



October 18, 2024

San Francisco Bay Conservation and Development Commission
375 Beale Street, Suite 510
San Francisco, CA 94105
Submitted via email to: publiccomment@bcdc.ca.gov

Subject: BACWA Comments on the San Francisco Bay Conservation and Development Commission's Draft Regional Shoreline Adaptation Plan

Dear Jackie Perrin-Martinez:

On behalf of the Bay Area Clean Water Agencies (BACWA), we thank you for the opportunity to provide comments on the Bay Conservation and Development Commission's (BCDC's) Draft Regional Shoreline Adaptation Plan (Draft RSAP)¹. BACWA is a joint powers agency whose members own and operate publicly-owned treatment works (POTWs) and sanitary sewer systems that collectively provide sanitary services to seven million people in the San Francisco Bay Area (Bay Area). BACWA supports the Bay Adapt platform² and supports BCDC's efforts to ensure that governments and communities across the Bay Area are working together to adapt to rising sea levels.

BACWA appreciates that the Advisory Group established to assist with development of the Draft RSAP included participants from the wastewater sector. Thanks to the diligence of BCDC staff in incorporating feedback from the Advisory Group and other stakeholders, many elements of the Draft RSAP are a substantial improvement compared to early drafts.

BACWA also appreciates that the Draft RSAP specifically identifies POTWs and other wastewater facilities as critical infrastructure. BACWA agrees that adaptation planning for these facilities is a strategic regional priority. The document's callout of POTWs and wastewater lift stations as critical infrastructure in Section 2.3.4 (Critical Infrastructure and Services) and Section 3.2.2 (Minimum Categories and Assets Standard) will help ensure that wastewater agencies fully participate in the preparation of Subregional Shoreline Adaptation Plans over the next decade.

The additional comments below are submitted in the spirit of correcting factual errors, simplifying and streamlining requirements, and reducing the administrative burden of crafting and submitting Subregional Shoreline Adaptation Plans per the guidelines. Given the complexity of the Regional Shoreline Adaptation Plan Guidelines in Section 3 of the Draft RSAP, BACWA strongly recommends working with City or County staff that would be responsible for submitting Subregional Plans to work out technical details and improve document clarity. This engagement needs to occur quickly -- before the Draft RSAP

¹ BCDC *Regional Shoreline Adaptation Plan: One Bay Vision, Strategic Regional Priorities, and Subregional Shoreline Adaptation Plan Guidelines*. Draft for Public Comment, September 2024. Available online at https://www.bayadapt.org/wp-content/uploads/2024/09/BCDC_Draft_Regional_Shoreline_Adaptation_Plan_Appendix-A.pdf

² "Support for Bay Adapt: Regional Strategy for a Rising Bay." Letter from BACWA to BCDC, January 7, 2022. Available online at <https://bacwa.org/wp-content/uploads/2022/01/15-BACWA-endorsement-Bay-Adapt-010722.pdf>

is finalized in late 2024. After the RSAP is adopted, BACWA recommends that BCDC staff prepare a template Subregional Plan for use by jurisdictions.

Comments on Section 3.2.1 – Coastal Flood Hazards and Sea Level Rise Scenarios Standard

The minimum requirements for sea level rise planning in this section, as described in Table 3-1 and the text on page 130, are a fundamental part of the Draft RSAP. They are also likely to change in the future as sea level rise projections change. To highlight the importance of these new standards, some version of the information below should be added to the Executive Summary:

[Page 130]

“For developing adaptation strategies, the RSAP requires adaptation strategies to be developed at a conceptual level and respond to vulnerabilities identified by, at a minimum, the 0.8 ft (2050 Intermediate) and 3.1 ft (2100 Intermediate) scenarios. An narrative description of how adaptation strategies identified in the 3.1 ft (2100 Intermediate) scenario may need to further adapt for flood risk reduction in the 6.6 ft (2100 High) scenario is also required.”

