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| Permits Committee –  Report to BACWA Board | Permits Committee Meetings on: 4/11/17  Executive Board Meeting Date: 4/21/17  Committee Chair: Eric Dunlavey |

**Committee Request for Board Action: None**

**Regional Water Board Staff in attendance**

**22 Participants representing 15 member agencies**

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| **Regional Water Board Report-out**  The NPDES division is now fully staffed. Patrick Karinja is working with James Parrish, and may take over the Pollution Prevention case load. |
| **Upcoming Permits**  ***April –*** *American Canyon* – no issues.  *Pacifica* – The City of Pacifica was recently issued a [tentative order](http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2017/April/Pacifica/Tentative_Order.pdf) including toxicity limits of 1.0 TUc as an average monthly effluent limit (AMEL), and 1.8 TUc as a maximum daily effluent limit (MDEL). Their discharge enters an effluent-dominated wetland.Their test species is *Ceriodaphnia dubia*, which has been demonstrated both by BACWA member agencies and by a [SCCRWP study](http://ftp.sccwrp.org/pub/download/DOCUMENTS/TechnicalReports/956_StrmWtrMonitCoalitToxTestingLabGuid.pdf) to exhibit high variability (high false-positive rate). Pacifica's sensitive species screening tests indicated that *Selenastrum capricornutum* was the most sensitive species when evaluated using the NOEC method, but their Tentative Order still retains *C. dubia*, citing past high toxicity results with *C. dubia* during regular testing.  BACWA submitted a [comment letter](https://bacwa.org/wp-content/uploads/2017/03/BACWA-comments-Pacifica-TO-02-27-17-1.pdf) recommending that they be allowed to choose either of the two test species, that there should not be a maximum daily limit in light of the known variability in the test, and that they should be exempt from accruing additional violations when they are investigating toxicity. The Regional Water Board did not incorporate any of the recommendations submitted by BACWA or the City.  CCCSD – BACWA [commented](https://bacwa.org/wp-content/uploads/2017/03/BACWA-comments-CCCSD-TO-03-06-17.pdf) on the nutrient provisions in the permit, and the benefit of moving nutrient management to the watershed permit.  ***May –*** EBDA – EBDA’s permit allows them to discontinue acute toxicity testing since their chronic test has a survival endpoint. Both [EBDA](https://bacwa.org/document/ebda-comment-letter-3-03-17/) and [BACWA](https://bacwa.org/wp-content/uploads/2017/04/BACWA-comments-EBDA-TO-04-03-17.pdf) submitted letters requesting a higher chlorine residual limit at the point of compliance than the 0.0 mg/L limit in the Basin Plan. EBDA also developed a [memo](http://bacwa.org/wp-content/uploads/2017/04/EBDA-Chlorine-Residual-Memo-09-12-16-2.pdf) outlining regulatory options for a higher allowable residual. Regional Water Board staff pointed out that the limit of 0.0mg/L actually is equivalent to 0.04 due to rounding. Additionally, agencies have the latitude to propose a reporting limit as long as it is below 0.1 mg/L.  DSRSD and Livermore – no issues. |
| **BACWA Rule 11-18**  BACWA representatives attended meetings with BAAQMD staff on March 9 and March 23 to communicate the special challenges that public agencies would have to comply with Rule 11-18 as currently proposed. BACWA submitted a [letter](https://bacwa.org/wp-content/uploads/2017/04/BACWA-AIR-Letter-Report-To-BAAQMD-04-04-17-1.pdf) to BAAQMD staff outlining the planning and project implementation process for POTWs that would impact their ability to comply with the Rule. BAAQMD staff were open to the idea of moving POTWs that are currently identified in Phase 1 to Phase 2 of the implementation schedule, to provide enough time to update the emission factors for POTWs and ensure accuracy. BACWA offered to develop a proposal over the next two months to provide a scope for working with BAAQMD staff to update the emission factors for toxic air contaminants (TACs) from POTW sources, and to also address the approach for sampling sources and the overall timeline for the effort. BAAQMD reports that the rule will be adopted in June or July now instead of May. |
| **Water Quality Enforcement Updates Adopted**  CASA, BACWA, SCAP, CVCWA, and ACWA had multiple meetings with Enforcement staff and Water Board members over the last several months, and made some progress on some of the key issues including:   * Language providing that violations prioritized for enforcement have a nexus with water quality impact, * Inclusion of potable water as an eligible discharge for high volume adjustments, * Keeping some reduction factor for degree of culpability (it ended up at 0.75 which is a smaller discount factor than in the existing policy of 0.5 but an improvement on the proposed revision of 1.0), and * Some boundaries on the history of violations (e.g., suggested relevant timeframe of 5 years)     However, we were unsuccessful in making changes to the Enforcement Division’s proposed new language for high volume discharges.  The 2010 Enforcement Policy set the initial starting point for high volume discharges at $2.00/gallon, with discretion provided to regulators to go higher (up to $10/gallon) should the situation warrant it.  The new language sets the starting point at a range of between $2.00 and $10.00/gallon.  While the State Water Board members agreed this change had the potential to raise fines, they seemed persuaded by the Enforcement Division’s assertion that it was important to state the range of the discretion up front and that the new language was very important to the Regional Boards.  The only mitigating measure they were open to was a willingness to take a look down the road to make sure that the policy changes were not resulting in unwarranted increases. |
