



March 6, 2026

Tong Yin, Water Resource Control Engineer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
Submitted via email to: Tong.Yin@waterboards.ca.gov

Subject: BACWA Comments on Proposed Basin Plan Amendment to Incorporate Tribal and Subsistence Fishing Beneficial Use Definitions

Dear Tong Yin:

On behalf of the Bay Area Clean Water Agencies (BACWA), we thank you for the opportunity to provide comments on the [proposed Basin Plan Amendment](#)¹ to incorporate Tribal and Subsistence Fishing beneficial use designations. 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 over seven million people in the nine-county San Francisco Bay Area. BACWA members are public agencies, governed by elected officials and managed by professionals who protect the environment and public health. Our member agencies are proud of their work to protect San Francisco Bay water quality through traditional pretreatment controls and innovative pollution prevention strategies.

BACWA supports the protection of tribal and subsistence uses, and has no objection to the proposed Basin Plan Amendment. BACWA looks forward to continued coordination with the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) as this Basin Plan Amendment is implemented, which could involve modifications to water quality objectives or Total Maximum Daily Loads (TMDLs) for bioaccumulative pollutants such as mercury and polychlorinated biphenyls (PCBs). The purpose of this comment letter is to highlight BACWA's ongoing work related to bioaccumulative pollutant monitoring and risk reduction, and address some of the potential challenges of implementing this Basin Plan Amendment.

Bay Area municipal wastewater dischargers are a very small part of the load of mercury and PCBs to San Francisco Bay, which is reflected in the [TMDL load allocations](#)² for mercury and PCBs in municipal wastewater. As shown in the figures below, municipal wastewater loading data collected over the last decade shows that the actual loads of mercury and PCBs remain well

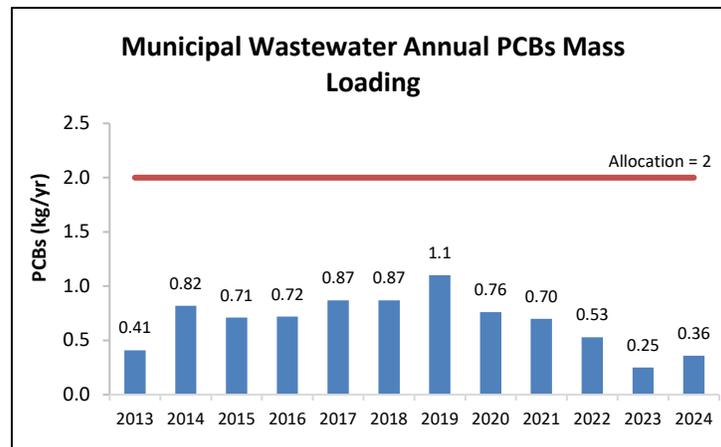
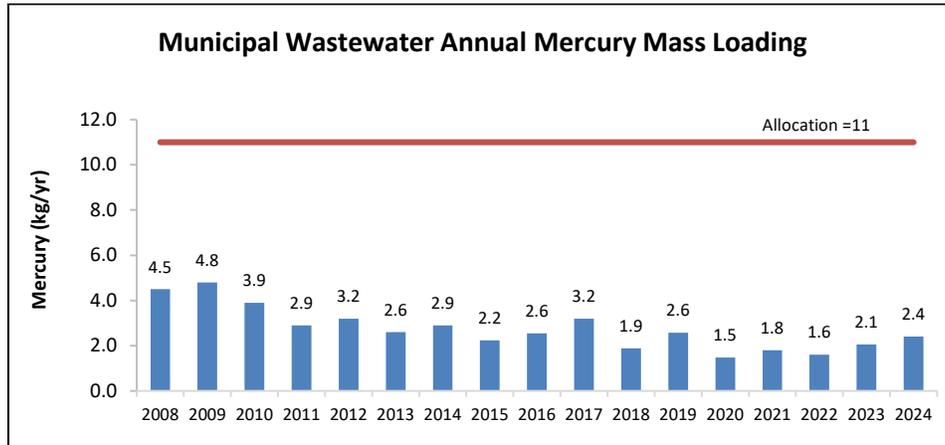
¹ San Francisco Bay Regional Water Quality Control Board. "Proposed Basin Plan Amendment to Incorporate Tribal and Subsistence Fishing Beneficial Use Definitions." Available at

