PCB Watershed Permit: http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2012/R2-2012-0096.pdf</p> <p>Updated PCBs Protocol: https://bacwa.box.com/s/bws7iil34xradh5xdyc7</p>

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STATE WATER BOARD TOXICITY PLAN			
<ul style="list-style-type: none"> • Draft State Toxicity Policy issued in June 2012 would establish/require: <ul style="list-style-type: none"> ○ numeric limits for chronic toxicity; ○ use of Test of Significant Toxicity (TST) as statistical method to determine toxicity replacing EC25/IC25 (with concerns it will lead to more false positive results); ○ Regional Water Board discretion on inclusion of acute toxicity in permits and whether to allow for dilution. • State Water Board released a Fact Sheet in 2013 outlining proposed revisions, and invited stakeholders to weigh in on the proposed updates. 	<ul style="list-style-type: none"> • Date for next draft of policy is unknown. • BACWA submitted a comment letter to the State Water Board outlining our response to the Fact Sheet and proposing language to reduce monitoring requirements. • BACWA representatives have met with Regional Water Board Staff to discuss the Region 2 implementation of acute toxicity testing and instream waste concentrations. • On September 4, 2014, EPA issued a formal objection to draft permits that Region 4 was developing for two of Los Angeles County Sanitation Districts' (LACSD) facilities (Whittier Narrow and Pomona). They required immediate introduction of toxicity limits, rather than triggers, and made recommendations on how these limits would be implemented. Many of their recommendations ran counter to recommendations POTWs had made to the State Water Board for implementing the State Toxicity Plan. BACWA supported a CASA-led petition to the State Water Board requesting a stay to the two LACSD permits. • On January 15, 2015, EPA issued a formal objection letter to the permit under development for Las Gallinas Valley Sanitary district requiring that they be given numeric chronic toxicity limits, although the letter did not specify the test method. 	<ul style="list-style-type: none"> • BACWA will comment on the next draft of the Toxicity Plan once it is released. • Key issues to discuss with the State Water Board continue to be the enforceable limits, monitoring frequency, reasonable potential analysis methodology, and instream waste concentration. • Work with CASA to investigate how EPA's objection will impact our member agencies. • Work with the Regional Water Board to give input into how chronic toxicity limits are implemented both before and after the State Toxicity Plan. 	<p>State Board Page: http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy_tx_ass_cntrl.shtml Fact Sheet: https://bacwa.box.com/s/m7dcmzeugfwylwsusl74 BACWA Comment Letter: https://bacwa.box.com/s/bws7iil34xradh5xdyc7 EPA Formal Objection to Region 4 permits: https://bacwa.box.com/s/9iq0fx6b5htyggq7d8dzd CASA Petition to State Water Board on Region 4 permits: https://bacwa.box.com/s/plgv0oao4rnkr4sufjmssqzi7jxhpbbh EPA Formal Objection to Las Gallinas Permit https://bacwa.box.com/s/pdmtzgd8vfad5cee19x36qu2uqph902</p>

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COMPOUNDS OF EMERGING CONCERN			
<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 Board, along with Southern California Coastal Water Research Project (SCCWRP), has been working with an Ecosystems Advisory Panel and Stakeholder Advisory Group and is finalizing a monitoring program for the State. Region 2's CEC strategy focuses on monitoring/tracking concentrations of constituents with high occurrence and high potential toxicity and source control. Much of what the SWRCB CEC Panel recommended are already being implemented in Region 2 through the RMP. 	<ul style="list-style-type: none"> Pulse of the Bay 2013 focused on CECs. The San Francisco Bay CEC strategy will expand to include some degree of POTW effluent monitoring. Studies are ongoing to test the use of bioanalytical assays. BACWA has provided RMP with a list of volunteer POTWs to have their effluent monitored for CECs by the RMP. This monitoring would be for informational and not for compliance purposes. 	<ul style="list-style-type: none"> Continue to participate in the RMP CEC Workgroup and solicit agency volunteers for future studies. 	<p>Statewide Monitoring Prioritization page: http://www.sccwrp.org/ResearchAreas/Contaminants/StatewideCECPrioritization.aspx</p> <p>Regional Monitoring Program CEC Workgroup: http://www.sfei.org/rmp/ecwg</p> <p>Pulse of the Bay 2013: http://www.sfei.org/sites/default/files/Pulse%202013%20CECs.pdf</p>
CONTINUOUS CHLORINE MONITORING			
<ul style="list-style-type: none"> Chlorine residual is the most frequent parameter for violations for Region 2 POTWs, however, because there are 24 hourly reporting events each day, the “opportunities” for violations are enormous and the actual violation rates are infinitesimal (~0.001%). BACWA has worked with the Regional Water Board in the past on ways to ensure that violations reflect events that pose an actual water quality concern, rather than just being a momentary blip on a continuous monitoring device. 	<ul style="list-style-type: none"> The Regional Water Board negotiated acceptable language with Sunnyvale and San Jose-Santa Clara for their 2014 permits. Permittees must report top-of-the-hour maxima to CIWQS, as well as any other on-hour data that exceed the limit. In their monthly SMR cover letter they must report any exceedances between hourly readings. 	<ul style="list-style-type: none"> In the future, BACWA may want to participate in the development of a regional or statewide policy to address continuous chlorine monitoring. However, since this isn't a pressing issue, it has been put on the back burner. 	

