



KEY REGULATORY ISSUE SUMMARY

Updated January 13, 2016

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

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
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 to the RMP, which BACWA has provided for FY2016. • 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. • Ensure that the effluent data used by SFEI for modeling is consistent with the data in the Group Annual Report. 	<p>Nutrient Technical Workgroup page: http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/estuarnetw.shtml</p> <p>SFEI Nutrient Reports: http://sfbaynutrients.sfei.org/books/reports-and-work-products</p>

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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"> ○ Group Annual Reporting ○ Optimization and facilities upgrade studies ○ Support of scientific studies through the RMP at \$880K per year through the five-year permit term. 	<ul style="list-style-type: none"> • Consultant team was selected by BACWA Contract Management Group to lead the Optimization and Upgrade studies, and annual reporting. The Scoping and Evaluation Plans for the optimization/upgrade studies were submitted to the Regional Water Board in December 2014. Agencies participating in these studies completed a questionnaire about their facilities' infrastructure, operations and site constraints. Consultant team conducted site visits in April through September 2015. • BACWA and SFEI submitted a science implementation plan and schedule update on February 2, 2015. • BACWA hosted two Nutrient Symposia: In October 2013, on Nutrient Treatment Technologies, and in October, 2014, on Case Studies/Lessons Learned in Nutrient Management nationwide. • All agencies participated in the first Group Annual Report, submitted Nov 12, 2015. 	<ul style="list-style-type: none"> • Agencies continue to report nutrient monitoring through CIWQS. • Draft Optimization/Upgrade Study Report is expected late June/early July 2016. The consultant will be circulating reports about individual plants beginning in February to be signed off by agency points of contact. • BACWA and the Regional Water Board are beginning discussions about the Nutrient Watershed Permit reissuance in 2019. • Since no increase in net nutrient loading has been discussed as a possible permit requirement upon reissuance, the consultant is doing an analysis on how it may be possible, and what it would cost, to achieve this limit. 	<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/document-category/bacwa-nutrient-symposia/</p> <p>Optimization/Upgrade Scoping and Evaluation Plan: http://bacwa.org/wp-content/uploads/2015/05/BACWA_ScopingEvalPlan_Final.pdf</p>

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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. The RWB took 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"> The RWB has adopted a TMDL for the North SF Bay which was adopted in November 2015. It requires no load reductions from POTWs. BACWA submitted a comment letter proposing a change in language about attainment of waste load allocations. 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"> Engage with Regional Water Board during development of the South SF Bay Selenium TMDL 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 North Bay Selenium TMDL: http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2015/November/6_final_to.pdf BDCP Documents:: http://baydeltaconservationplan.com/2015PublicReview.aspx</p>
MICROPLASTICS			
<ul style="list-style-type: none"> Microplastics are gaining attention worldwide as a contaminant of emerging concern. SFEI presented a poster at the September 2015 State of the Estuary Conference showing results of a preliminary survey of microplastics in Bay Area wastewater effluent and surface waters. Several media outlets have picked up the story, raising the level of public attention to the issue. Recent State and Federal legislation phase out microbeads in personal care products, but do not address other sources of microplastics, such as pellets and fibers. 	<ul style="list-style-type: none"> Bay Area POTWs with filtration have similar levels of microplastics in their effluent as facilities without filtration, according to SFEI’s study. Bay Area POTW effluent and surface waters had much higher concentration of microplastics than in other watersheds in the country. However, it is not clear that the same sampling and analytical methods were used as in studies in other regions, so results may not be comparable. Further research is needed to identify sources of microplastics, and feasible alternatives for pollution prevention 	<ul style="list-style-type: none"> Coordinate with SFEI to develop a list of important questions that need to be answered to better understand the microplastics problem. Representatives from BACWA member agencies have formed a workgroup through the BACWA Laboratory Committee to develop an analytical protocol to measure microplastics. They will ultimately develop a sampling and analysis plan to quantify and characterize microplastics in POTW effluent. 	<p>SFEI Poster: http://www.sfei.org/documents/microplastic-contamination-san-francisco-bay</p>

