

California Regional Water Quality Control Board
San Francisco Bay Region

**Basin Plan Amendment to Add
Tribal Tradition and Culture (CUL),
Tribal Subsistence Fishing (T-SUB), and
Subsistence Fishing (SUB)
Beneficial Use Definitions**

Draft Staff Report



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Cover Image: Mural at The Bay Model Visitor Center, 2100 Bridgeway, Sausalito, CA 94965

Project Page:

https://www.waterboards.ca.gov/rwqcb2/water_issues/programs/planningtmdls/amendments/TBUpa.html

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I. Executive Summary

This amendment proposes to add the definitions of three new beneficial uses to the Water Quality Control Plan for the San Francisco Bay Region (Basin Plan): Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB). The State Water Resources Control Board (State Water Board) established those three beneficial uses in Resolution No. 2017-0027, “Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California (ISWEBE Plan)—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions” for use by the State Water Board and nine Regional Water Quality Control Boards (Regional Water Boards) in their Basin Plans. The CUL use reflects uses of water that support the cultural, spiritual, and traditional ways of living by California Native American Tribes. The T-SUB and SUB uses recognize use of some surface waters by populations that are likely to consume more fish than the average recreational angler in California.

This proposed amendment is consistent with the San Francisco Bay Regional Water Quality Control Board (Water Board) Resolution No. R2-2025-0016, “Approving the Triennial Review of the San Francisco Bay Basin Water Quality Control Plan and Adopting a List of Prioritized Basin Planning Projects,” which identified designating the CUL, T-SUB, and SUB beneficial uses as the highest priority Basin Plan project in the Triennial Review of the San Francisco Bay Basin Plan.

As part of the amendment development process, the Water Board consulted and engaged with California Native American Tribes. On March 17, 2025, emails were sent to thirty tribes within the project area, notifying them of the proposed amendment and inviting them to consult on the project. Notably, a consultation meeting with the Confederated Villages of Lisjan Nation was held on June 4, 2025, to discuss the proposed beneficial use definitions and the broader designation process. Earlier engagement efforts included the April 2022 Tribal Summit, which introduced the statewide initiative to develop and implement Tribal Beneficial Uses.

The proposed action of adding the CUL, T-SUB, and SUB beneficial use definitions as a Basin Plan amendment is not considered a “project” under the California Environmental Quality Act (CEQA) and is therefore exempt from CEQA provisions.

II. Introduction

The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) identifies beneficial uses of surface and ground waters, water quality objectives to protect those uses, implementation actions to achieve objectives, and a monitoring program to assess the Plans’ effectiveness. Beneficial uses, water quality objectives, and antidegradation requirements form enforceable water quality standards that are mandated for all waterbodies within the state under the California Water Code to ensure protection of beneficial uses in California’s waters. The federal Clean Water Act also mandates water quality standards for all surface waters.

In 2014 and 2015, the State Water Board received input from California Native American tribes and environmental justice advocates regarding water uses tied to tribal cultural practices and subsistence fishing. In response, the State Water Board adopted Resolution No. 2016-0011 on February 16, 2016, directing staff to develop beneficial use definitions for Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB). Prior to the adoption of Resolution No. 2016-0011, only the North Coast Regional Water Quality Control Board's water quality control plan identified a beneficial use pertaining to the cultural and traditional rights of indigenous people and a subsistence fishing beneficial use.

On May 2, 2017, the State Water Board adopted Resolution No. 2017-0027, entitled "Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions," which formally established the CUL, T-SUB, and SUB beneficial uses of inland surface waters, enclosed bays, or estuaries in the State. The CUL beneficial use reflects uses of water that support the cultural, spiritual, and traditional ways of living by California Native American Tribes (defined as a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission). The T-SUB and SUB beneficial uses recognize uses of some surface waters by populations that are likely to consume more fish than the average recreational angler in California; the latter is protected under the Commercial and Sport Fishing (COMM) and Water Contact Recreation (REC-1) beneficial uses.