Comments on Section 3.4.2 – Submitting Plans and Getting Approval

BACWA recommends streamlining the administrative process for coordination with BCDC that is described in Section 3.4.2 (Submitting Plans and Getting Approval), as follows:

- **Remove requirements for consultation meetings.** Meetings can be productive, but a regulatory requirement to hold (non-public) meetings is overly burdensome. We suggest edits below that would still *allow* BCDC to schedule consultation meetings without making it a formal requirement.
- **Delegate the Executive Director's authority.** The Draft RSAP sometimes uses the phrase “Executive Director, or designated Commission staff.” Other times, the phrase “designated Commission staff” is omitted. The Executive Director always has the authority to designate a representative, so this inconsistency is confusing and should be resolved.
- **Remove approval steps to streamline the process.** The Draft RSAP requires local governments to submit the Subregional Plan to BCDC both before and after approval. Although some jurisdictions may wish to coordinate with BCDC staff this way, it seems redundant as a regulatory requirement.
- **Shorten the Commission's review time.** 90 days – not 150 days – should be sufficient time for the Commission to review a Subregional Plan that has already been deemed complete. For comparison, the McAteer-Petris Act requires the Commission to take action on permit applications within 90 days.

Suggested edits to remove requirements for meetings, delete references to “designated Commission staff,” and streamline the review process are shown below.

[Section 3.4.2, Page 169 – 170]

Initiation of the Subregional Shoreline Adaptation Planning Process

Prior to initiating the process to prepare a Subregional Plan pursuant to Section 30985(a)(2) of the Public Resources Code, a local government must submit electronically to the Commission a notice of intent to prepare a Subregional Plan. . . Within 30 days of receiving the notice of intent to prepare a Subregional Plan, the Executive Director will confirm receipt of the notice and contact the local

government to ~~schedule a preliminary consultation meeting with representatives of the local government to~~ advise the local government on whether information contained in the notice aligns with these Guidelines.

Within 30 days of ~~receiving the notice of intent, the preliminary consultation meeting with the Executive Director, or designated Commission staff,~~ the Commission must electronically post a notice on the agency's website notifying the public that the local government intends to initiate a process to prepare a Subregional Plan. Within 30 days of ~~filing the notice of intent, the preliminary consultation meeting with the Executive Director, or designated Commission staff,~~ the local government must post a notice notifying the public that the local government intends to initiate a process to prepare a Subregional Plan consistent with its local public noticing procedures.

Prior to submitting a request for review and approval of a Subregional Plan, the local government ~~is encouraged to conduct must attend a preliminary~~ consultation ~~meetings~~ with the Executive Director, as described above ~~and must attend at minimum two (2) additional consultation meetings with the Executive Director, or designated Commission staff, during the process to prepare the Subregional Plan~~ to ensure the process and plan aligns with these Guidelines. The consultation meetings ~~must may~~ be included in the workplan and schedule submitted with the intent to prepare a plan as described above. ~~Additional consultation meetings may be conducted based on agreement between the local government and Executive Director.~~

Local Government Approval of Subregional Shoreline Adaptation Plans

The local government must only submit a Subregional Plan for review and approval by the Commission after it has formally adopted the Subregional Plan upon resolution adopted after at minimum one (1) public meeting, of which a 30-day public notice has been given.

~~The local government must provide the Commission with notification in writing of the nature and text of the proposed Subregional Plan at least 30 days prior to adoption.~~

Submittal And Commission Consideration of a Subregional Shoreline Adaptation Plan

The Subregional Plan prepared pursuant to Section 30985(a)(2) of the Public Resources Code must be submitted to the Commission for review and approval. ... The Commission will, after public hearing, either approve or deny the Subregional Plan pursuant to the following procedure:

- a. After a request to review and approve a local government-approved Subregional Shoreline Adaptation Plan has been submitted to the Commission, the Executive Director will review the submittal within 90 days to determine if it is complete. ... If the Executive Director determines that the submittal is complete, and the Plan may be brought before the Commission for review, the Executive Director will electronically post a notice of public hearing setting the date for the public hearing no earlier than **90** ~~+50~~ days from the date that the request to review and approve the Subregional Plan was submitted by the local government. ...