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BACTERIAL OBJECTIVES			
<ul style="list-style-type: none"> The State Water Board is proposing amendments to the Statewide Water Quality Control Plan for Inland Surface Waters, Enclosed Bays and Estuaries and the Ocean Plan to include updated water quality objectives for bacteria for the of water contact recreation beneficial use (REC 1) in fresh and marine waters. The proposed amendments will likely include a revised indicator organism and more stringent risk protection level. BACWA representatives met with State Board Staff on July 14, 2014 to give input into proposed features of the bacterial objectives. Scoping meetings held in Winter 2015 	<ul style="list-style-type: none"> The State Water Board is considering limited use designations to allow less stringent objectives where/when contact recreation does not occur. They may include language encouraging Regional Water Boards to use mixing zones in developing effluent limits. This would help offset the lower enterococcus limits that are proposed, since Region 2 currently applies the receiving water limitations as end-of pipe-limits. BACWA urged the State Water Board to harmonize their policy with the Department of Public Health's rules on indicator organisms. However, this is unlikely since it would require legislative changes to DPH's rules. 	<ul style="list-style-type: none"> Comment on the draft objectives when they are released, which is expected in winter 2015 	<p>State Water Board Issue Summary: https://bacwa.box.com/s/6joxce5fppfdaq0w30w4</p>
COLLECTION SYSTEMS COMMITTEE			
SSS WDR MRP			
<ul style="list-style-type: none"> The MRP for the SSS WDRs were recently revised by the State Water Board and became effective 9/9/13. 	<ul style="list-style-type: none"> Agencies should update their SSMPs to reflect the changes. BACWA is participating a Statewide data review committee to provide guidance for developing SSMPs 	<ul style="list-style-type: none"> Continue to work with State Water Board as it develops future updates to the SSS WDR MRP. 	<p>Revised MRP: http://www.swrcb.ca.gov/board_decisions/adopted_orders/water_quality/2013/wqo2013_0058exec.pdf Presentation on changes: http://bacwa.org/Portals/0/Committees/CollectionSystems/Library/2013%20BACWA%20CSC%20Revised%20MRP%209-12-13A.pdf</p>

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PRETREATMENT COMMITTEE			
FEDERAL DENTAL AMALGAM RULE			
<ul style="list-style-type: none"> • USEPA has been planning to issue a federal dental amalgam rule since 2009. NACWA, BACWA and individual agencies provided comments on potential elements of the proposed rule. • Initial Mercury Watershed Permit required Region 2 wastewater agencies to develop a dental amalgam program. Programs varied between agencies. Some programs remain active while some are less active. • NAWA continued to engage USEPA and OMB on proposed rule. 	<ul style="list-style-type: none"> • USEPA published proposed rule on October 22, 2014. Comment deadline is February 20, 2015. • DIU Category established with reduced standards over traditional CIU. Standards include DIU becoming a SIU if don't comply with standards within 90 days. POTWs with pretreatment programs are required to implement standards • State assumed to implement standards where POTWs are without pretreatment program • BACWA agencies generally in better position than most POTWs across country but are affected differently depending on the status of program. Active programs with mandatory separators least impacted. BACWA members without pretreatment program most impacted if state does not assume responsibility to implement standards. 	<ul style="list-style-type: none"> • Pretreatment Committee forming workgroup to develop BACWA comment letter on certain aspects of proposed rule. Draft letter to be presented to BACWA Board. • Work with CASA and NACWA to submit comment letters to USEPA. • Support member agencies evaluation of the potential impacts the proposed rule will have on their programs. 	<p>EPA Website Resource: http://water.epa.gov/scitech/wastetech/guide/dental/</p>