The T-SUB and SUB beneficial uses, and the consumption of fish and shellfish component of the CUL beneficial use, relate to the risks to human health from the consumption of non-commercial fish or shellfish. They are intended to protect tribal cultural practices and traditional uses of waters by California Native American Tribes, subsistence fishing by California Native American Tribes, and subsistence fishing by other communities and individuals. Because these groups are likely to consume more fish than the average recreational angler in California, bioaccumulative contaminants, such as mercury, are of concern. The two beneficial uses for subsistence fishing normally involve higher rates of consumption of fish or shellfish than those protected under the Commercial and Sport Fishing (COMM) and the CUL beneficial uses. The functions of the CUL, T-SUB, and SUB beneficial uses are not to protect or enhance fish populations or aquatic habitats. Fish populations and aquatic habitats are protected and enhanced by other beneficial uses including, but not limited to, Fish Spawning (SPWN), Migration of Aquatic Organisms (MIGR), Warm Freshwater Habitat (WARM), and Cold Freshwater Habitat (COLD).

Resolution No. 2017-0027 stipulates that the Regional Water Boards shall use the three new beneficial uses and abbreviations (CUL, T-SUB, SUB) to the extent such activities are defined in a Basin Plan after June 28, 2017. It does not require the Regional Boards to designate specific waters within their regions with the CUL, T-SUB, or SUB beneficial uses nor does it set forth a prioritization schedule for such designations to occur. It

states that the Regional Water Boards generally consider prioritizing the designation of beneficial uses during their triennial review processes.

As part of the amendment development process, the San Francisco Bay Regional Water Quality Control Board (Water Board) consulted with California Native American Tribes. On March 17, 2025, Water Board staff emailed thirty California Native American tribes in the project area, including five that requested to be consulted pursuant to Public Resources Code section 21080.3.1. These tribes include the Federated Indians of Graton Rancheria, Mishewal Wappo Tribe of Alexander Valley, Tamien Nation, Wilton Rancheria, and Yocha Dehe Wintun Nation.

On June 4, 2025, the Water Board held a consultation meeting with the Confederated Villages of Lisjan Nation to discuss the proposed beneficial use definitions and the broader designation process. The meeting included a presentation on the proposed Basin Plan amendment, an overview of the Tribal Beneficial Uses designation framework, and discussion of how these uses might apply to specific waterbodies in the future. Earlier outreach efforts included the April 2022 Tribal Summit hosted by the Water Board, which introduced the statewide initiative to develop and implement Tribal Beneficial Uses.

This amendment does not designate the CUL, T-SUB, or SUB uses for any specific waterbody. Rather, it establishes the definitions in the Basin Plan as a foundational step. A separate Basin Plan amendment process will be undertaken in the future to designate these uses for specific waterbodies where they exist or have the potential to exist and are attainable. That process will follow the requirements of Water Code sections 13240 (periodic review and revision of Basin Plan), 13244 (hearing and notice requirements), and 13245 (approval by the State Water Board). For the Water Board to designate CUL or T-SUB uses for a specific waterbody and time of year, a California Native American Tribe must confirm that the designation is appropriate, as outlined in Part 2 of the ISWEBE Plan. No tribal confirmation is required for the SUB use.

III. Proposed Basin Plan Amendment

The Staff Report provides the justification and supporting documentation to add the three beneficial use definitions identified in Part 2 of the ISWEBE Plan: Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (Mercury Provisions) to the Basin Plan.

3.1 Description of Basin Plan Amendment

Chapter 2 of the Basin Plan defines and designates the beneficial uses for all surface and ground waters in the San Francisco Bay region. The proposed amendment will add the following three new beneficial use definitions to Chapter 2 of the Basin Plan as defined in the Mercury Provisions:

- **Tribal Tradition and Culture (CUL):**

Uses of water that support the cultural, spiritual, ceremonial, or traditional rights or lifeways of California Native American Tribes, including, but not limited to: navigation, ceremonies, or fishing, gathering, or consumption of natural aquatic resources, including fish, shellfish, vegetation, and materials.

Here, lifeways is defined as any customs, practices, or art of a California Native American Tribe.

Here, California Native American Tribe(s) is defined as a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission.

- **Tribal Subsistence Fishing (T-SUB):**

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 of California Native American Tribes to meet needs for sustenance.

- **Subsistence Fishing (SUB):**

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.

These definitions will be added to Chapter 2, at the end of section 2.1.

3.2 Necessity for Basin Plan Amendment

The proposed amendment is necessary to formally recognize and protect the unique water-related practices and health needs of California Native American Tribes and other subsistence fishing communities.

