Permits Committee
Report to BACWA Board

Committee meeting on 8/19/2025
Executive Board Meeting Date: 9/19/2025
Committee Chair: Blake Brown, Central San

Committee Request for Board Action: None
43 attendees participated remotely from 23 member agencies.

Committee Leadership. The committee welcomed Blake Brown (Central San) as incoming chair and Chris Dembiczak (EBMUD) as incoming vice chair for FY26.

Toxicity Testing Updates

a. Court Decision on the Test of Significant Toxicity (TST).

A recent California District court opinion on the Test of Significant Toxicity found that the TST is not an approved method under the Clean Water Act (40 CFR Part 136), but upheld the statewide toxicity provisions under state law. This court decision could result in changes to whole effluent toxicity testing requirements. For now:

- Dischargers should continue monitoring using the TST, as required by their individual NPDES permits. Note: the approved Clean Water Act methods for chronic toxicity require **five** test concentrations. The TST method only uses results from **two** concentrations (control and IWC), but the TST has not been approved by USEPA under the Alternative Test Procedures program nor is it promulgated as a separate method. Dischargers should therefore include **five** concentrations in their chronic toxicity tests, with the IWC serving as one of the five.
- This court decision is resulting in temporary delays in reissuance of individual NPDES until new language can be approved by legal counsel at the Water Boards. This is currently affecting three BACWA members whose NPDES permits were scheduled for adoption at the August 2025 Regional Water Board meeting.

b. Reduced Monitoring Frequency – NPDES Permit Language

Reissued NPDES permits will now contain a monitoring trigger to revert to monthly monitoring if the discharger has been granted a reduced monitoring frequency, but there is an exceedance of the MDEL or MMEL. For a correct version of this sample language, see this Response to Comments.

c. Ammonia Interference

For chronic toxicity species sensitivity screening studies, agencies should try to avoid ammonia toxicity interference that would require zeolite removal and ammonia add-back for routine monitoring. At least two agencies currently conduct monitoring using this approach; while it is technically feasible, it is also costly.

Upcoming NPDES Permits and Tentative Orders

- A general NPDES permit for Groundwater is scheduled for reissuance at the September 10th Regional Water Board meeting. This Tentative Order contains effluent limits for PFAS compounds that are based on federal drinking water limits.
- To comply with the March 2025 Supreme Court decision on receiving water limitations, individual NPDES permits are being prepared with new Fact Sheet language for certain constituents that were previously subject to receiving water limits (e.g., Dissolved Oxygen; radionuclides). Relatedly, LWA shared two State Water Board guidance documents on application of this court decision to NPDES wastewater permits and MS4 permits. The guidance document explains the rationale regarding the new Fact Sheet language.
- There are several upcoming retirements in the Regional Water Board's NPDES division.

Dilution Study Requirements

Jennie Pang (SFPUC) shared language from an administrative draft NPDES permit that requires three specific modeling scenarios to be included in a future dilution study. The language is a concern because it is unusually specific and may not reflect the different dilution modeling approaches used to establish dilution credits in Region 2 permits. SFPUC will lead and BACWA will assist in discussing this topic further with Regional Water Board staff. Attendees also discussed that a future presentation on this technical topic would be useful for the committee.

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Climate Change Questionnaire

BACWA is looking for volunteers to assist with proposing edits to the 2021 Climate Change Information Request to streamline and update the questions before its future use by the Regional Water Board.

Nutrient Watershed Permit Updates

- Download the latest PET Tool for reporting data to CIWQS. Dischargers should use the "Seasonal Average" data type for reporting the 5-month average dry season load of Total Inorganic Nitrogen to the annual self-monitoring report.
- In June, BACWA submitted the Scoping Plan for the Regional Planning Study to the Regional Water Board, and HDR is now under contract to complete the work. The contract also includes ongoing work by The Freshwater Trust to complete a Water Quality Trading Feasibility Study. The trading study will be an update of a 2017 study also completed by The Freshwater Trust
- The Regional Water Board has hired staff to work on a Basin Plan Amendment related to extended compliance timelines, and a draft is expected in late August 2025. BACWA plans to hold a Nutrient Strategy Team meeting to discuss the draft once it is available.
- The next Nutrient Management Strategy steering committee meeting is scheduled for 9/12/25.
- Attendees discussed that it would be interesting to have members share brief summaries of their nutrient removal alternatives analysis journey at future Permits Committee meetings.

Mercury and PCBs Watershed Permit

- BACWA has issued a contract to SFEI for $50k to facilitate completion of about 200 subsistence fishing surveys in 2025-2027. This effort will support the Regional Water Board's efforts to designate the subsistence fishing beneficial use, and it also fulfills the risk reduction requirement in the current Mercury & PCBs Watershed Permit (see Provision 6.3.4).
- Regional Water Board staff included a summary of Mercury and PCBs loads in the July 2025 Executive Officer's Report. The supporting calculations are also available upon request.

PFAS

The Regional Water Board has adopted Environmental Screening Levels for 14 additional PFAS compounds. These screening levels are used in the site cleanup program and are not directly applicable to wastewater dischargers, but they are a useful reference document. The Environmental Screening Levels for PFOS and PFOA are based on fish consumption, and are significant lower than typical wastewater concentrations in the region.

Reporting Mass Loads to CIWQS

Notes from the June 2025 Permits Committee meeting provide guidance on reporting mass loads to CIWQS. Regional Water Board staff have subsequently clarified that the guidance is dischargers "should" use the same averaging period for both flow and concentration (e.g., noon to noon), but it is not a strict requirement. Dischargers should consult with their NPDES permit case managers to discuss specifics.

Next Meeting: Tuesday, October 14th, Virtual