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ALTERNATIVE MONITORING AND REPORTING PROGRAM			
<ul style="list-style-type: none"> The Regional Monitoring Program has been losing funding over time due to inflation and fewer dischargers, and its ability to fund special studies is reduced. The Regional Water Board has released a tentative order including an alternative monitoring program whereby agencies may reduce their monitoring of specific tests and transfer the savings to the RMP. Agencies would opt into alternative monitoring program on a five year basis, and pay surcharge annually. 	<ul style="list-style-type: none"> The following effluent tests are reduced to once per permit cycle for agencies without water quality limits: <ul style="list-style-type: none"> VOCs (EPA Method 624) BNAs (EPA Method 624) PCBs as alochlors and chlorinated pesticides (EPA Method 608) Dioxins (EPA Method 1613) Drop sensitive species screening for chronic toxicity except in the case of a treatment process change or new significant industrial source. 	<ul style="list-style-type: none"> Comment on TO by Feb 1 deadline. If TO is adopted, agencies decide whether to pay surcharge when they pay RMP fees and reduce monitoring. The funds will go into a special account, and will be allocated through a transparent process governed by the RMP Steering Committee. 	<p>Tentative Order: http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2016/March/AMP/AltMRP_RMP_TO.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 have been well below waste load allocations, up to and including the 2014 reporting year. 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 performed 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). In 2015, BACWA issued an RFP for community-based organizations to conduct risk reduction work. Two \$25,000 grants were awarded to APA Family Support Services and the California Indian Environmental Alliance (CIEA). 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"> Review quarterly progress reports from CIEA and APA. Hold a joint progress meeting with the two entities and the RWB in Summer 2016. 	<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/ws7iil34xradh5xdyc7</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. A recent draft from Spring 2015 was developed but not made public. • BACWA submitted a comment letter to the State Water Board outlining our response to the 2013 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. They did not allow a 5-concentration test to be used to validate toxicity test results. BACWA supported a CASA-led petition to the State Water Board requesting a stay to the two LACSD permits, which has since been put in abeyance. • 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. Las Gallinas' new permit contains both toxicity limits and triggers. 	<ul style="list-style-type: none"> • BACWA will comment on the next draft of the Toxicity Plan once it is released. • Key issues to for BACWA to discuss with the State Water Board continue to be the enforceable limits, monitoring frequency, reasonable potential analysis methodology, and instream waste concentration. • POTWs statewide are recommending that the State Water Board host an expert panel to develop statistical guidance to ascertain the validity of a toxicity test. • BACWA will 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/strate_implementation_policy_tx_ass_cntrl.shtml</p> <p>Fact Sheet: https://bacwa.box.com/s/m7dcmzeugfwylwsusl74</p> <p>BACWA Comment Letter: https://bacwa.box.com/s/bws7iil34xradh5xdyc7</p> <p>2015 Draft Toxicity Plan: http://bacwa.org/wp-content/uploads/2015/09/10.-Tox-plan_for_EPA_review1.pdf</p> <p>EPA Formal Objection to Region 4 permits: https://bacwa.box.com/s/9iq0fx6b5htygg7d8dzd</p> <p>CASA Petition to State Water Board on Region 4 permits: https://bacwa.box.com/s/plgv0oao4rnkr4sufjmssqzi7jxhpbhb</p> <p>EPA Formal Objection to Las Gallinas Permit https://bacwa.box.com/s/pdmtzgd8vfad5ceez19x36qu2uqph902</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. Work with the Regional Water Board to develop CECs Management Actions Fact Sheets. 	<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#tab-1-4</p> <p>Pulse of the Bay 2013: http://www.sfei.org/sites/default/files/biblio_files/Pulse_2013_CECs.pdf</p>
RECYCLED WATER GENERAL ORDER			
<ul style="list-style-type: none"> The State Water Board adopted a General Order, 2014-90 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. Very few agencies have applied for coverage under the new General Order. 	<ul style="list-style-type: none"> The General Order allows existing permittees and projects to remain under existing permits. The RWB have stated that they expect new projects to obtain coverage under the State General Order. The State Water Board has issued an updated draft Order in 2015. The changes are mostly administrative, but this represents an opportunity to improve the General Order in other respects. Adoption is expected in March 2016. 	<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 if they wish to do so. Provide comments on 2015 General Order update through WaterReuse. 	<p>State Recycled Water General Order, 2015 Draft: http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2014/wgo2014_0090_dwg_revised.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, however, because there are 24 hourly reporting events each day, the “opportunities” for violations are enormous. However, 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. Agencies are overdosing their effluent with the dechlorination agent, sodium bisulfite, to prevent chlorine violations, a practice which costs millions of dollars regionally each year. 	<ul style="list-style-type: none"> In BACWA’s 2015 Triennial Review Comment Letter, BACWA proposed either changing the Basin Plan limit, or investigating an alternative implementation of the limit. The RWB may be open to a higher concentration measured at the wastewater treatment plant if studies can demonstrate that it dies off in the outfall. Oro Loma Sanitary District is piloting peracetic acid as an alternative disinfectant. Per its Southeast Plant NPDES permit requirements, SFPUC is investigating alternatives to prevent high use of sodium bisulfite. BACWA is looking for opportunities to leverage this work for the benefit of its other members. 	<p>Triennial Review Comment Letter: http://bacwa.org/wp-content/uploads/2015/09/BACWA-comments-Triennial-Review-2015.pdf</p>