In addition, Section 3.4.2 should specify whether multi-jurisdictional plans require one notice of intent, or whether each jurisdiction needs to file a notice of intent separately.

Comments on Section 3.4.3 – Updating Plans

BACWA’s experience is that regulatory uncertainty is a barrier to project implementation. Based on this experience, BACWA suggests deferring the development of specific requirements regarding 5-year Limited Updates and 10-year Comprehensive Updates to a future version of the RSAP. At a minimum, no updates should be required for at least five years after the SB 272 compliance date of January 1, 2034.

The Draft RSAP states that “BCDC strongly encourages submissions before the legislative deadline.” (p. 168). However, the proposal to require 5-year updates is a disincentive to early submittal, because early submittal will result in increased administrative costs; the next round of updates will have to begin almost immediately following approval. Furthermore, the administrative requirement to complete 5-year updates threatens the entire purpose of this planning exercise, which is to implement sea level rise adaptation projects. Instead of focusing on implementation, the Draft RSAP requires jurisdictions to continuously work on planning. It creates a tripwire every five years that will make agencies instantly ineligible for funding or permitting of real projects.

Fortunately, there is another way – and it was envisioned by the enabling legislation, SB 272, which mandates BCDC’s “**close coordination** with the California Coastal Commission, the Ocean Protection Council, and the California Sea Level Rise State and Regional Support Collaborative” (emphasis added). Based on the language in the Draft RSAP, this “close coordination” does not appear to have occurred. The California Coastal Commission has also released draft guidance for implementing SB 272³ through local coastal programs and permitting, and their language requiring updates is not nearly as prescriptive as that proposed by BCDC. The Coastal Commission’s guidance acknowledges that it would be logical for the timing of updates to vary among jurisdictions, noting:

“Timelines for updates should reflect a variety of factors, including how far along a jurisdiction is in their planning process, identified vulnerabilities, and any specific adaptation approaches”
(California Coastal Commission, July 2024, p. 134).

BACWA recommends removing all of the text in the sections on page 172 titled “5-year Limited Updates” and “10-year Comprehensive Updates,” to be replaced with a more flexible suggestion to update Subregional Plans as needed, similar to the approach used by the Coastal Commission’s guidance. If there is a dramatic change in Sea Level Rise forecasts by 2034, then at that time, BCDC should reissue a new RSAP guidance document and require updates on a new schedule to be determined at a later date.

BACWA also requests the edit shown below to ensure that jurisdictions do not have to change their approach midway through preparation of a plan. Since the Draft RSAP contains requirements related to both product and process (e.g., Element A4.b, “Summary of equitable outreach and engagement efforts, and responses in the Equity Assessment.”), it is not feasible for jurisdictions to quickly adapt to new RSAP guidelines.

[Section 3.4.3, Page 173]

Subregional Shoreline Adaptation Plan Guidelines

BCDC will provide updates to the Guidelines contained within this document on a regular update schedule. Guideline updates will reflect new or revised sea level rise science and other information

³ *California Coastal Commission Sea Level Rise Policy Guidance: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permit*. California Coastal Commission, Draft 2024 Update. Available online at https://documents.coastal.ca.gov/assets/slr/CCCSLRPolicyGuidance_2024Update_PublicReviewDraft.pdf

as necessary. Local governments will be expected to comply with the most current Guidelines version in effect at the time [the jurisdiction filed a notice of intent to prepare a plan of the plan submission](#).

