

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 91-74

APPROVAL OF SECTION 106 SURFACE WATER POLLUTION
CONTROL GRANT WORKPLAN FOR FEDERAL FISCAL YEAR (FFY) 1992
AND AUTHORIZATION TO APPLY FOR AND ACCEPT THE SECTION 106
SURFACE WATER POLLUTION CONTROL GRANT FOR FFY 1992

WHEREAS:

1. The State Water Resources Control Board (State Board) is applying to the U.S. Environmental Protection Agency (EPA), Region 9, for a Clean Water Act, Section 106 Grant in the amount of \$3,953,349 for FFY 1992.
2. The Section 106 Grant for surface water pollution control programs assists the State Board in financing the implementation and maintenance of adequate measures for the prevention and abatement of water pollution, pollution control studies, and compliance and enforcement activities.

THEREFORE BE IT RESOLVED:

That the State Board:

1. Approves the FFY 1992 Section 106 Surface Water Pollution Control Grant Workplan.
2. Authorizes the Executive Director or his designee to apply for and to accept the FFY 1992 Section 106 Surface Water Pollution Control Grant in the amount of \$3,953,349 to assist in financing the State's water pollution control programs.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 22, 1991.


Maureen Marché
Administrative Assistant to the Board

ATTACHMENT

CLEAN WATER ACT SECTION 106
WATER POLLUTION CONTROL PROGRAM GRANT
FOR
FEDERAL FISCAL YEAR 1992

WORKPLAN

August 22, 1991

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P R O L O G U E

Clean Water Act Section 106 Water Pollution Control Program Grant

Workplan for Federal Fiscal Year 1992

California State Water Resources Control Board and California Regional Water Quality Control Boards

In 1967, the California Legislature devised a unique coordinated adjudicatory and regulatory framework to manage California's most vital natural resource -- water. Recognizing that policies and decisions regarding water quantity and quality were inseparable and should be made by an experienced and autonomous body, the Legislature vested both functions within the State Water Resources Control Board (State Board), a new agency. Within this framework, the State Board and the nine California Regional Water Quality Control Boards (Regional Boards) were entrusted with broad authority to preserve, protect, and enhance all beneficial uses of the State's streams, rivers, lakes, coastal waters, and ground water basins.

While endeavoring to fulfill the profound responsibilities that managing California's immensely complex waterscape encompasses, many other challenges, including implementing and administering major new Federal water pollution control legislation and programs, confronted the State Board during the early 1970s. Throughout this era, the State Board and the then newly created U.S. Environmental Protection Agency (EPA) jointly acted to control inadequately treated sewage and industrial discharges into surface waters, to award grant assistance so that municipalities could build better pollution control works, and to establish a cooperative regulatory system so similar State and federally mandated duties would be effectively and efficiently performed. Through a historic agreement, EPA delegated its significant water quality programs and activities to the State Board in 1975 and contributed approximately \$3 million -- then about 30 percent of the State Board's water quality budget -- to finance a portion of the delegated activities.

Although early State and Federal regulatory efforts abated substantial surface water pollution, a wider array of toxic chemicals from leaking underground storage tanks, agriculture, industry, and land disposal practices continues to pollute California's ground and surface waters, contaminate its land, and jeopardize public health and sensitive ecosystems. At the same time, growing water quality and water supply concerns, vastly more complex beneficial use considerations, ever-increasing legislative and judicial directives, rapidly expanding technical information and knowledge, and limited financial resources present dramatically new and difficult challenges to the State Board. To tackle such challenges, the

I. ADMINISTRATION

Scope

The State Board and the Regional Boards jointly administer and implement the Clean Water Act Section 106 Water Pollution Control Program. The State Board has the lead responsibility for program administration. The State Board is implementing a State Clean Water Strategy (CWS) which will provide the framework for determining both the State's priority water bodies and the allocation of resources for assessment, prevention, and cleanup of pollution.

Authority

Clean Water Act, Section 106, and California Water Code, Division 7.

Objectives and Tasks

- A. To provide for management and evaluation of the California Water Pollution Control Program:
1. The State Board will perform general management of the Section 106 program. EPA will provide program guidance and negotiate priorities for federally mandated programs with the State Board.
 2. The State Board will maintain its oversight of the Regional Boards in all relevant CWA planning, NPDES permitting, pretreatment, compliance, and quality assurance programs. The State Board will continue to submit quarterly Section 106 program tracking reports to EPA.
 3. Except where specifically noted herein, the State Board will provide EPA with quarterly reports detailing and summarizing activities and progress on workplan commitments specifically for the NPDES program. These reports will be submitted within 30 days after the end of the quarter.
 4. The State Board will participate with EPA in an end-of-year review of the FFY 1991 program in November 1991. EPA will provide a written draft report, on which the State Board will have a 30-day opportunity to comment.
 5. The State Board and EPA will maintain current regulations, procedures, and agreements. The State Board and EPA will ensure that each other receives copies of regulations, procedures, and agreements as they are developed and implemented.
 6. State Board executive management and EPA management will conduct meetings (Fairfield meetings) on an as-needed basis to discuss program goals and accomplishments and to resolve problems identified, but not resolved, at mid-level meetings between State Board management from the Division of Water Quality and EPA mid-level management. These mid-level meetings will be held approximately monthly, about one week before a Fairfield meeting.

