

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF ADMINISTRATIVE SERVICES
OCTOBER 7, 2008**

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE CORE REGULATORY WATER QUALITY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, 2200.4, 2200.5 AND 2200.6 OF THE CALIFORNIA CODE OF REGULATIONS

DISCUSSION

Water Code Section 13260 requires each person who discharges waste or proposes to discharge waste that could affect the quality of the waters of the state to file a report of waste discharge with the appropriate regional water board and to pay an annual fee set by the State Water Board, the funds from which are deposited in the Waste Discharge Permit Fund (WDPF). Water Code section 13260 requires the State Water Board to adopt, by emergency regulations, an [annual schedule of fees](#) for persons discharging waste to the waters of the state. Water Code section 13260 further requires the State Water Board to adjust the annual fees each fiscal year to conform to the revenue levels set forth in the Budget Act. The Budget Act for 2008-09 will require the Board to increase fees by \$18.4 million to reach the budget level.

Financial Condition of the Waste Discharge Permit Fund

[Attachment 1](#) shows an analysis of the fund condition for WDPF. Due primarily to higher staffing costs and program augmentations without corresponding fee increases, WDPF began running a structural deficit in FY 06-07. The fund started FY 07-08 with \$17.2 million and ended the year with \$7.9 million. Expenditures fell \$9.3 million short of revenue. The FY 08-09 beginning balance of \$7.9 million includes \$3 million in fines and penalty revenue not available for expenditure for core regulatory activities, which leaves an adjusted beginning balance of \$4.9 million. Under the current fee schedule rates, revenue is anticipated to be \$63.1 million with expenditures of \$80.3 million, resulting in a \$17.2 million deficit and a negative ending balance of \$12.2 million.

Proposed Changes for FY 2008-09

The State Water Board is proposing to raise fees \$18.4 million in FY 08-09 to eliminate the projected deficit and keep the fund solvent. The following chart indicates the revenue needed by program area to raise the \$18.4 million:

Program	Revenue	Percentage Increase
NPDES	\$4.0 million	36%
WDR	\$5.7 million	40%
Land Disposal	\$1.7 million	36%
Stormwater	\$3.4 million	19%
401 Certification	\$849 thousand	28%
SWAMP	\$2.2 million	43%
GAMA	\$591 thousand	37%
Irrigated Lands	\$22 thousand	0.3%
Total	\$18.4 million	

Fee Increase Options

The State Water Board staff has developed the following fee increase options for each program area to reach the \$18.4 million revenue increase:

NPDES Program:

Option 1

Option 1 increases all NPDES categories by 36%.

Option 2

Option 2 places super dischargers (dischargers with permitted flow greater than 100 million gallons per day (mgd)) and regular flow dischargers on the same flow formula basis while raising general permit fees by a percentage increase.

- All fee payers would be assessed a base fee of \$1,000 plus 551 multiplied by the permitted flow (units of mgd).

Compared to the current rates, the effect of this option would:

- Decrease fees for six super dischargers while increasing fees for 24.
- Decrease fees for 266 industrial flow dischargers while increasing fees for two dischargers.
- Decrease fees for 253 municipal dischargers.
- Increase fees for general permit holders by 20%.

Option 3

Option 3 is similar to option 2 but provides a fee cap of \$200,000 on flow based dischargers.

- All fee payers would be assessed a base fee of \$1,000 plus 1330 multiplied by the permitted flow (units of mgd) with a maximum fee of \$200,000.

Compared to the current rates, the effect of this option would:

- Increase fees for 30 super dischargers.
- Decrease fees for 259 industrial flow dischargers while increasing fees for nine dischargers.
- Decrease fees for 241 municipal dischargers while increasing fees for 12 dischargers.
- Increase fees for general permit holders by 5%.

Recommendation

Option 2 because it would move the State Water Board's NPDES fees toward a "polluter pays" approach by placing all flow-based dischargers on the same flow schedule so that fees increase proportionate to discharge.

WDR Program [Including all Confined Animal Facilities (CAF)]:

Option 1

Option 1 applies a 40% increase to all WDR categories.