Comments on Section 3.5.1 - Using Existing Plans and Plan Content

BACWA recommends that BCDC be considerably more flexible regarding the use of existing plans (e.g., those completed before the RSAP’s adoption later in 2024). The Draft RSAP contains prescriptive requirements for administrative procedures and report format. As a result, it is virtually certain that any jurisdiction with an existing plan will have to exert significant effort to follow a new BCDC-approved process to produce a BCDC-approvable document. This strict approach will negatively impact the region’s climate resilience by delaying project implementation on administrative grounds. Rather than imposing the strict requirements laid out in Section 3.5.1 and elsewhere in the document, BACWA requests that BCDC offer resources and flexibility to jurisdictions that would like to begin implementation of sea level rise adaptation projects based on existing adaptation plans. Below are suggested edits to encourage faster approval and implementation of existing plans:

[Page 175]

3.5.1 Using Existing Plans and Plan Content

Many jurisdictions already have created much of the content required to be submitted for compliance with these plan Guidelines either through existing adaptation plans, local hazard mitigation plans, general plan elements, climate action plans, or other local plans, such as vulnerability assessments or identified adaptation strategies, projects, or pathways. BCDC encourages the use of existing material when feasible. If jurisdictions submit existing plans, studies, and data to meet the requirements of the RSAP, they must [ensure work with BCDC staff](#) prior to submittal ~~that all material that is submitted~~ [to determine whether the material](#) is compliant with Guidelines. [For jurisdictions with plans completed before the RSAP was adopted in December 2024, the BCDC Executive Director may offer compliance flexibility regarding the Guidelines.](#)

General Comments and Data Preview Comments

The table below lists requested changes to address minor factual errors in the Draft RSAP. The comments on Figure 2-11 also apply to the data preview.

Page Number and Item	Requested Change	Explanation
Page ii, RSAP Advisory Group	Change “Suisun-Fairfield Sewer District” to “Fairfield-Suisun Sewer District”	The agency’s name is incorrect in the Draft RSAP.
Page 60, Figure 2-11	Correct Figure 2-11 to add about a dozen missing POTWs and remove extraneous facilities that are not POTWs. These changes will also apply to the online GIS layers of critical infrastructure.	BACWA provided updated information on POTW locations directly to BCDC staff via email on September 24, 2024. This information is meant to be used to update Figure 2-11 and used in the online GIS layer for critical infrastructure that will be finalized in 2025.

Page Number and Item	Requested Change	Explanation
Page 61, Sources for Figure 2-11	Remove the erroneous reference to “CalEPA 2023.” Replace the reference with this map hosted by BACWA on the Baywise website: https://baywise.org/map/	According to BCDC staff, POTW data were pulled from a database maintained by USEPA, not CalEPA. Since the USEPA database used by BCDC to generate Figure 2-11 omits some major POTWs in the Bay Area, particularly in cases where several POTWs share a single outfall and single NDPEs permit, additional references may also be helpful. BACWA hosts a map of Bay Area POTWs on the website https://baywise.org/map/ , which may also be listed as a reference in the document.
Page 111	Correct the note that “A template for the matrix can be found in Matrix of Adaptation Standards (Section 3.6.3).”	There is no Section 3.6.3, nor is there a section called “Matrix of Adaptation Standards” Possibly this was meant to refer to Section 3.2.4 (Adaptation Strategy Standards) or Section 3.3.3 (Adaptation Strategy Standards Matrix Checklist).
Page 131, Footnote 1	Replace Footnote 1 with: <i>California Sea Level Rise Guidance: 2024 Science and Policy Update (2024)</i> . California Sea Level Rise Science Task Force, California Ocean Protection Council, California Ocean Science Trust. https://opc.ca.gov/wp-content/uploads/2024/05/California-Sea-Level-Rise-Guidance-2024-508.pdf	The draft RSAP contains an erroneous reference to a January 2024 draft version of the updated California Sea Level Rise Guidance. The suggested replacement is taken from the “Suggested Citation” on page 3 of the finalized document available on the Ocean Protection Council’s website at https://opc.ca.gov/california-sea-level-rise-guidance/
Entire document	Improve the document’s accessibility by using searchable text in table names. For example, “Table 3—5” would become “Table 3-5”.	The table names in the Draft RSAP are difficult to navigate via search tools because they use a special character (em-dash).

Thank you for your consideration of these requests.

Respectfully Submitted,



Lorien Fono, Ph.D., P.E.
Executive Director
Bay Area Clean Water Agencies

cc: BACWA Executive Board