7. The State Board and EPA may negotiate changes to appropriate portions of this workplan based on decisions reached at mid- or high level management meetings. Such changes will be implemented after approval by both the State Board and EPA.
8. Although all tasks and outputs in this workplan are important and are expected to be completed, outputs identified as STARS commitments are recognized as EPA's highest priorities. The State Board will make efforts to ensure that the tasks and outputs are completed. This agreement recognizes that Federal Section 106 funding comprises approximately six percent of California's total water quality control program. Inasmuch as the State's commitments in this workplan are affected by its resource constraints, priorities, and legislative mandates, the State can only, in good faith, commit to its best efforts in achieving these commitments. The State Board will meet with EPA for the purpose of negotiating revisions to commitments if it appears to either EPA or the State Board, from the quarterly tracking reports or other sources, that such commitments have not or will not be met.
9. To the extent possible, the FFY 1993 Section 106 Program Grant will be negotiated and awarded according to the following schedule:

<u>Activity</u>	<u>Time Frame</u>
a. Notify State Board of planning target	03/30/92
b. Provide program guidance to State Board	04/15/92
c. Negotiate workplans	05/01 - 06/01/92
d. Final draft workplan	07/01/92
e. Workplan/application to EPA for approval	09/01/92
f. EPA approves workplan	09/15/92
g. EPA awards Section 106 grant	11/30/92
h. EPA awards letter of credit	12/15/92

10. EPA will inform the State Board of any unanticipated additional funds if they become available for water quality management work and will solicit State Board input for their use. This notification will occur by telephone within one week from the time that EPA, Region 9 learns of the availability of the funds. It will be followed immediately by written notification.
11. In order to assure that EPA and the State Board properly coordinate CWA regulatory activities, EPA will provide the State Board with a comprehensive FFY 1992 calendar containing scheduled CWA regulatory and other relevant activities, such as promulgation dates, deadlines, comment dates, etc.

nine Regional Boards and the State Board have acquired diverse staff expertise, have undertaken massive new programs, and have considerably shifted the Boards' water quality protection and pollution control emphasis. While the State Board's basic mission has remained constant since its creation, a multitude of factors and previously unforeseen problems, such as drought and serious pollution at Kesterson Reservoir, have underscored and renewed the importance and interdependence of the State Board's water quality and quantity duties.

As the State Board's focus has changed, Federal water pollution control program (Section 106) responsibilities have similarly expanded and the emphasis has shifted. Virulent water-borne diseases associated with poorly treated sewage have been virtually eradicated, yet more complex and diffuse pollutants such as toxic materials present different threats to public health and natural resources in California. The State Board's water pollution control program (Section 106) agreement with EPA reflects the explosion of new Federal laws and programs to correct and prevent such threats. In fact, workplans in recent years have incorporated many activities mandated by the 1987 amendments to the Clean Water Act (CWA). Despite substantial change, the present amount of Federal grant assistance for this program remains virtually unchanged from the original 1975 award. EPA now contributes about \$3.9 million -- or less than six percent of California's water quality program; these grant funds directly support a part of the State and Regional Boards' National Pollutant Discharge Elimination System (NPDES) Program. In exchange for such grant assistance (and as Federal law requires), the State Board designates certain State-financed programs and activities as a "level of effort" which roughly corresponds to its recurrent program expenditures during the 1970-71 State fiscal year.¹ The State Board's grant workplan specifies particular activities, performance criteria, and work products for certain program elements. During FFY 1992, these program elements generally include NPDES permitting, compliance, and enforcement, pretreatment activities, surveillance and trend monitoring, water quality policy review, water quality standards, and quality assurance.

However, California's "level of effort" includes other major work outside the scope of the grant workplan. For example, the State Board's land disposal regulatory program (also called the Chapter 15 Waste Discharge Requirements [WDR] Program) regulates approximately 1000 facilities, employs more than 57 staff persons, and expends about \$3.5 million annually. This program, which includes the same activities and work products as the NPDES program, as well as many others, prescribes waste discharge requirements for hazardous and non-hazardous waste disposal to land. As traditional landfill, mining and other land disposal practices had largely overlooked hydrogeologic considerations and because waste materials generally include toxic substances, ground water pollution investigation, control, and abatement are exceedingly complex and difficult program tasks. Furthermore, the land disposal program must coordinate and integrate numerous other State and Federal provisions from the Resource Conservation and Recovery Act (RCRA), Toxic Pits Cleanup Act (TPCA), Solid Waste Water Quality Assessment Test (SWAT), and Underground Tanks programs.

The surface water pollution control program (Section 106) grant and workplan represent only a small portion of the State Board's entire mission. The various non-surface water regulatory programs -- RCRA, TPCA, SWAT, Chapter 15 WDR,

¹ A state fiscal year begins July 1 and ends the following June 30.

AB1803 Well Investigation Program, Unregulated Sites, and Underground Tanks perform extensive ground water investigations and monitoring, conduct regulated facility compliance or site-related inspections, and take necessary enforcement measures. These programs also clean up long-term pollution problems. Similarly, the State Board's Proposition 65, Forest Activities, Nonpoint Source, Risk Assessment, Pesticide, Section 205(j), Basin Planning, and Statewide Standards programs develop water quality protection criteria, coordinate water quality information, and formulate implementation schemes.

To best manage California's water resources and successfully complete its mission, the State Board must maximize how it uses available resources and must conscientiously administer those programs it pursues. Some time ago, Chairman Maughan observed:

"...the toughest problem is to address every issue for which the Board is responsible in a fair manner, on a timely basis, and to render decisions which are clearly and carefully expressed....The Board cannot afford to take on any job it cannot do well..."

II. NPDES PERMITTINGScope

The State Board and the Regional Boards jointly administer the NPDES permitting activities of the State's Water Quality Program. Tasks include preparation, review, issuance, reissuance, and revision of NPDES permits and review and approval of new and modified municipal pretreatment programs.

Objectives and Tasks

A. Permit Issuance

The Regional Boards will issue new and reissue existing NPDES permits regulating waste discharge to surface waters according to the current NPDES Memorandum of Agreement (MOA).

1. EPA will submit the proposed FFY 1993 California Major Discharger List to the Regional Boards for their review and comment by August 15, 1992. The Regional Boards will have 30 days for comment. EPA will provide the State Board and the Regional Boards with the revised major discharger list for FFY 1992 as soon as revisions are made to EPA's Permit Compliance System (PCS) data base.
2. The Regional Boards will issue new and reissue existing NPDES permits in accordance with the following priorities (in descending order):
 - a. Issuing new NPDES Permits;
 - b. Reissuing or rescinding major NPDES permits which expired prior to October 1, 1991, with priority given to permits which must be reissued to meet water quality goals;
 - c. Reissuing or rescinding major NPDES permits expiring subsequent to October 1, 1991, with priority given to permits which must be reissued to meet water quality goals;
 - d. Reissuing or rescinding minor NPDES permits which expired prior to October 1, 1991, with priority given to permits which must be reissued to meet water quality goals; and
 - e. Reissuing or rescinding minor NPDES permits expiring subsequent to October 1, 1991, with priority given to permits which must be reissued to meet water quality goals.

The NPDES permitting workload committed to by the Regional Boards for State Fiscal Year (SFY) 1991-92 is shown in Attachment One to this workplan. Because permit reissuance is constrained by limited resources, EPA has agreed to allow the Regional Boards to administratively continue minor NPDES permits under specific conditions. The overall goal is to eliminate backlogs and to reissue all major permits and at least 90 percent of minor permits as they expire. Because of the increasing workload associated with issuing new NPDES permits, it is agreed that EPA will give equal weight to both new and reissued permits when assessing the State's permitting

performance. The State Board will provide EPA, by October 15, 1991, with a special listing of the reissuance schedule by quarter for major NPDES permits which are backlogged or expiring in FFY 92 and will provide EPA, by the fifth working day after the end of a quarter, with a quarterly report listing expiration dates, currently scheduled reissuance dates and actual reissuance dates for major NPDES permits. (STARS)

3. The Regional Boards will issue, on a region-by-region basis, general NPDES permits for construction dewatering and ground water cleanup other than construction. The State Board will issue a general permit for industrial stormwater discharges. A separate general permit will be issued to regulate stormwater discharges from construction activities. Regional Boards may supplement this general permit with their own general or individual permits, as appropriate, for industrial stormwater discharges.
4. The Regional Boards will reopen NPDES permits or reissue NPDES permits upon expiration, in accordance with regulations, to incorporate water quality-based limits derived from studies required by the Regional Board at the time of last permit issuance. Where such permits have been reopened, the Regional Boards will also modify NPDES permits to include needed toxics controls and sludge handling provisions, including the model sludge language of the approved interim sludge management program, as appropriate.
5. EPA will provide Regional Boards, and the Regional Boards agree to use, copies of the most current NPDES application forms and instructions for their use.
6. The Regional Boards will cross-reference the existing waste discharge orders written for sludge disposal facilities which impact the permitted facility in all new or reissued NPDES permits.
7. For both new and reissued NPDES permits, the Regional Boards will insert specific case-by-case sludge permit language, to be provided by EPA, into the permit. The EPA-issued language will supplement the model sludge permit language issued by the Division of Water Quality on March 28, 1990.
8. For cities and counties required to submit NPDES stormwater permit applications by November 1991 or May 1992, the Regional Boards will review and approve, as appropriate, such applications. The Regional Boards will review plans submitted under the early permitting program for urban areawide NPDES stormwater permits.

B. CWA Section 301(h) Marine Modified Permits

As appropriate, the Regional Boards and EPA will follow the procedures set forth in the May 1984 CWA Section 301(h) Memorandum of Understanding "Modified NPDES Permits Under Section 301(h) of the Clean Water Act Between the California State Water Resources Control Board and the U. S. Environmental Protection Agency, Region 9" and also the 1989 NPDES MOA.

C. Ocean Data Evaluation System (ODES)

1. The Regional Boards will encourage NPDES dischargers to the ocean to submit Discharge Monitoring Reports (DMR) in the ODES format.
2. EPA will continue to make ODES accessible to the State and Regional Boards for the purpose of analyzing NPDES ocean discharger DMR data.

D. Review of Pretreatment Programs

The Regional Boards will review, as appropriate, both new and modified pretreatment programs for municipal NPDES dischargers. Copies of reviewed pretreatment programs will be provided to EPA and the State Board. The Regional Boards will issue approvals of both new and modified pretreatment programs and take full responsibility for the Pretreatment Program.

E. New Program Areas

1. The State and Regional Boards will continue their previous efforts in permitting drydocks and in controlling the discharge of Tributyltin to near coastal waters, bays, and estuaries.
2. The State Board will continue to implement its Combined Sewer Overflow permitting strategy.
3. The Regional Boards will prepare Individual Control Strategies (ICS) for pollutant sources to water bodies on the 304(1) "short" list submitted to EPA by the State Board in February 1989. As appropriate in individual situations, the Regional Boards will attempt to prepare ICS for additional 304(1) water bodies proposed by EPA for the 304(1) short list. EPA assumes the responsibility to prepare ICS for additional 304(1) water bodies proposed by EPA unless the Regional Board proposes to prepare such ICS.
4. The State Board will meet with the State's Integrated Waste Management Board and other State agencies, as appropriate, to develop a coordinated approach regarding the State's sludge generation and disposal problems, including development of an issue paper by January 31, 1992 concerning whether to apply for the federal sludge management program.

III. MONITORING AND ASSESSMENT

Scope

For the purposes of this workplan, "monitoring and assessment" is broadly defined as activities conducted to provide chemical, physical, geological, biological, and other water quality-related data and to assess impacts on beneficial uses of waterbodies based on such data. Under this broad definition, "monitoring" includes: planning the collection of water quality data to meet specific program objectives and water resource information needs; designing monitoring systems and studies; selecting sampling sites and collecting and processing samples; laboratory analysis; reporting and storing the data; providing quality assurance

for data acquisition activities, and making such data available to decision makers and the public.

Authority

California Water Code, Sections 13000 to 13171; CWA, Sections 104, 106, 108, 205(j), 301, 303, 304, 305, and 314, as amended, and applicable regulations thereto; and California Administrative Code, Title 23, Section 2235.2.

Goals

The goals for the State and Regional Boards' monitoring and assessment programs are:

1. Determine pollutant-related changes in the quality of water bodies in the State;
2. Ensure that all monitoring data are technically and scientifically sound through operation of an appropriate quality assurance program;
3. Develop more effective monitoring and assessment techniques;
4. Continue developing capabilities in both pollutant specific and biomonitoring approaches to conducting water quality monitoring and assessment; and
5. Determine where water quality problems exist, the sources or causes, and rank or prioritize the problems on a statewide basis.

Strategy

The State and Regional Boards will operate ambient water quality monitoring programs and perform special studies and intensive surveys to acquire water quality data, evaluate such data, and support conduct of followup actions in problem areas to solve problems and reduce pollution. The State Board will ensure that appropriate water quality data are entered into EPA's Water Quality Data STorage and RETrieval (STORET) system or other systems.

The State and Regional Boards will conduct water quality monitoring at key locations, selected on the basis of water quality knowledge gained during past years of monitoring, and consistent with the State Board's CWS, in order to obtain ambient water quality-related data and to facilitate status and trend analysis. Special studies and intensive surveys will be conducted to identify, evaluate, and resolve specific water quality problems defined by routine monitoring and inspection activities. The State Board will provide water quality status information and reports for basin plan updates, for Section 304(l) water quality assessment plans, and for the CWA Section 305(b) Biennial Water Quality Assessment report.

Tasks

- A. The State Board will operate routine ambient monitoring programs which collect and analyze samples of water, tissue, and sediment, as appropriate in individual situations, and will make such data available to EPA and the Regional Boards in either electronic or hardcopy report form.

- B. The State Board will continue its review of portions of its statewide ambient monitoring programs, as described in the SFY 1989-90 Monitoring and Assessment Program Workplan, and will involve EPA in such reviews. The State Board's review will continue to integrate monitoring, assessment, and standards setting through the State's CWS by linking such activities to the prioritization and decision making processes that are generated by the CWS.
- C. The State Board will prepare and submit to EPA by April 1, 1992, tabular and other appropriate materials as its FFY 1992 biennial water quality assessment report. This will include the results of the 1991 ranking of its CWA Section 303(d) Water Quality Limited Segments List and Section 304(l) Long List for priority in addressing problems. The State Board intends to include the tabular and other materials in a water quality assessment report in a format more useful to the State Board's purposes. Copies of that report will also be made available to EPA.
- D. In an effort to keep EPA aware of accomplishments made by the State, the State and Regional Boards will participate in an EPA monitoring review, as needed.
- E. The State Board will operate a statewide quality assurance (QA) program to assure the precision, accuracy, completeness, representativeness, and comparability of water quality data gathered by State and Regional Board monitoring programs. The QA Program will be operated in accordance with the State Board's approved QA Program Plan.
- F. The State Board will submit a written report on the status of implementation of its FFY 1991 QA Program by November 15, 1991. The following elements will be included in the annual QA Program status report.
1. A description of any changes to the QA Program and the status of such changes, including short- or long-term goals, environmental measurement activities, organization and personnel, and training.
 2. The status of QA Project Plans approved or required by EPA, their adequacy and applicability to current EPA-funded programs, and the need for revision.
 3. Significant QA Program accomplishments, problems, and the resolution of problems.
 4. The development, use, and attainment of data quality objectives for measurement activities.
 5. The development of standard operating procedures to encourage uniform practices.
 6. A summary of any projects or special studies for which QA Project Plans were prepared and/or reviewed, including significant problems and recommendations for actual or procedural changes in the projects or studies.
 7. The results of any performance or system audits conducted.
 8. Any other QA activities or concerns.

- G. The State Board will provide guidance to the Regional Boards for evaluating waterbodies on the Section 303(d) list as to the feasibility of applying TMDL/WLA/LA procedures. Where TMDL/WLA/LAs do not appear appropriate, the State Board will identify alternative control measures that may be applied. These procedures may include, but are not limited to, mass emission controls or other innovative approaches to control pollutants to meet water quality standards.
- H. By April 1, 1992, the State Board will develop and submit to EPA a revised ranked list of water quality-limited segments. The list will identify the pollutants causing the impairment, where known. The submittal to EPA will include a description of the process used for identifying and ranking impaired segments. The ranking will take into account resource value of the water body as well as feasibility and duration of the project intended to reduce or eliminate impairments.

Action Plans will be prepared by July 1, 1992 for the highest ranked pollutant/source problems. These plans will identify ongoing and proposed tasks and an implementation schedule.

The State Board will include an EPA representative on its TMDL workgroup to facilitate development of a draft technical agreement between the State Board and EPA. By September 30, 1992, EPA will prepare a draft Section 303(d) technical agreement for joint discussion.

- I. In order to assist the State and Regional Boards in achieving their Monitoring and Assessment goals:
1. EPA will continue to provide funding for special programming and data entry to STORET and will provide expanded funding, as needed, for operation of terminals in State and Regional Board offices for access to STORET, including both data entry and retrieval.
 2. On an ongoing basis, EPA will assemble an inventory of available reports and identify ongoing work or planned activities in the following areas.
 - a. Assessing or estimating the effects of toxic organic or metallic priority or other pollutants on humans, animals, fish, and plants.
 - b. Guidelines for interpreting and using water quality-related environmental data.
 - c. Bioscreening techniques.
 - d. Beneficial use attainability.
 - e. Improved monitoring techniques and sampling methods to address existing and emerging problems in the area of toxic pollutants in both surface and ground waters.
 3. EPA will use the State's Clean Water Strategy to focus its own project priorities, consistent with the State's WQA.

- J. In updating the CWS/WQA, the Regional Boards will identify segments which are not "fishable/swimmable" and will identify the causes of such situations, consistent with Sections 303(d) and 304(l). The State Board will specify the definition of "fishable/swimmable" used in this process.

IV. PLANNING AND STANDARDS

Scope

The State Board is the lead agency in California to ensure a consistent statewide approach for planning to maintain, protect, and, where possible, improve water quality. The Regional Boards develop and adopt Water Quality Control Plans (basin plans) and updates of plans which include water quality standards (WQS). The State Board adopts statewide water quality control plans, which also include WQS. The State Board is currently preparing statewide water quality control plans for inland surface waters and for bays and estuaries which will incorporate and integrate individual plans and policies into an overall framework which will support the State's CWS.

EPA assists the State and Regional Boards by providing guidance to ensure that State water quality management planning provides an effective framework for making water quality management and regulatory decisions.

Objectives and Tasks

A. Water Quality Planning

1. By April 15, 1992, the State Board will submit a schedule, including proposed content and priorities for various activities, for triennial reviews of basin plans. The triennial review schedule and contents will be coordinated with and consistent with the State's CWS/WQA update which will serve as the prioritization component of the triennial review.
2. EPA will review and approve, as appropriate, the State's updated Continuing Planning Process document, which was completed in FFY 1991.

B. Water Quality Standards

1. The State Board will continue the process of developing appropriate criteria/limits for other toxic pollutants of concern, including those specified under CWA Section 307(a), consistent with the CWA and regulations promulgated thereto. The State Board will submit a workplan for the next phase of the process by November 1, 1991.
2. EPA, the State Board, and the Regional Boards will work together to develop and provide guidance to dischargers on how to develop use attainability analyses and site-specific standards. The guidance will be developed by February 1, 1992.
3. With the exception of Region 5, the Regional Boards will, by September 30, 1992, identify category a, b, and c waters pursuant to the Inland Surface Waters Plan (ISWP) and will identify pollutants of

concern under the ISWP. Region 5 is expected to complete its categorization by mid-October 1992. The State Board will adopt such categorization, as appropriate.

V. COMPLIANCE AND ENFORCEMENT

Scope

The nine Regional Boards and the State Board's Division of Water Quality administer the compliance and enforcement activities of the State's water quality program.

Authority

CWA, Section 309, and California Water Code, Division 7.

Goals

The compliance and enforcement policy of EPA and the State and Regional Boards is to fully cooperate with each other and to coordinate compliance and enforcement activities. Specific goals of the program are to:

1. Be able to determine at any time the status of compliance of all NPDES permitted dischargers in California.
2. Implement EPA's National Municipal Policy. All municipal facilities not in compliance should be on an enforceable compliance schedule, and in compliance as soon as possible.
3. Ensure that POTWs which have been constructed with Federal funds are properly operated and maintained.
4. Prevent endangerment and serious public health risks which may result from contamination of surface water supplies.
5. Assess appropriate penalties for violators.
6. Ensure that all pretreatment programs are properly implemented and are in compliance with all applicable requirements.
7. Reduce the number of dischargers in noncompliance.
8. Further reduce currently low levels of impairment of beneficial uses resulting from unauthorized and unpermitted discharges.

Strategy

The State and Regional Boards will implement compliance and enforcement provisions of the 1989 NPDES Memorandum of Agreement and the State/EPA Enforcement Agreement.

The State and Regional Boards will continue to implement the California Compliance Policy, which explains in detail the State's approach to POTW compliance.

The State and Regional Boards will continue to implement California's Enforcement Management System (EMS), which outlines the procedures used by the State for compliance and enforcement activities.

Objectives and Tasks

- A. To ensure that the State is maintaining an effective compliance and enforcement program:
1. During FFY 1992, EPA and the State Board will review their EMS for mutual consistency.
 2. To ascertain whether funding is being directed to resolving compliance issues at Federal facilities, the Regional Boards will review the annual A-106 Federal facility compliance list to be provided by EPA. The review will be completed within 30 days of submittal of the list by EPA.
 3. The State and Regional Boards will conduct compliance and enforcement activities for NPDES facilities; inspections will be conducted in conformance with the 1989 NPDES MOA.
 4. The State Board will schedule and conduct audits of NPDES permitting, compliance, and enforcement activities at two Regional Board offices.
- B. To identify NPDES permit violations through Discharger Monitoring Report (DMR) Review:
1. The Regional Boards will review all major NPDES discharger DMRs within 30 days of receipt and will attempt to review minor discharger DMRs quarterly.
 2. When letters or other less formal enforcement actions have failed to gain participation, the Regional Boards will take other appropriate enforcement actions against NPDES major permittees that have failed to participate in the DMR QA Program.
- C. To monitor noncompliance through the Quarterly Noncompliance Reports (QNCR):
1. In accordance with Attachment Two "Schedule For Submittal Of QNCR And Follow-up Activities", the Regional Boards will report quarterly all major NPDES dischargers in either significant or reportable noncompliance (SNC, RNC) on the QNCR (40 CFR, Section 123.45). Federally funded NPDES minors will be reported at least semiannually.
 2. EPA will provide review comments on the QNCRs submitted by the Regional Boards directly to the appropriate Regional Board. Corrections will be made on the following QNCR.
 3. EPA will direct its Enforcement Target Letters, with comments on dischargers in SNC more than one quarter, to the State Board, which will take responsibility for coordinating responses, as appropriate, from the Regional Boards.

D. To identify NPDES discharger compliance problems through inspections:

1. The Regional Boards will conduct compliance inspections at least once during the SFY for all major NPDES dischargers and at least once during the five-year term of the permit for all minor NPDES dischargers. The Regional Boards will conduct additional inspections, as appropriate, of major NPDES permittees. The SFY 1991-92 NPDES discharger compliance inspection commitments are shown in Attachment Three to this workplan. The State Board will report to EPA quarterly on the scheduled and actual dates of compliance inspections of all NPDES facilities. The State Board will submit an additional report by May 10, 1992 of all major NPDES permittees which will not be inspected by June 30, 1992. (STARS)
2. To avoid duplication of effort, EPA will make every effort to conduct compliance inspections of only those NPDES permittees which will not be inspected by the Regional Boards (A or B level inspections, including pretreatment inspections). This does not restrict EPA's right to conduct inspections as deemed necessary. EPA will notify the Regional Boards at least 14 days prior to these inspections in order to allow Regional Board staff to participate or to conduct such inspection in lieu of EPA by mutual agreement. EPA will provide final inspection reports to the Regional Boards within 60 days after an inspection is performed.
3. The Regional Boards will submit copies of inspection reports, using the new compliance inspection report form meeting both State and EPA requirements, to EPA within 30 days after a nonsampling inspection and within 60 days after a sampling inspection.
4. In general, the State and Regional Boards will follow the procedures in the 1989 NPDES MOA and the State's Administrative Procedures Manual (APM) in managing the inspection program.

E. To achieve and maintain compliance through adoption of formal enforcement actions:

1. In accordance with the procedures specified in the 1989 MOA, EPA will notify the State Board and the appropriate Regional Board of any enforcement actions proposed to be taken by EPA.
2. The State Board will report to EPA, by the seventh day after the end of each quarter, mutually agreed-upon information on the following types of enforcement actions which are reportable under the provisions of the CWA.
 - a. Cleanup and Abatement Orders and Cease and Desist Orders issued in the quarter.
 - b. Referrals to the State Attorney General in the quarter.
 - c. Referrals filed in State court in the quarter.
 - d. Criminal actions filed in State court in the quarter.

- e. Administrative Civil Liability Complaints (ACLC), including the amounts assessed and collected, and appropriate dates.

Actions which are reportable include those issued for discharges subject to the CWA, whether permitted or not, including both point sources discharging to surface waters and indirect industrial dischargers into POTWs. Pursuant to the 1989 MOA, Regional Board enforcement actions will contain reference to specific provisions of the CWA which have been violated. The Regional Boards will transmit copies of all adopted enforcement actions reportable under the CWA within five working days after adoption. (STARS)

3. The State Board will complete development of a tracking system for monetary penalties assessed and paid and will report quarterly to EPA in a mutually acceptable format.
 4. The State Board will review and evaluate the methods used by the Regional Boards to track compliance schedules and will report to EPA on the feasibility of developing and implementing a tracking system by December 31, 1991.
- F. To ensure compliance with the requirements of approved pretreatment programs, the Regional Boards will conduct pretreatment audit site visits, prepare audit reports, and conduct pretreatment compliance inspection (PCI) site visits and prepare reports according to the schedules in Attachment Four to this workplan. The State Board will submit to EPA, by October 15, 1991, a schedule of proposed dates for pretreatment audit site visits, pretreatment audit reports, and pretreatment compliance inspections by discharger. The State Board will also submit to EPA, by May 10, 1992, a list of those scheduled pretreatment audits and compliance inspections which will not be performed by June 30, 1992. The Regional Boards will also review annual and quarterly pretreatment reports and ensure that the POTW takes appropriate action to comply with requirements. The Regional Boards will take appropriate followup action on any POTWs that fail to submit quarterly or annual reports.
1. The Regional Boards will complete audit reports within 90 days of the date of the audit site visit. The State Board and EPA will provide comments to the Regional Boards on draft pretreatment audit reports within 15 working days from the date of mailing by the Regional Board. Failure by the State Board or EPA to provide comments within 15 working days will be considered as State Board or EPA concurrence with the report.
 2. Annual pretreatment report reviews, PCIs, and pretreatment audit reports will include completed Water Enforcement National Data Base (WENDB) data element forms.
 3. The Regional Boards will perform annual pretreatment report reviews and submit their responses to the discharger, the State Board, and EPA within 60 days of receipt of such reports.
 4. The Regional Boards will submit PCI reports to the discharger, with copies to the State Board and EPA, within 60 days of the inspection.

5. The Regional Boards will follow up on completed audits and PCI reports within 60 days of issuance of the report to ensure that POTWs will implement the required corrective actions. Corrective actions should be completed within one year of issuance of the final PCI or audit report. Enforcement actions, if required, will be consistent with the State's APM.
6. Two weeks after the end of each quarter, the State Board will provide EPA an updated list of PCIs and Audits conducted and reported upon since July 1, 1991. The State Board will also concurrently provide EPA with a quarterly update of the October 15, 1991 schedule of audit site visits, audit reports, and PCIs.
7. EPA will conduct PCIs as necessary. EPA will notify the Regional Board pretreatment coordinator and the State Board 15 days prior to a site visit. EPA will provide the State and Regional Boards with final PCI reports within 60 days after the site visit.
8. POTW pretreatment-related noncompliance will be incorporated into the QNCRs using the criteria in the "FFY 1990 Guidance for Reporting and Evaluating POTW Noncompliance with Pretreatment Implementation Requirements", September 27, 1989, or subsequent revisions.

ATTACHMENT ONE
NPDES PERMITTING WORKLOAD AND COMMITMENTS
AS DERIVED FROM SFY 1991-92 NPDES PROGRAM WORKPLANS

Regional Board

	1	2	3	4	5	6	7	8	9	Total
<u>Backlog From Previous Years</u>										
Majors	1	5	3	14	8	0	1	1	12	45
Minors	5	50	2	104	24	9	4	51	28	277
Total	6	55	5	118	32	9	5	52	40	322
<u>Permits Expiring In SFY 1991-92</u>										
Majors	0	3	3	2	5	0	1	0	0	14
Minors	11	26	17	68	32	1	3	20	6	184
Total	11	29	20	70	37	1	4	20	6	198
<u>Total Workload</u>										
Majors	1	8	6	16	13	0	2	1	12	59
Minors	16	76	19	172	56	10	7	71	34	461
Total	17	84	25	188	69	10	9	72	56	520
<u>Permits to be Reissued According to NPDES Workplans</u>										
Majors	1	8	6	16	12	0	2	1	12	58
Minors	9	29	17	44	37	2	4	9	7	158
Total	10	37	23	60	49	2	6	10	19	216
<u>Projected Percent of Total Workload to be Issued in SFY 1991-92</u>										
Majors	100	100	100	100	92	NA	100	100	100	98
Minors	56	38	89	26	66	20	57	13	20	34
Total	59	44	92	32	71	20	67	14	34	42

Note: Based on June version of workplans and DPS 6483 as of 5-30-91
NA = not applicable

ATTACHMENT TWO
SCHEDULE FOR SUBMITTAL OF QNCR AND FOLLOW-UP ACTIVITIES

Activity	QNCR Reporting Period 10/1/90-3/31/91	QNCR Reporting Period 1/1/91-6/30/91	QNCR Reporting Period 4/1/91-9/30/91	QNCR Reporting Period 7/1/91-12/31/91
QNCR due to EPA from RWQCBS	5/31/1991	8/31/1991	11/30/1991	2/28/1992
EPA, R9 Submits QNCR to EPA, HQ	6/15/1991	9/15/1991	12/15/1991	3/15/1992
EPA sends enforcement target letter to state	week of 6/18/1991	week of 9/17/1991	week of 12/17/1991	week of 3/18/1992
Deadline for facilities to resolve noncompliance in order not to be in noncompliance on next QNCR	RP: CDO, CAO, ref issue by 6/30/91 RE: 3 months continuous compliance thru 6/30/1991	RP: CDO, CAO, ref issue by 9/30/91 RE: 3 months continuous compliance thru 9/30/1991	RP: CDO, CAO, ref issue by 12/31/91; RE: 3 months continuous compliance thru 12/31/91	RP: CDO, CAO, ref issue by 3/31/92; RE: 3 months continuous compliance thru 3/31/92
EPA, R9 prepares exceptions list; submits to EPA, HQ (list includes facilities in non-compliance on two or more successive QNCRs)	7/2/1991	10/1/1991	1/2/1992	4/2/1992
State responds to enforcement target letter	7/18/1991	10/17/1991	1/17/1992	4/18/1992
Deadline for taking enforcement action to prevent a facility from appearing on next exceptions list	8/31/1991	11/30/1991	2/28/1992	5/31/1992

ATTACHMENT THREE
NPDES COMPLIANCE INSPECTION WORKLOAD AND COMMITMENTS
July 1991 - June 1992

Regional Board

	1	2	3	4	5	6	7	8	9	Total
<u>Regional Board Commitment for FY 1991-92</u>										
MAJOR INSPECTIONS	90	118	63	48	55	4	9	34	88	509
Per Major	6	2	3	1	1	1	1	2	4	
MINOR INSPECTION	108	113	124	110	297	13	79	146	104	1094
Per Minor	1.9	0.7	1.4	0.26	1.3	1	3	0.86	2	
TOTAL INSPECTION	198	231	187	158	352	17	88	180	192	1603
<u>Administrative Procedures Manual Recommended Number of Inspections</u>										
Majors + Minors	204	511	204	670	658	36	101	427	183	2994
<u>Minimum Number to Meet EPA Target</u>										
Majors + Minors	24	92	38	131	99	6	14	51	32	487
<u>Projected Percent of APM Recommended Number to be Inspected in FY 1991-92</u>										
TOTAL	97%	45%	92%	24%	54%	47%	87%	42%	105%	54%

NOTE: Based on DPS 6483 (April 15, 1991), June version of workplans, and APM.

Assumed numbers of inspections per major and minor based on workplans and statements by Regional Boards. EPA target is 1.0 inspections per major and 0.20 inspections per minor.

ATTACHMENT FOUR
 PRETREATMENT PROGRAM COMMITMENTS
 AS DERIVED FROM SFY 1991-92 NPDES PROGRAM WORKPLANS

REGION	NEW/MODIFIED PRETREATMENT PROGRAMS	ANNUAL REPORTS	PCI'S	AUDITS COMPLETED SFY	AUDIT REPORTS SFY	FFY AUDIT REPORTS
1	0/1	3	3	0	0	0
2	0/8	28	20	8	7	8
3	0/2	10	9	1	2	1
4	1/2	11	8	2	2	2
5	1/0	20	15	5	4	5
6	0/0	0	0	0	0	0
7	0/0	0	0	0	0	0
8	1/4	18	12	9	9	9
9	1/5	7	5	2	3	2
TOTALS	4/22	97	72	27	27	27

Special Note:

Because the Regional Boards prepare annual workplans on a State fiscal year basis, information on commitments for the last quarter of FFY 1992 is not available until about June 1992. An update of this attachment will be submitted to EPA about June 1992 to reflect commitments for the last quarter of FFY 1992.

KEY: SFY = State Fiscal Year, July 1991 - June 1992
 FFY = Federal Fiscal Year, October 1991 - September 1992