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FEDERAL DENTAL AMALGAM RULE			
<ul style="list-style-type: none"> • EPA published proposed dental amalgam rule on October 22, 2014. • 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 EPA on proposed rule. 	<ul style="list-style-type: none"> • BACWA submitted comment letter on Feb 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 nationwide. Active programs with mandatory separators are least impacted. BACWA members without pretreatment program most impacted if state does not assume responsibility for implementing standards. 	<ul style="list-style-type: none"> • 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/ BACWA Comment Letter: http://bacwa.org/wp-content/uploads/2015/04/Federal-Dental-Amalgam-Rule-Comments-BACWA-Final-shullbacwa.org_.pdf</p>

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AB 32 SCOPING PLAN			
<ul style="list-style-type: none"> • The AB 32 scoping plan lays out the approach for the State to meet its greenhouse gas emissions reductions targets through 2030 and 2050. • The Scoping Plan Update’s Water sector goals include: <ul style="list-style-type: none"> ○ Developing incentives for resource-recovery wastewater treatment projects by 2015, ○ Modifying state and regional water board policies and permits to encourage conservation, water recycling, stormwater reuse, and wastewater-to-energy goals by 2016, and ○ Implementing green infrastructure permits to treat and capture urban run-off by 2016. 	<ul style="list-style-type: none"> • CWCCG conducted a survey of members to rank the importance of AB 32 Scoping Plan goals to POTWs. The top three goals identified were: <ul style="list-style-type: none"> ○ Resource Recovery ○ Conservation/Reuse ○ Funding and Incentives • CARB will be funding research for quantifying nitrous oxide sources. The current research plan identifies oxidation ditches as a typical treatment process. To correct this, CWCCG will put together a survey on treatment processes used throughout California and the magnitude of nitrogen removal taking place at POTWs. 	<ul style="list-style-type: none"> • BACWA will help deliver information on nutrient removal for the Bay Area to CWCCG to use in its discussions with CARB on nitrous oxide sources. 	<p>CWCCG Presentation to BACWA AIR Committee, Sept 2015: http://bacwa.org/wp-content/uploads/2015/09/sd0915BACWA-AIRUpdate_Slides-2.pdf</p>

“Parking lot” issues with no updates can be found in previous BACWA issues summaries:

[January 2015 issues summary](#)

[January 2014 issues summary](#)

ACRONYMS

AIR Committee	Air Issues and Regulations Committee
BAAQMD	Bay Area Air Quality Management District
BDCP	Bay Delta Conservation Plan
BNA	Base Neutral Acid
CARB	California Air Resources Board
CASA	California Association of Sanitation Agencies
CECs	Compounds of Emerging Concern
CIU	Categorical Industrial User
CIWQS	California Integrated Water Quality System
CTR	California Toxics Rule
CWCCG	California Wastewater Climate Change Group
DIU	Dentist Industrial User
EPA	United States Environmental Protection Agency
GHG	Greenhouse Gas
NGO	Non-Governmental Organization
NPR	Notice of Proposed Rulemaking
PCB	Polychlorinated Biphenyl
POTW	Publically Owned Treatment Works
RFP	Request for Proposals
RWB	San Francisco Bay Regional Water Quality Control Board
RMP	Regional Monitoring Program
SCCWRP	Southern California Coastal Water Research Project
SF Bay	San Francisco Bay
SFEI	San Francisco Estuary Institute
SFPUC	San Francisco Public Utilities Commission
SIU	Significant Industrial User
TMDL	Total Maximum Daily Load
TO	Tentative Order
TST	Test of Significant Toxicity
VOC	Volatile Organic Compound