

California Regional Water Quality Control Board San Francisco Bay Region

RESPONSE TO WRITTEN COMMENTS

On the Tentative Order for
Waste Discharge Requirements for Mercury and PCBs from Municipal and Industrial
Wastewater Discharges to San Francisco Bay

The Regional Water Board received comments from the following parties on a draft NPDES permit (Tentative Order) distributed for public comment on October 11, 2022:

- Bay Area Clean Water Agencies
- USS-UPI, LLC
- Vallejo Flood and Wastewater District

The comments are summarized below in *italics* (paraphrased for brevity), followed by staff’s response. For the full content and context of the comments, please refer to the comment letters. To request copies of the letters, see the contact information provided in Attachment F, section 8.7, of the Revised Tentative Order.

The Revised Tentative Order also contains minor staff-initiated editorial and formatting changes to the tentative order distributed for public comment.

Bay Area Clean Water Agencies (BACWA)

BACWA Comment 1

BACWA requests that the Tentative Order include language clarifying that flow discharged through the Oro Loma/Castro Valley Sanitary Districts Water Pollution Control Plant’s outfall is to be used in calculating the East Bay Discharger Authority’s (EBDA’s) mercury mass load.

Response

We agree. The requested language would be consistent with the individual NPDES permit for the Oro Loma/Castro Valley Sanitary Districts Water Pollution Control Plant’s local discharge (NPDES Permit CA0037559). As such, we revised Table 3A of the Tentative Order as follows:

Table 3A. Mercury Effluent Limitations for Municipal Dischargers

Discharger	Average Annual Effluent Limit (kg/yr) ^[1]	Average Monthly Effluent Limit (µg/L)	Average Weekly Effluent Limit (µg/L)
⋮	⋮	⋮	⋮
East Bay Dischargers Authority (EBDA) ^[3]	2.2	0.066	0.072
City of Hayward			

Discharger	Average Annual Effluent Limit (kg/yr) ^[1]	Average Monthly Effluent Limit (µg/L)	Average Weekly Effluent Limit (µg/L)
City of San Leandro			
Oro Loma Sanitary District and Castro Valley Sanitary District			
Union Sanitary District			
Livermore-Amador Valley Water Management Agency			
Dublin San Ramon Services District			
City of Livermore			
⋮	⋮	⋮	⋮
Aggregate Mass Emission Limit (kg/yr) ^{[1],[9],[4]}	11	Not Applicable	Not Applicable

Footnotes:

⋮

^[3] EBDA's mass emissions shall be calculated using the mercury concentration sampled at the EBDA Common Outfall (Discharge Point 001) times the combined average daily flows discharged from the EBDA Common Outfall and the Oro Loma/Castro Valley Sanitary Districts Water Pollution Control Plant's local outfall (covered under NPDES Permit CA0037559) on the same day as EBDA's mercury sampling.

^{[9],[4]} The total differs slightly from the column sum due to rounding to the nearest kilogram.

BACWA Comment 2

BACWA requests that the Regional Water Board remove Provision 6.1.3 from the Tentative Order and future permits, saying it is overbroad, inappropriate, and unnecessary. Provision 6.1.3 states the following:

If there is any conflict, duplication, or overlap between provisions in this Order, the more stringent provision shall apply.

BACWA says this provision places a significant burden on dischargers to determine whether something constitutes a conflict, duplication, or overlap. BACWA contends that it is the Regional Water Board's responsibility to prepare permits that avoid any conflict, duplication, or overlap between provisions and to specify which applies. Additionally, BACWA says Provision 6.1.3 is unnecessary because the Tentative Order already contains language that specifies that the provisions of the Monitoring and Reporting Program (MRP) take precedence over those of the Standard and Regional Standard Provisions regardless of stringency.

Response

We did not revise the Tentative Order. We agree that it is our responsibility to prepare permits with clear provisions that do not conflict, duplicate, or overlap. Due to the scrutiny each draft permit receives during the public review process, we expect such circumstances to rarely arise, if ever. Dischargers carefully review their draft permits and bring to our attention provisions they interpret as conflicting, duplicative, overlapping, or confusing. The intent of Provision 6.1.3, which appears in most NPDES permits statewide, is to provide clarity in the unlikely instance that provisions are later

discovered to conflict, duplicate, or overlap. Its inclusion does not preclude the Regional Water Board from specifying exceptions, as BACWA acknowledges regarding the MRP.

BACWA Comment 3

BACWA requests that the Tentative Order repeat Provision 6.2 text in the MRP to resolve potential discrepancies between the monitoring requirements in the Tentative Order and those of individual NPDES permits.

Response

We agree and revised the MRP (Attachment E) of the Tentative Order as follows:

1. GENERAL MONITORING PROVISIONS

- 1.1. Dischargers shall comply with this MRP. The Executive Officer may amend this MRP pursuant to 40 C.F.R. section 122.63. If any discrepancies exist between this MRP and the “Regional Standard Provisions, and Monitoring and Reporting Requirements (Supplement to Attachment D) for NPDES Wastewater Discharge Permits” (Attachment G) in the individual permits listed in Attachment B of this Order, this MRP shall prevail. If any discrepancies exist between this MRP and the MRP in individual NPDES permits listed in Attachment B of this Order, the more stringent requirements shall apply.

USS-UPI, LLC

USS-UPI, LLC Comment 1

USS-UPI, LLC requests that the Tentative Order reflect its current name.

Response

We agree and revised the Tentative Order to reflect the name “USS-UPI, LLC” in the following tables, attachments, and figures:

- Tables 1B, 2B, 4A, and 4B
- Attachment B
- Attachment C, Figure C-2
- Fact Sheet tables F-1B, F-2B, and F-5
- Appendix F-3, Table 3

USS-UPI, LLC Comment 2

USS-UPI, LLC requests that the Tentative Order reflect the current facility contact information.

Response

We agree and revised Fact Sheet Table F-1A of the Tentative Order to reflect the facility’s current contact information.

Vallejo Flood and Wastewater District (District)

District Comment

The District requests that the Tentative Order include the correct effective date for the District's individual NPDES permit.

Response

We agree and revised Attachment B of the Tentative Order to include the correct effective date.