



Frequently Asked Questions

Draft Staff Report in Support of the Sacramento/Delta Update to the Bay-Delta Water Quality Control Plan

This document provides information and FAQs related to the State Water Resources Control Board's (State Water Board or Board) release of a draft Staff Report in support of updates to the Bay-Delta Water Quality Control Plan (Bay-Delta Plan or Plan) for the Sacramento River and Delta watersheds (Sacramento/Delta) and information on the Board's next steps.

What is the Bay-Delta watershed and why is it important?

The Bay-Delta watershed includes the Sacramento and San Joaquin River systems, the Delta, Suisun Marsh, and San Francisco Bay. The Sacramento and San Joaquin River systems, including their tributaries, drain water from about 40% of California's land area, supporting a variety of beneficial uses, including fish and wildlife, agricultural, and municipal. The Bay-Delta is one of the most important ecosystems in California and the hub of the state's water supply system. As the largest tidal estuary on the west coast of the Americas, it provides habitat to a vast array of aquatic, terrestrial, and avian wildlife in the Delta, San Francisco Bay, and near-shore ocean, as well as a diverse assemblage of species upstream of the Delta. The Sacramento and San Joaquin Rivers and the Delta also provide a portion of the water supply for two-thirds of Californians, millions of acres of farmland, a variety of industrial purposes, and commercial and recreational fishing and boating businesses. The Bay-Delta watershed is home to nearly 100 California Native American tribes that rely upon these waterways, the surrounding lands, and the native fish and fauna for subsistence, cultural, and religious purposes. In addition, the Bay-Delta watershed is important to local communities for a variety of purposes, including quality of life, drinking water, subsistence fishing, and recreation.

The Bay-Delta watershed is widely recognized to be in a state of prolonged decline that has brought some species to the brink of extinction. Changes in land use due to agricultural practices, urbanization, discharges of contaminants, flood control and climate change, combined with substantial and widespread water development and infrastructure projects have resulted in precipitous drops in an array of species that depend on the ecosystem. The Board is engaged in efforts in the Bay-Delta to address the declines of native aquatic species and the ecosystem they depend upon.



What is a Water Quality Control Plan and how is it updated?

Water quality control plans are enforceable standards designed to protect the water quality of our lakes, rivers, and streams to ensure they can continue to be used for purposes like recreation, agriculture, and municipal uses. Under California law, the State and Regional Water Boards regulate activities and factors that may affect the quality of waters of the state. The Boards develop water quality control plans that specify how the waters are used, called beneficial uses, water quality objectives to protect those uses, and a program of implementation to achieve those objectives. The Board's water quality control planning programs are certified as regulatory programs by the Secretary of the Natural Resources Agency and are exempt from certain procedural requirements of the California Environmental Quality Act (CEQA), such as preparation of an environmental impact report (EIR). The draft Staff Report includes functionally equivalent analyses as an EIR that comply with CEQA.

Water quality control plans are reviewed and updated through the following process:

- 1) **Review:** The State and Regional Water Boards (for regional plans) regularly review the plan to determine if changes should be considered.
- 2) **Revise:** The Board develops updates to the plan, as appropriate, through a public process that includes consideration of alternatives and evaluates the environmental and economic effects of the proposed changes as part of a staff report. The process involves public review and comment on various draft documents, including the staff report, the scientific basis report (describing the science upon which the proposed revisions are based), and the proposed updates to the plan itself. Public input informs the development of final plan amendments that are proposed for consideration and adoption by the Board.
- 3) **Implement:** The Board initiates a subsequent process to implement the plan using its relevant authorities, and it coordinates with other agencies and parties on additional actions. The primary possible methods for implementing the plan include development of regulations, water right requirements, and water quality certification requirements for hydroelectric projects. The State Water Board and Regional Water Boards may also take other actions that can assist with implementation of the plan, including providing funding and other permitting, science, and related actions that support implementation. The Board also works with others on actions they should take to assist with implementation, including riparian revegetation, channel modifications, and other physical habitat improvements, as well as other actions to protect beneficial uses of water and obtain additional information on the effects of flow, water quality, and other conditions on beneficial uses.
- 4) **Adaptively manage:** Adaptive management actions are considered and implemented based on monitoring and special studies to ensure the effectiveness of the implementation actions.

- 5) **Evaluate:** The Board continually evaluates the effectiveness of the plan and considers whether changes are needed to the plan itself or its implementation, which initiates the review process again.

What is the Bay-Delta Plan?

The Bay-Delta Plan is the water quality control plan for the Bay-Delta watershed, and it:

- Identifies beneficial uses of water in the Bay-Delta watershed, such as municipal, industrial, agricultural, and fish and wildlife.
- Establishes largely flow dependent water quality and flow objectives designed to reasonably protect those beneficial uses from the effects of salinity (from saltwater intrusion and agricultural drainage) and water project operations (flows and diversions). The objectives are both narrative and numeric. Narrative objectives describe the general water quality and flow conditions that must be attained through watershed management. Numeric objectives provide a quantitative limitation on the pollutant concentrations or flow levels that must remain in the stream to protect the identified instream beneficial uses (e.g., cubic feet per second (cfs) of flow or percentage of unimpaired flow).
- Identifies a program of implementation that identifies how the objectives will be met through actions by the Board and recommendations to others, and includes monitoring, special studies, evaluation, and reporting measures.

The Bay-Delta Plan was first adopted by the Board in 1978 (formerly abbreviated as “The Delta Plan”) and most recently amended in 2018 for Lower San Joaquin River flows and southern Delta salinity. The last major update for the Sacramento River and Delta portions occurred in 1995; the Board is now considering updated Sacramento/Delta provisions.

What is the status of the Bay-Delta Plan update and implementation?

The Board initiated separate processes to revise, adopt, and implement flow-dependent water quality objectives for the reasonable protection of fish and wildlife in the Bay-Delta Plan. The Plan is being updated and implemented through separate processes because two vast and distinct river systems join to form the Bay-Delta: the Sacramento River in the north and the San Joaquin River in the south. These river systems are fed by snowmelt from differing geographic regions and vary significantly in terms of precipitation, topography, and at-risk native fish and wildlife.

The processes to update and implement the Bay-Delta Plan are in different stages. The first process is referred to as the Lower San Joaquin River/southern Delta salinity (LSJR/SD) update and is currently in the implementation stage. The LSJR/SD update to the Bay-Delta Plan began in 2008 and concluded in 2018 when the Board adopted updated flow objectives for the reasonable protection of fish and wildlife in the Lower

San Joaquin River and its three eastside tributaries (Stanislaus, Tuolumne, and Merced Rivers), and a program of implementation to achieve the objectives. While updating the fish and wildlife objectives, the Board also revised the southern Delta salinity objective for the reasonable protection of agricultural beneficial use. Currently, the Board is developing a regulation and taking other actions to implement the LSJR/SD update to the Bay-Delta Plan. For additional information on that process, visit the [LSJR/SD webpage](#).

The second process is referred to as the Sacramento/Delta update and is currently in the planning stage. Major steps in that planning process are described below. The Sacramento/Delta update process began in 2012 when the State Water Board released a notice of preparation of environmental documentation to support the update. Following which, the State Water Board conducted a number of technical workshops to inform the update effort. In 2016, the State Water Board released a draft Scientific Basis Report identifying the science supporting possible Sacramento/Delta updates to the Bay-Delta Plan for public review and comment, and held a public workshop. Based on public comments, the report was updated and submitted to independent peer review and a final [Scientific Basis Report](#) was released in 2017. In 2018 the State Water Board released a [Framework](#) for possible Sacramento/Delta amendments to the Bay-Delta Plan identified by Board staff. In 2022, the Board received a [memorandum of understanding](#) (MOU) proposing voluntary agreements (VAs) for updating and implementing the Bay-Delta Plan. In early 2023, the Board released a draft Scientific Basis Report Supplement for the VAs for public review and comment, including a public workshop. Also, between early and mid-2023, the Board conducted several listening sessions to receive input from California Native American tribes and environmental justice groups.

Most recently, on September 28, 2023, the Board released a draft Staff Report for potential Sacramento/Delta updates to the Bay-Delta Plan for public review and comment.

What is the draft Staff Report?

The draft Staff Report is an environmental document that complies with CEQA and other laws and provides the public with an opportunity to review and comment on the analyses. It does not include a specific proposal for moving forward with the Sacramento/Delta updates. Rather, the draft Staff Report evaluates potential economic, environmental, and other impacts, and associated mitigation measures, of a range of alternatives for updating the Bay-Delta Plan, including what is referred to as the proposed Plan amendments alternative that is based on the 2018 Framework, the proposed VAs alternative, along with other alternatives.

The draft Staff Report has been under development for over ten years. Because the VAs were received later in the process, the VAs alternative is evaluated in a separate chapter of the draft Staff Report. Public input on the draft Staff Report will help inform the Board's planning process and eventual adoption of Sacramento/Delta updates to

the Bay-Delta Plan. The draft Staff Report also includes the final draft Scientific Basis Report Supplement in support of the VAs that will be submitted for independent peer review.

Has the Board identified a preferred pathway for updating the Sacramento/Delta components of the Bay-Delta Plan?

No, the Board is still considering all possible pathways for updating the Sacramento/Delta components of the Bay-Delta Plan. The Board has yet to make any decision on how to move forward with the Sacramento/Delta update and all alternatives described in the draft Staff Report are available for consideration during the public planning process. The possible pathways include alternatives based on percentages of unimpaired flow (i.e., the natural water production of a river basin, unaltered by upstream diversions, storage, or by export or import of water to or from other watersheds). Another possible pathway is through the proposed VAs. The VAs may be incorporated into the proposed Bay-Delta Plan amendments following receipt of comments on the draft Staff Report and peer review of the VA Scientific Basis Report.

What is included in the proposed Plan amendments alternative?

The proposed Plan amendments alternative, as described in the draft Staff Report, is based on the 2018 Framework for possible Sacramento/Delta updates to the Bay-Delta Plan. The proposed Plan amendments alternative includes the following proposed objectives and implementation measures: new year-round inflow requirements for the Sacramento River, its tributaries and eastside tributaries to the Delta (Mokelumne, Calaveras, and Consumnes Rivers) of 55% of unimpaired flows, with an adaptive range of 45–65%; tributary inflows protected as Delta outflows; new requirements for cold water habitat in the Sacramento River and Delta eastside tributaries; new and modified interior Delta flow requirements for Delta exports; recommendations for complementary ecosystem protection actions that others should take; and adaptive management, monitoring, evaluation, special study, and reporting provisions.

What are the proposed voluntary agreements?

The VAs are a proposal, developed by several water users and state agencies (together, VA parties), not including the Board, for an alternative pathway for updating and implementing the Bay-Delta Plan. Because the proposed VAs were received after much of the draft Staff Report was prepared, the VAs are analyzed in a chapter separate from the analyses for the other alternatives. In addition, the VAs are analyzed in a supplement to the 2017 Scientific Basis Report that is also part of the draft Staff Report (draft Scientific Basis Report Supplement, described further below). The VAs term sheet and other supporting documents describing the proposed VAs, as developed by the VA parties, are included as appendices to the draft Staff Report.

The VAs propose flow and habitat restoration actions on the Sacramento, Feather, American, Yuba, and Mokelumne rivers, Putah Creek, and in the Delta. The VAs also include a proposal for the Tuolumne River, which is being considered separately. The VAs are proposed by water users, the Secretaries of the state's Environmental Protection Agency and Natural Resources Agency, the Directors of the Departments of Water Resources and Fish and Wildlife, and the U.S. Bureau of Reclamation. The proposed VAs include measures aimed at achieving two objectives: 1) a new narrative objective to achieve the viability of native fish populations; and 2) to contribute to the existing narrative objective to double salmon populations by 2050. These objectives are proposed to be achieved through implementation of flow and non-flow habitat restoration to improve spawning and rearing capacity for salmonids, estuarine species, and other native fishes. The proposed VAs also include substantial state and public water agency funding commitments, and governance and science programs to direct flows and habitat restoration, conduct assessments, and develop strategic plans and annual reports.

The VAs propose an initial eight-year term. If approved by the Board and shown to be effective, the term could be extended or modified. If the proposed VAs are not found to be effective through a process laid out in the VAs term sheet, a regulatory pathway could apply to VA parties after the Board takes certain steps. The draft Staff Report assumes the regulatory pathway would apply to non-VA parties. The draft Staff Report also assumes that the regulatory pathway includes the inflow, outflow, and cold water habitat provisions of the 2018 Framework, with the exception that these provisions would be identified in the program of implementation rather than in the objectives.

As directed by State Water Board Resolution 2018-0059, Board staff provided technical and regulatory support to the California Natural Resources Agency in developing a Delta watershed-wide VA and incorporated the VA as an alternative in its draft Staff Report supporting the Bay-Delta Plan update. The Board, however, is not a signatory to the VA and has not made any decisions on whether a VA will be adopted as part of the Plan update. The Board will conduct a full public review process before considering whether to incorporate any VAs into the Bay-Delta Plan update.

How are the proposed VAs being considered?

The proposed VAs are being evaluated as part of the Sacramento/Delta update to the Bay-Delta Plan, with the exception of the Tuolumne River portion of the proposal. The Tuolumne River VA is being evaluated separately because the proposal is not fully consistent with the 2018 Lower San Joaquin River and southern Delta amendments and will likely require changes to the existing Plan. For additional information on the process for considering the Tuolumne River VA, visit the [LSJR/SD webpage](#).

In January 2023, Board staff, in coordination with the Departments of Water Resources and Fish and Wildlife, developed a [draft Scientific Basis Report Supplement](#) that documents the science supporting the Sacramento/Delta provisions of the proposed VAs. The report was revised based on public comments and a final draft is included as

an appendix to the draft Staff Report. The final draft Scientific Basis Report Supplement will be submitted for independent, scientific peer review pursuant to legal requirements, and may be revised further based on comments received through the peer review and public process.

The Board anticipates receiving additional documentation from VA parties in late 2023. That additional information, public comments on the draft Staff Report, and peer review comments on the draft final Scientific Basis Report Supplement will inform next steps on possible incorporation of the VAs into the Bay-Delta Plan.

What are tribal beneficial uses and how are they being considered?

In addition to the objectives and implementation measures described in the report, the Board is also considering adding tribal and subsistence fishing beneficial uses to the Bay-Delta Plan, including Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB).

The Board established definitions for tribal and subsistence fishing beneficial uses in 2017, in collaboration with California Native American tribes and the public. Tribal beneficial uses (TBUs) are unique to tribes and defined as follows:

- **Tribal Tradition and Culture (CUL):** the uses of water that support the cultural, spiritual, ceremonial, or traditional rights or lifeways of California Native American tribes.
- **Tribal Subsistence Fishing (T-SUB):** the uses of water involving the non-commercial catching or gathering of natural aquatic resources for consumption by individuals, households, or communities of California Native American tribes to meet needs for sustenance.

At the same time, a third beneficial use was established for subsistence fishing by other individuals or cultures and is defined as follows:

- **Subsistence Fishing (SUB):** the uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities, to meet needs for sustenance.

Board staff held listening sessions in March and May of 2023 to gather input from tribal leaders on the Board's efforts to update and implement the Bay-Delta Plan. Through that outreach, tribal representatives requested the specific recognition of tribal beneficial uses in the Plan. At its meeting on June 7, 2023, the Board received input on the possible addition of these three beneficial uses.

Aquatic life beneficial uses identified in the Bay-Delta Plan form the basis for implementation actions related to flow, water project operations, and physical

restoration for the reasonable protection of fish and wildlife. During the Bay-Delta Plan update outreach efforts, tribal members and representatives expressed that numerous tribal beneficial uses are intrinsically reliant on a healthy aquatic ecosystem and inherently encompass the deep connection many tribes have with fisheries, specifically salmon; and that flow-based actions to support aquatic life would also strengthen or further those connections. The State Water Board recognizes the centrality that vital fish populations and aquatic life have for cultural, spiritual, ceremonial, and traditional rights and lifeways.

Incorporation of the TBUs into the Bay-Delta Plan is not proposed as a formal “designation” of the uses as applying to specific waterbodies or waterbody segments within the Bay-Delta. California’s Porter-Cologne Water Quality Control Act envisions that most water quality control planning will be accomplished on a regional, hydrologic basis by the Regional Water Boards. (Wat. Code, §§ 13000, 13240–13245.) Additional work and collaboration are needed among the tribes, the State Water Board, and the Regional Water Boards to define the proper scope and identify the effects of formal designations as applicable to the geographical area of the Bay-Delta watershed. Prior to formal designation of the TBUs, the State Water Board and the two Regional Boards will exercise their existing authorities to protect the TBUs on a case-by-case basis. This applies to discharge permitting and specific water right actions. The Board is expected to make a decision on the pathway for incorporating, designating, and protecting TBUs when Plan amendments are considered for adoption at a future Board meeting.

Why has the process to update the Bay-Delta Plan taken so long?

The Bay-Delta watershed is a complex and vast system that serves as a critical and highly valued resource for the State. The watershed encompasses much of the state and supports a vast array of native fish and fauna from headwater reaches out to the Pacific Ocean and beyond. The watershed provides a portion of the water supply to most Californians and supplies much of the State’s industries and farmland. The watershed is also home to numerous California Native American tribes whose cultures and ways of life are deeply entwined with the natural environment of the Bay-Delta. Providing balanced protection of these different and sometimes competing uses is immensely complicated from a technical, policy, and legal perspective. The decisions on Bay-Delta Plan updates will also affect and be affected by numerous other efforts and actions in the State. As such, the update efforts require careful and extensive evaluation and public engagement on those evaluations, including the development of new tools and methods.

The time required to conduct this work has taken longer than expected due to the nature of the work and evolving conditions. In addition, Bay-Delta planning staff had to be redirected to manage water rights and water supplies during two of the State’s worst and most extensive droughts, from 2012 to 2015 and again from 2020 to 2022. In addition, time has been spent to provide due consideration to possible voluntary means

of updating and implementing the Bay-Delta Plan that may provide improvements to the environment through both flow and habitat restoration at lower water supply costs.

Despite delays, significant progress has been made. The Board updated the Bay-Delta Plan's Lower San Joaquin River flow and southern Delta salinity provisions in 2018 and is in the process of implementing those changes and considering the associated Tuolumne River VA. The Board began the process to update the Sacramento/Delta portions of the Bay-Delta Plan in 2012. The Board held several public workshops on technical issues between 2012 and 2014 and issued a draft Scientific Basis Report for the Sacramento/Delta update in 2016 and a final in 2017. In 2018, the Board issued the Framework for the Sacramento/Delta updates prior to the adoption of the updates for the Lower San Joaquin River and southern Delta. The State Water Board received the proposed VAs in late 2022. In early 2023, the Board released a draft Scientific Basis Report for the VAs for public review and comment. The release of the draft Staff Report is the most significant step to date in the process to consider Sacramento/Delta updates to the Bay-Delta Plan. It will be followed by responses to comments on the draft Staff Report and development of specific proposed changes to the Bay-Delta Plan that will be brought to the Board for consideration, anticipated in late 2024.