These beneficial uses support:

- Cultural and spiritual practices tied to water bodies,
- Traditional tribal uses of aquatic resources, and
- Public health protection for communities that consume more fish than the average recreational angler.

Defining these uses in the Basin Plan is a critical first step toward applying them to specific water bodies in the region, ensuring that water quality standards reflect the needs of all communities. Designations of the new beneficial uses to specific

waterbodies, where those uses are existing or have the potential to exist, and are attainable, will be considered under a future, separate Basin Plan amendment process.

3.3 Regulatory Setting

State Board Resolution No. 2017-0027 established the three beneficial use definitions for application by State and Regional Water Boards.

The CUL, T-SUB, and SUB uses are intended to address human health risks from consuming non-commercial aquatic life, particularly in populations with elevated consumption rates. These uses are distinct from other beneficial uses that focus on aquatic life protection (e.g., SPWN, MIGR, AQUA, WARM, COLD). Designation of CUL or T-SUB beneficial uses for specific water bodies requires confirmation from a California Native American Tribe that the designation is appropriate. In contrast, SUB can be designated without tribal confirmation.

These new beneficial uses are especially important for addressing risks from bioaccumulative pollutants, such as mercury, which pose greater threats to high fish consuming- populations. They also fill a gap not fully addressed by existing uses like Commercial and Sport Fishing (COMM).

Regional Water Boards are required to use these new beneficial use definitions and abbreviations (CUL, T-SUB, SUB) where applicable.

The San Francisco Bay Water Board adopted its Triennial Review that lists Basin Plan priorities for the next three years (Resolution No. R2-2025-0016). Designating the CUL, T-SUB, and SUB beneficial uses was identified as the highest priority Basin Plan project.

The specific proposed Basin Plan amendments are provided in **Appendix A**.

IV. Compliance with California Environmental Quality Act (CEQA)

The proposed amendment does not constitute an activity which has a potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment (Pub. Res. Code, § 21065). The proposed amendment is not a "project" for purposes of CEQA, is not subject to CEQA, and therefore, is not subject to the Water Board's certified regulatory programs regulations implementing CEQA (Cal. Code Regs., tit. 23, 3720 (b), (c)(2)).

The proposed amendment does not cause any direct or foreseeable indirect physical environmental changes (Pub. Res. Code, § 21065). It is not considered a "project" under CEQA, thus it is not subject to CEQA nor the Water Board's CEQA regulations (Cal. Code Regs., tit. 23, 3720 (b), (c)(2)).

V. Public Participation

The proposed Basin Plan amendment was made available to the public for review on January 20, 2026. The Notice included information about how to review the proposed amendment and staff report, and about how to participate in the process. Information about how to subscribe to the related Basin Plan email subscription service or lists was also included in the Notice. Interested persons had an opportunity to submit written comments during a 45-day comment period which extended from January 20, 2026 to March 6, 2026. Responses to these comments are provided in Appendix C.

VI. References

San Francisco Bay Regional Water Quality Control Board. 2025. [Triennial Review Staff Report May-2025](#).

State Water Resources Control Board, 2017. [Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions](#).

State Water Resources Control Board, 2017. [Final Staff Report, Including Substitute Environmental Documentation for Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions. May 2, 2017](#).

Appendix A – Annotated Basin Plan Amendment

PROPOSED BASIN PLAN AMENDMENT

The following revisions are proposed for Chapter 2: Beneficial Uses.

Text proposed for deletion is in ~~strikeout~~; text proposed for addition is underlined.

Add to the end of section 2.1

2.1.21 Tribal Tradition and Culture (CUL)¹

Uses of water that support the cultural, spiritual, ceremonial, or traditional rights or lifeways of California native American Tribes, including, but not limited to: navigation, ceremonies, or fishing, gathering, or consumption of natural aquatic resources, including fish, shellfish, vegetation, and materials.

Here, lifeways is defined as any customs, practices, or art of a California Native American Tribe.

Here, California Native American Tribe(s) is defined as a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a nonfederally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission.

2.1.22 Tribal Subsistence Fishing (T-SUB)

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 of California Native American Tribes to meet needs for sustenance.

2.1.23 Subsistence Fishing (SUB)

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.

¹ The CUL, T-SUB, and SUB beneficial uses are defined by “Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions.