Contra Costa County Regional Alternative Compliance (RAC) System Joint Powers Authority

FACT SHEET

This Fact Sheet was prepared to offer supporting information on the joint powers authority (JPA) proposed to be established to administer the Contra Costa County RAC System.

Contra Costa County Regional Alternative Compliance (RAC) and its Benefits

The RAC System is a program designed to offer a flexible, cost-effective, and scientifically defensible compliance option for the MRP's development provisions requiring post-construction stormwater treatment. This System allows regulated developments to purchase "compliance units" in green stormwater infrastructure (GSI) treatment facilities or "Off-Site GSI Projects" constructed elsewhere within the County. The developers of the Off-Site GSI Projects generate the "compliance units" that can be exchanged through the RAC System and purchased by the regulated developments that cannot treat stormwater on their own sites.

Why is the RAC System important? The RAC System provides an opportunity for strategic development, siting, and funding of larger regional stormwater treatment facilities in areas with greater legacy pollutant concerns. It can facilitate the funding and maintenance of Off-Site GSI Projects that offer multi-benefits, such as traffic calming, pedestrian safety enhancements, and urban greening to disadvantaged communities while removing toxic pollutants from the local waterways.

How does the RAC System work? Compliance units can be sold to an interested party (i.e., a developer or municipality) in need of off-site stormwater treatment in order to comply with the MRP's treatment requirements for their own development. Here is how it works:

1. A "seller" would design and construct the Off-Site GSI Projects that generate RAC System compliance units. Off-Site GSI Projects require certification through the RAC System before selling compliance units. As described below, Sellers can be a variety of public agencies and private entities.
2. A "buyer" would pay for the RAC compliance units to satisfy their project's stormwater compliance needs by completing a "compliance purchase."
3. Buyers would pay an additional annual fee to cover the ongoing operations and maintenance (O&M) of the Off-Site GSI Projects that generate compliance units.

Frequently Asked Questions

Q.1 What are the reasons for considering joining the Regional Alternative Compliance (RAC) System Joint Powers Authority (JPA) now, rather than later? Regional collaboration through the JPA could save costs and improve efficiency in meeting regulatory requirements. Joining the RAC JPA now, as it is being formed, can provide several benefits:

- It is more cost-effective to join the JPA initially as the setup and outreach costs can be spread among original participants, especially if more permittees now decide to join the JPA.
- Becoming a member of the JPA allows the agency's boundaries to be included in the RAC CFD for future annexation.
- JPA members will benefit immediately from regional collaboration, shared resources, and access to the RAC System for purchasing and selling compliance units.
- Becoming a JPA member allows an agency to participate in the RAC System, which can benefit future City public projects or interested developers.
- Only JPA members will have access to the RAC System Community Facilities District (CFD), a mechanism for collecting annual fees for maintenance of Off-Site Green Stormwater Infrastructure (GSI) Projects.

Q.2 Is it relatively easy to join the JPA at a later date? What is the process of joining? Are there any advantages or disadvantages? Joining the JPA at a later date is possible. A new member agency would be required to approve and agree to be bound by the terms of the JPA agreement, and the JPA's board of directors would need to approve the new member. Advantages of joining later include flexibility in timing. In contrast, disadvantages may include missing out on being able to weigh in on the JPA's formation, purpose, and other terms of the agreement, as well as potentially higher costs for late entry.

Q.3 Can we opt out of the CFD if my agency joins the RAC System JPA? JPA members are not obligated to participate in the CFD if they don't want their City Council to approve it immediately. However, this would mean that the member would not be able to use the RAC System for developers within their jurisdiction, as the CFD is the mechanism developers must use for ongoing maintenance payments for compliance.

Q.4 What is the process of participating in the CFD at a later date to allow for annexing parcels within my jurisdiction at that time? The method of annexing parcels within your jurisdiction at a later date involves submitting a formal request to the JPA and following the established procedures for annexation. This may include approval by the JPA's board and execution of the necessary agreement, along with approval by the JPA member's City Council.

Q.5 Can you explain the minimum administrative costs for agencies that join the RAC JPA and form the CFD versus those who join the RAC JPA but opt out of the CFD? Agencies that join the RAC JPA and form the CFD may incur administrative costs due to the additional responsibilities of managing the CFD. These additional costs are anticipated to be low and could be covered by parcels in your jurisdiction participating in the RAC System. Those who opt out of the CFD will only be responsible for the JPA's administrative costs but may miss out on the benefits of the CFD, such as the ability to

levy special taxes on developers who would like to use the RAC System for their compliance.

Q.6 My agency is interested in using the RAC System to facilitate 'internal exchanges' within my jurisdiction. We anticipate having compliance units available to sell but are interested in selling them only to private buyers within my jurisdiction. Can you explain if such internal exchanges are possible and how it works? Internal exchanges within your jurisdiction could be possible through the RAC System. If your jurisdiction would like to "reserve" compliance units, we could incorporate a field into the RAC System Tracking Tool that would make those compliance units unavailable to entities outside your jurisdiction. However, it is encouraged that any compliance unit "reservation" lapse after a certain period of time, because the compliance units will not generate maintenance fees for the Off-Site GSI Project until they are sold. If compliance units remain unsold, the seller (i.e., your jurisdiction) must pay maintenance costs until they are sold.

Q.7 How are the ongoing costs calculated as part of the ongoing CFD fees to collect? Ongoing costs as part of the CFD fees are calculated based on the maintenance, repair, and replacement activities required for the facilities funded by the CFD. These costs are typically included in the special taxes levied on properties within the CFD.

Q.8 What steps are involved in forming a JPA and establishing a CFD? The steps involved in forming a JPA and establishing a CFD include drafting and approving the joint powers agreement, obtaining approval from the governing boards of the participating agencies, and executing the agreement. The CFD process includes adopting resolutions of intention, holding public hearings, and conducting elections to approve the special taxes.

Q.9 What happens when a parcel changes ownership from one permittee to another? For example, when does a county parcel become a city annexation? If we establish a future annexation area that includes the entire county, if a property moves from the County to a City as a result of incorporation or annexation, it is still within the boundaries of the future annexation area, so it could annex into the CFD as if it had never moved out of the County.

Q.10 How would the JPA provide opportunities for participation by agencies outside of the County? A JPA is an agreement among various public agencies. The members don't have to be limited to a single county. The JPA structure gives them the power to exercise powers that are common to them, plus other statutory powers given to them. So, it is possible that a JPA that initially includes only the County could grow to include public agencies outside the boundaries of the County, including State agencies such as Caltrans. If the JPA agreement is amended to include members outside the County, the CFD could similarly be amended to add the new public agency/ies jurisdiction to the future annexation area. However, as a reminder, public agencies purchasing compliance units would pay for maintenance through a separate agreement outside of the CFD, which is reserved for private parcel owners only.

Q.11 If one jurisdiction (e.g., unincorporated Contra Costa County) builds a project that is in a separate incorporated city, but that incorporated city did not join the JPA and CFD, could we still use that project as part of the RAC System? The project itself can be located anywhere the RAC System allows facilities to be located (defined as the entire County, providing that the property owner has approved of the project). However, the entities

purchasing compliance units generated by that project can only be located within jurisdictions participating in the RAC System.

Q.12 If a jurisdiction doesn't plan to buy or sell any compliance units (i.e., has decided to be a member of the JPA just so that they have that option), will they have an ongoing cost associated with being a member? Most likely, yes. The JPA Board would determine that cost burden on an annual basis. The cost to be a member that's not participating in any improvements would probably be limited to just the administrative staff of maintaining the JPA.

Q.13 If my jurisdiction has several developers participating in the RAC System, will my administrative costs for the JPA and CFD be progressively higher with each participating developer? The overall costs for the JPA and CFD would be progressively higher for a jurisdiction that has several developers participating. However, those additional administrative costs should ideally be passed on to the developers so that the additional cost burden by the jurisdiction is minimal.

Q.14 Can a JPA administer multiple CFDs within different jurisdictions? Yes, a JPA can administer multiple CFDs within different jurisdictions, allowing for coordinated management and efficient use of resources across various areas.

Q.15 How can municipalities benefit from regional collaboration through a JPA? Municipalities can benefit from regional collaboration through a JPA by sharing resources, expertise, and costs. This can lead to improved efficiency, cost savings, and enhanced ability to meet regulatory requirements and achieve common goals. Because each permittee is liable to meet the Mercury and PCBs TMDL (C.11.c and C.12.c of the MRP), they can be achieved through participation and funding of regional projects funded and maintained by the RAC System. Permittees that are not members of the RAC System will have to find alternate means to comply with these two provisions.