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## San Francisco Bay Regional Water Quality Control Board

*Sent via email*  
*Confirmation of receipt requested*

January 8, 2021

To: Attached Mailing List

Subject: Water Code Section 13383 Order Requiring Submittal of Information on Climate Change Adaptation

This letter requires Chevron Products Company, Martinez Refining Company, Tesoro Refining and Marketing Company, Phillips 66 Company, and Valero Refining Company-California (Dischargers) to provide reports evaluating the risks posed to operations at their facilities by existing and future climate conditions, and proposing plans to mitigate or avoid such risks. Climate change is shifting precipitation and temperature patterns, exacerbating extreme weather events, and causing sea level and groundwater rise. These conditions have significant implications for wastewater and stormwater collection, treatment, and discharge operations. This request is made pursuant to Water Code section 13383 and Regional Water Board Orders R2-2015-0033, R2-2016-0044, R2-2016-0047, R2-2017-0039, and R2-2020-0033 (NPDES permits, Attachment D, provision V.A).

We consider the Ocean Protection Council's *Sea-Level Rise Guidance*<sup>1</sup> to be the most current authoritative source supporting planning for sea level rise in California. In May 2020, the California Coastal Commission adopted *Making California's Coast Resilient to Sea Level Rise: Principles for Aligned State Action*.<sup>2</sup> The California Environmental Protection Agency, including the State Water Resources Control Board, has endorsed these principles, which recommend using a minimum sea level rise target of 3.5 feet by 2050 for planning purposes. This target applies a safety factor to the California Ocean Protection Council's sea level rise estimates, which do not account for extreme storm surges, tides, or other weather events on top of sea level rise.

In addition to providing the information required below, Dischargers must update, as necessary, the contingency plan, spill prevention plan, operation and maintenance manual, and wastewater facilities status report as required by their NPDES permits (Attachment G, provisions I.C and I.D) to reflect their responses to this letter. Likewise,

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<sup>1</sup> [https://opc.ca.gov/webmaster/ftp/pdf/agenda\\_items/20180314/Item3\\_Exhibit-A\\_OPC\\_SLR\\_Guidance-rd3.pdf](https://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf)

<sup>2</sup> <https://documents.coastal.ca.gov/reports/2020/5/w6g/w6g-5-2020-exhibits.pdf>

Dischargers must notify us of any anticipated facility modifications as required by their NPDES permits (Attachment D, provisions II.B and V.F).

## Requirements

By February 1, 2022, Dischargers shall provide the information described below. We hope each Discharger has already initiated some of this work, and Dischargers may rely on existing planning, to the extent that it is relevant, to respond to this requirement.

1. **Vulnerability Assessment.** Assess the vulnerability of the facility's wastewater and stormwater collection, treatment, and discharge systems to the following:
  - (1) sea level rise, (2) groundwater rise, (3) changing climate and weather, and (4) power outages and wildfires.
    - a. **Sea Level Rise.** Explain how the Discharger manages existing flooding risks (e.g., protective measures already in place, planned, or proposed). Explain how the Discharger intends to manage future flooding risks over a 50-year time horizon (e.g., planning efforts and protective measures in place, planned, or proposed). What guidance and assumptions are being used to anticipate sea level rise? If the Discharger has not yet established a plan, explain the process and timeline for doing so in response to item 2, below.
    - b. **Groundwater Rise.** Explain how the Discharger intends to manage future flooding related to groundwater rise over a 50-year time horizon (e.g., ongoing planning efforts and protective measures in place, planned, or proposed). If the Discharger has not yet established a plan, explain the process and timeline for doing so in response to item 2, below. If the Discharger believes it will not be susceptible to flooding related to groundwater rise within 50 years, explain the basis for the conclusion.
    - c. **Changing Climate and Weather.** Assess how increased temperatures, greater rainfall intensity and more frequent storms, and longer and drier summers may affect the facility's collection, treatment, and discharge systems. Explain how the Discharger intends to manage future risks of this nature. If the Discharger has not yet established a plan, explain the process and timeline for doing so in response to item 2, below.
    - d. **Power Outages and Wildfires.** Assess critical equipment and any need for additional back-up power. This may be necessary due to increasing stress on the power grid from more extreme heat waves and expanded public safety power shutoffs to the facility's service area due to wildfires. Explain how the Discharger intends to manage future risks of this nature. If the Discharger has not yet established a plan, explain the process and timeline for doing so in response to item 2, below.
2. **Adaptation Strategies.** Based on the vulnerabilities of the facility's wastewater and stormwater collection, treatment, and discharge systems, identify mitigation and control measures needed to maintain, protect, and improve the Discharger's

wastewater infrastructure under existing and possible future conditions. This assessment should include the following:

- a. **Regional Collaboration.** Document how the Discharger plans to work with regional stakeholders to address sea level rise and groundwater rise in the facility area. A regional approach may best provide cost-effective ways to manage sea level rise and groundwater rise, while ensuring that the actions of one party do not adversely affect the adaptation plans of other parties.
- b. **Time-Critical Measures.** Identify any time-critical mitigation and control measures, and propose an implementation schedule to complete them.
- c. **Design Modifications and Improvements.** Explain how the Discharger will modify infrastructure identified as vulnerable to sea level rise, groundwater rise, or extreme weather events in the future. For example, it may be necessary to relocate critical equipment above projected flood levels or waterproof facilities at risk of flooding. As sea level rises, increasing the facility's pumping capacity may also be necessary to ensure it can discharge treated wastewater under an increased hydraulic pressure head.
- d. **Emergency Response Planning.** Describe actions the Discharger will take to keep its facilities operating, or to return to operation as quickly as practicable, if a climate-change-related emergency occurs. The Discharger's emergency response planning should also address how it will ensure the health and safety of its employees under such conditions.

### **Basis for Requirements**

We require the information described above pursuant to Water Code section 13383 and the NPDES permits. Water Code section 13383, subdivision (a), authorizes the Regional Water Board to establish reporting and recordkeeping requirements, as authorized by Water Code sections 13160, 13376, or 13377, for any person who discharges to navigable waters. The NPDES permits (Attachment D, Provision V.A) implement 40 Code of Federal Regulations part 122.41(h) and require Dischargers to furnish any information the Regional Water Board requests to determine permit compliance or whether cause exists to modify the permit. Water Code section 13383, subdivision (b), further authorizes the Regional Water Board to require "any person subject to this section" to provide reasonably required information.

The Regional Water Board is therefore authorized to require Dischargers to report on climate change vulnerabilities and adaptation strategies. This information is necessary to determine whether each Discharger's contingency plan, spill prevention plan, operation and maintenance manual, and wastewater facilities status report are up-to-date as required by the NPDES permits (Attachment G, sections I.C and I.D) and to inform permit reissuance. The information is also reasonably required to prevent disruptions of facility operations by existing and future climate conditions.

Failure to comply with the requirements in this letter could subject each Discharger to administrative civil liability of up to \$10,000 per day of violation pursuant to Water Code section 13385.

Any person aggrieved by this action may file a petition with the State Water Resources Control Board in accordance with Water Code section 13320 and California Code of Regulations, title 23, section 2050. The State Water Resources Control Board must receive the petition within 30 days of the date of this letter. Copies of the law and regulations that apply to water quality petitions may be found at [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality). Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

If you have any questions regarding this letter, please contact Robert Schlipf at [robert.schlipf@waterboards.ca.gov](mailto:robert.schlipf@waterboards.ca.gov).

Sincerely,

Michael Montgomery  
Executive Officer

Copy to (via email):

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