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RECYCLED WATER COMMITTEE			
RECYCLED WATER GENERAL ORDER			
<ul style="list-style-type: none"> The State Water Board adopted a General Order, 2014-00 on June 3, 2014 to streamline permitting for recycled water, in response to the Governor's 1/17/14, proclamation of a Drought State of Emergency. The State General Order, as adopted, is more onerous than Region 2's General Order for water reuse, 96-011. 	<ul style="list-style-type: none"> BACWA provided a comment letter, stating that Region 2 entities should be able to continue to use 96-011 for new and existing permits. The General Order allows existing permittees and projects to remain under existing permits, it's unclear whether new projects must get coverage under the State General Order. 	<ul style="list-style-type: none"> Work with our agencies to see how coverage under the new State General Order impacts their new recycled water projects. Advocate to the Regional Water Board for agencies to be able to continue with 96-011. 	<p>State Recycled Water General Order: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2014/wqo2014_0090_d_wq_revised.pdf</p> <p>Comparison of Region 2 96-011 and 2004-0090: http://bacwa.org/Portals/0/Committees/WaterRecycling/Library/Comparison%20of%20RW%20Gen%20Order%20Requirements%20-08132014-2.pdf</p>
BAPPG			
PESTICIDES			
<ul style="list-style-type: none"> Most pesticides, including pyrethroids, are currently unregulated in wastewater other than by narrative toxicity standards. Some pyrethroids are toxic to sensitive organisms at extremely low concentrations. In the future, POTWs could be regulated for pyrethroids, which they cannot control. Engagement at this stage could steer regulators to adopt strategies favoring source control. 	<ul style="list-style-type: none"> POTWs from across the State, including several BACWA agencies, recently worked with pyrethroid manufacturers and DPR on a statewide survey of pyrethroids in POTW influent, effluent, and biosolids. Results of the study showed that pyrethroids are ubiquitous in effluent and biosolids throughout the state, often at concentrations above UC Davis-developed toxicity thresholds. The report was released in January 2014. BAPPG has been active in 	<ul style="list-style-type: none"> P2 groups will continue to work with EPA, DPR and pesticide manufacturers to prevent pyrethroids from being used in a manner where they are discharged to the sewer. 	<p>Pesticides Working Group Report: https://bacwa.box.com/s/jxhrd2lte3o1aqy7abf</p> <p>Vector Control General Order: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2014/wqo2014_0106_d_wq_redline.pdf</p>

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	<p>commenting on product registration at the EPA level, and to California DPR to urge regulators to consider the pathway to the sewer when registering products.</p> <ul style="list-style-type: none"> • BACWA provided comments on the revised State Vector Control General Order which allows pesticide applications directly to surface waters with no subsequent monitoring. 		
AIR COMMITTEE			
BAAQMD'S GREENHOUSE GAS ACTION PLAN			
<ul style="list-style-type: none"> • In November 2013, the Bay Area Air Quality Management District (BAAQMD) adopted a climate protection goal to reduce regional GHG emissions by 80 percent below 1990 levels by 2050. The goal is part of a 10-point Climate Action Work Program (Climate Program). The BAAQMD's GHG goal matches the State's 2050 GHG target set by executive order S-3-05. 	<ul style="list-style-type: none"> • When the AIR committee met with BAAQMD staff in winter 2014, they were unaware of other regulatory drivers such as nutrient control that may impact POTWs' ability to meet climate goals. BACWA sent a letter BAAQMD to explain some of the cross-media issues our members are grappling with. 	<ul style="list-style-type: none"> • Continue to engage with BAAQMD staff to help them understand the issues that our members are balancing. 	<p>BAAQMD Climate Protection Page: http://www.baaqmd.gov/Divisions/Planning-and-Research/Climate-Protection-Program.aspx BACWA letter on cross-media issues: http://bacwa.org/Portals/0/Users/142/42/142/BACWA_Cross-Media%20Letter.pdf</p>
<p>Note: AIR Committee 2014 annual newsletter is available at: http://bacwa.org/Portals/0/Committees/AirIssuesRegulations/Library/BACWA%20AIR%202014%20Newsletter%20Final.pdf AIR Committee Issues summary is available at: http://bacwa.org/Portals/0/Users/045/57/557/BACWA%20AIR%20Priority%20Issues%20%28Updated%202014-11-14%29.pdf</p>			

“Parking lot” issues with no updates can be found in the [January 2014 issues summary](#) and [January 2013 issues summary](#).

ACRONYMS

AIR Committee	Air Issues and Regulations Committee
BAAQMD	Bay Area Air Quality Management District
BAPPG	Bay Area Pollution Prevention Group
CASA	California Association of Sanitation Agencies
CECs	Compounds of Emerging Concern
CIWQS	California Integrated Water Quality System
CIU	Categorical Industrial User
CTR	California Toxics Rule
DIU	Dentist Industrial User
DPR	Department of Pesticide Regulation
EPA	United States Environmental Protection Agency
eSMR	Electronic Self Monitoring Report
GHG	Greenhouse Gas
MRP	Monitoring and Reporting Program
NPR	Notice of Proposed Rulemaking
P2	Pollution Prevention
PCB	Polychlorinated Biphenyl
POTW	Publically Owned Treatment Works
RMP	Regional Monitoring Program
SCCWRP	Southern California Coastal Water Research Project
SF Bay	San Francisco Bay
SFEI	San Francisco Estuary Institute
SSMP	Sewer System Management Plan
SSO	Sanitary Sewer Overflow
SSS	Sanitary Sewer System
SIU	Significant Industrial User
WDR	Waste Discharge Requirements
TMDL	Total Maximum Daily Load
TST	Test of Significant Toxicity