What are the upcoming opportunities for public input on the draft Staff Report?

The draft Staff Report is available for public review on the [Bay-Delta webpage](#). During the public comment period, Board staff will hold two public workshops to explain the draft Staff Report and provide an opportunity for the public to ask questions to facilitate their review of the report. The workshops will be followed by a multiday public hearing before the Board to receive oral comments. Additional details on the public meetings and how to submit comments can be found in the notice for the draft Staff Report.

What are the next steps in the planning process?

As discussed above, after considering the comments received on the draft Staff Report, Board staff will develop and circulate draft proposed Sacramento/Delta changes to the Bay-Delta Plan, including the program of implementation (collectively referred to as Plan amendments). These draft Plan amendments will be the specific regulatory text for the Plan itself and will be part of a full public process. Draft language is anticipated to be released for public review and comment in early to mid-2024. The Board will also hold public meetings to receive input.

The input received on the draft Staff Report and the draft Plan amendments will inform the final Staff Report and final proposed Plan amendments, which will be brought before the Board for consideration at a future meeting. The Board plans to consider adoption of the Sacramento/Delta updates in late 2024 during a public process.

To stay informed of Bay-Delta processes, [subscribe](#) to the Board's "Bay Delta Notices" email list (listed under Water Rights).

How is the Board incorporating tribal input and perspectives?

The Board has been engaging with California Native American tribes through listening sessions, meetings, and one-on-one discussions to incorporate their perspectives and interests in the Plan update and implementation. In summer 2022, the Board sent an invitation for tribal consultation for the regulation to implement the 2018 Lower San Joaquin River and southern Delta update. In early 2023, the Board also requested consultation on the Sacramento/Delta update with tribes located in the Bay-Delta and Trinity River watersheds.

Board staff are working to incorporate tribal traditional ecological knowledge into the Bay-Delta Plan to help inform technical and policy considerations, including: improving adaptive management decisions; monitoring; evaluation for plan effectiveness at protecting fish and wildlife and possible tribal beneficial uses; and future updates and implementation. The Board is interested in feedback from tribes regarding its efforts, including assessing if existing and future actions are providing for the reasonable protection of beneficial uses.

How is the Board considering environmental justice in the Bay-Delta Plan update and implementation processes?

Black, indigenous, people of color (BIPOC) and disadvantaged communities have sought greater inclusion in the Bay-Delta Plan update and implementation processes. In response to their feedback, the Board hosted a public listening session in March 2023 focused on environmental justice issues in the Plan update. The Board received questions and comments about the update process and heard concerns about how flow and water quality changes are impacting subsistence fishing and causing harmful algal blooms (HABs) in the Delta, among other important issues. In response, staff held a second public listening session on June 7, 2023, and received further input from representatives of environmental justice organizations as well as BIPOC and disadvantaged communities.

The Board is actively working to address concerns regarding declines of native fish species that have impacted subsistence fishing opportunities through the update and implementation of the Bay-Delta Plan. In addition, the Board is investing in new monitoring strategies to identify management and mitigation actions to reduce the impacts of HABs. The Board encourages members of environmental justice organizations and BIPOC and disadvantaged communities to provide input on future actions the Board could undertake to address these and other issues.

Where are additional resources located?

More information on the Bay-Delta Plan update and implementation processes can be found on the following webpages:

- [Bay-Delta Watershed](#)
- [Sacramento/Delta Update](#)

- [Lower San Joaquin River Flows and Southern Delta Salinity Update and Implementation](#)
- [Voluntary Agreements](#) (State Water Board)
- [Voluntary Agreements](#) (California Natural Resources Agency)

For additional questions, contact staff at SacDeltaComments@waterboards.ca.gov.

(This FAQ was last updated on September 28, 2023.)