| **Nutrient Updates**   * 1. Nutrient Technical Workgroup (NTW) meeting on May 4 at SFEI. These meetings take place about once per year and are an opportunity to give technical feedback to the researchers.   2. Focused technical workshops planned for DO in Lower South Bay Habitats (April 27-28) and HABs and HAB toxins (May 31-June 1). While these are open meetings, the leads would like to keep the group small for the sake of efficiency and ideally limited to the Science Advisory Panel and members of the NMS Steering Committee.   3. Update on optimization/upgrade studies progress – Workshop scheduled for June 7. Invitations will be sent to points of contact soon.   4. EBMUD sidestream study and trading overview wrapping up. The study looked at pilot studies involving different sidestream technologies, the potential load reductions, and impacts on the SF Bay. They also looked at what it might take to develop a nutrient trading scheme. Documents related to this effort will be available at the end of April. |
| **303(d) list update**  The San Francisco Regional Water Board has posted [proposed revisions](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/303dlist.shtml) to the San Francisco Bay Basin's 303(d) list, which will be the first update to the list since 2010. Some of the changes are substantial, such as the new toxicity listing for each segment of the San Francisco Bay. BACWA submitted a [comment letter](https://bacwa.org/wp-content/uploads/2017/03/BACWA-comments-303d-update-03-13-17.pdf) recommending that the Regional Water Board drop the proposed Bay-wide toxicity listing, as well as stating they should only use newer data when considering which constituents to list. The Water Board dropped the proposed listing of heptachlor in the Lower South Bay in response to BACWA’s comments. The hearing for this item is on April 12. |
| **Toxicity**  The State Water Board has proposed an updated Toxicity Plan, now called the [Toxicity Provisions for the SIP](https://bacwa.org/wp-content/uploads/2017/04/Toxicity-Provisions-Staff-Draft.pdf). They conducted a stakeholder meeting for POTWs on April 11 to answer questions, and provided an [Outreach Document](https://bacwa.org/wp-content/uploads/2017/04/Outreach-Document.pdf) summarizing the Provisions. The key tenets of the new provisions are as follows:   * Toxicity tests will be evaluated using the TST. * Species sensitivity screening includes four sets of tests conducted within one year. Screening must be done at least every ten years. * RP is assumed for POTWs greater than 5mgd. Smaller facilities will do an RPA with an effect level threshold of 0.10 for RP. * Regional Water Boards are given discretion on whether to require RPAs for acute toxicity. * For chronic toxicity, a violation occurs when the toxicity test results in a “fail” and the percent effect for the survival endpoint is greater than or equal to 50 percent at the IWC. If there is no survival endpoint for the species, then a “fail” with a 50 percent or greater effect for any endpoint at the IWC results in a MDEL violation. If the test species is *Ceriodaphia dubia*, a 50 percent or greater effect in the survival endpoint at the IWC results in a MDEL violation. * If any test results in a “fail” at the IWC then the discharger must initiate two additional toxicity tests within the same calendar month. If either of these additional tests results in a “fail” at the IWC, then there is a violation of the MMEL. * A TRE shall be initiated when there are two or more violations within the same month or in consecutive months. The combination of violations may be acute and/or chronic and may be any combination of two or more MDEL or MMEL violations.   The State Water Board plans to hold the public comment period over the summer of 2017, with adoption by the end of the year. |
| **Announcements**   * 1. State Water Board to release updated Beneficial Uses and Mercury Objectives by April 22, ahead of May 2 adoption. They will not take written comments.   2. SFEI looking for one more POTW volunteer for microplastics study.   3. Permits Committee leadership succession planning – Robert Wilson of Petaluma volunteered as Permits committee vice-chair beginning in July. Chris Dembiczak to take over the chair position from Eric Dunlavey.   4. Committee schedule – The committee will continue joint meetings with CASA RWG. The next joint meeting will be in December 2017. |
| **Next BACWA Permits Committee Meeting:** Tuesday May 9, EBMUD. |