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/TBUBpa.html

² San Francisco Bay Regional Water Quality Control Board, 2025. *Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin*, Chapter 7, Table 7.2.2-1 and Table 7.2.3-2. Available online at

https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/docs/ADA_compliant/BP_chapter_7.pdf

below their respective load allocations.^{3,4,5} Over the past five years (2020-2024), the average municipal wastewater load of mercury was 1.9 kg/year, compared with the Basin Plan's total load and wasteload allocation for mercury of 700 kg/year. Over the past five years, the average municipal wastewater load of PCBs was 0.6 kg/year, compared with the Basin Plan's total load and wasteload allocation of 10 kg/year and estimated total external load of 33 kg/year. Most of the PCB load to San Francisco Bay is from the stormwater pathway.



BACWA members continue to engage in pollution prevention activities related to these legacy pollutants, as well as to new, unregulated contaminants that can bioaccumulate in fish, such as PFAS. More information about these pollution prevention activities can be found in the Bay Area Pollution Prevention Group's [Annual Report](#)⁶. Pretreatment program activities, including implementation of the federal pretreatment rule to reduce discharges of mercury from dental offices, are also summarized in the Pretreatment Program Annual Reports submitted by individual agencies per their individual NPDES permit requirements.

³ San Francisco Bay Regional Water Quality Control Board, 2023. "San Francisco Bay Mercury TMDL." Available online at https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaymercurytmdl.html

⁴ San Francisco Bay Regional Water Quality Control Board, March 2021. *Executive Officer's Report*, "Wastewater Mercury and Polychlorinated Biphenyls Loads Update." Available online at https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2021/March/4_ssr.pdf.

⁵ San Francisco Bay Regional Water Quality Control Board, July 2025. *Executive Officer's Report*, "Wastewater Mercury and Polychlorinated Biphenyls Loads Update." Available online at https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2025/July/4_ssr_fin.pdf

⁶ BAPPG Annual Report. Available online at <https://bacwa.org/wp-content/uploads/2026/02/2025-BAPPG-Annual-Report.pdf>.

As noted in the [draft Staff Report](#)⁷, future Basin Plan Amendments will be required to designate specific water bodies as supporting one or more of the three proposed beneficial uses: Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB). BACWA also understands that these three new beneficial uses could trigger the development of new water quality standards to protect human health; the Regional Water Board will need to collect additional information about the rates of Bay fish consumption by tribal and subsistence fishers to make this determination. BACWA is providing financial support for early phases of this work. Specifically, beginning in spring 2025, BACWA has been coordinating with the Regional Water Board and San Francisco Estuary Institute (SFEI) to provide funding for pilot implementation of a subsistence fishing questionnaire.

BACWA is supporting this work to comply with the risk reduction requirements of the current Mercury and PCBs Watershed Permit (NPDES Permit No. CA0038849, [R2-2022-0038](#)). The Mercury and PCBs Watershed Permit requires that permittees implement or participate in programs to reduce mercury and PCBs-related risks to humans from the consumption of San Francisco Bay and Sacramento-San Joaquin River Delta fish. Over the past two decades, to comply with the permit provision, BACWA has also supported fish consumption risk reduction outreach efforts conducted by several Bay Area community-based organizations.

BACWA is concerned that future implementation requirements for tribal and subsistence beneficial uses could be both onerous and ineffective if they are focused on unachievable reductions from the municipal wastewater sector. To avoid this scenario, BACWA suggests leveraging the resources of the San Francisco Bay Regional Monitoring Program (RMP) to inform the strategy for future load reductions, if any are required. Two Regional Monitoring Program workgroups – the Sources, Pathways, & Loadings workgroup and PCBs workgroup – conduct work that could help inform meaningful future load reductions, such as the recent focus on PCB load reductions from priority margin areas with legacy industrial soil contamination. BACWA’s members provide ongoing financial support to the RMP, as required by their individual NPDES permit requirements for receiving water monitoring.

BACWA looks forward to continued partnership with the Regional Water Board to protect the beneficial uses of San Francisco Bay. If you have any questions, please do not hesitate to contact me at lfono@bacwa.org.

Respectfully Submitted,



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

⁷ San Francisco Bay Regional Water Quality Control Board. *Draft Staff Report on Basin Plan Amendment to Add Tribal and Subsistence Fishing Beneficial Use Definitions*. January 2026. Available at https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/TBU/TBU_SR_012026.pdf