- Increase fees for categories 1A – 1C by 40%.
- Increase fees for categories 2A – 2C by 40%.
- Increase fees for categories 3A – 3C by 40%.

Option 2

Option 2 places the majority of the fee increase on the highest threat category to minimize the increase on the lower threat categories (not applicable to CAF).

- Increase fees for categories 1A – 1C by 130%.
- Increase fees for categories 2A – 2C by 25%.
- Increase fees for categories 3A – 3C by 15%.

Option 3

Option 3 keeps the percentage increase for Threat Category 2 the same percentage as Option 1 and places a larger percentage increase for Threat Category 1 (not applicable to CAF).

- Increase fees for categories 1A – 1C by 68%.
- Increase fees for categories 2A – 2C by 40%.
- Increase fees for categories 3A – 3C by 25%.

Recommendation

Increase all fee categories by 40% (Option 1).

Land Disposal Program:

Option 1

Option 1 applies a 36% increase to all landfill categories.

- Increase fees for categories 1A - 3A by 36%.
- Increase fees for categories 1B - 3B by 36%.
- Increase fees for categories 1C - 3C by 36%.

Option 2

Option 2 places a larger fee increase on the highest threat category to minimize the increase on the lower threat categories.

- Increase fees for categories 1A - 3A by 51%.
- Increase fees for categories 1B - 3B by 25%.
- Increase fees for categories 1C - 3C by 15%.

Option 3

Option 3 keeps the percentage increase for Threat Category 2 the same as in Option 1 and places a larger percentage increase for Threat Category 1.

- Increase fees for categories 1A - 3A by 41%.
- Increase fees for categories 1B - 3B by 36%.
- Increase fees for categories 1C - 3C by 20%.

Recommendation

Increase all fee categories by 36% (Option 1).

Stormwater Program:

Option 1

Option 1 increases all stormwater categories by 19%.

- Increase fees for municipal permit holders by 19%.
- Increase fees for industrial permit holders by 19%.
- Increase fees for construction permit holders by 19%.
- Increase fees for statewide permit holders by 19%.

Option 2

Option 2 places a graduated percentage increase on larger municipalities, a higher increase for statewide permit holders, and a percentage increase for stormwater industrial, construction and linear permit holders similar to Option 1.

- 0-9999 (Population) 5% increase
- 10,000-49,999 10% increase
- 50,000-99,999 20% increase
- 100,000-199,999 30% increase
- 200,000 and greater 50% increase.
- Statewide 50% increase.
- SW Industrial 21% increase.
- SW Construction 20% increase.
- SW Linear 20% increase.

Option 3

Option 3 puts municipal stormwater fees on a per capita basis.

- Municipal fees would be \$1,000 plus \$.16 per capita with cap of \$50,000.
- Increase fees for industrial permit holders by 21%.
- Increase fees for construction and linear permit holders by 21%.
- Increase fees for statewide permit holders by 50%.

Recommendation

Increase all stormwater fees by 19% (Option 1).

401 Certification Program:

All Options

	<u>Current Fee</u>	<u>Proposed increase</u>
Fill & Excavate	\$500 plus \$21.50 Hundreds/Acre	Increase 28%
Dredging	\$500 plus \$.08 Cubic Yard	Increase 28%
Channel	\$500 plus \$5.00 per foot	Increase 28%

Recommendation

Increase fees by 28%.

Ambient Monitoring Program:

SWAMP

Increase the surcharge on NPDES and stormwater fees from 18.5% to 21%

GAMA

Increase the surcharge on WDR fees from 9% to 9.5%

Irrigated Lands Program:

- Add a new \$200 administrative fee, at the regional board's discretion, for late filers.
- Charge irrigation districts that do not join a coalition a \$4,500 annual fee rather than the current \$100 annual fee to more closely capture the cost of regulating their activities.
- Replace the current Tier III fee of \$100/farm + 30 cents an acre with a Tier III fee schedule to cover the higher costs associated with non-coalition permit holders.

Recommendation

Adopt ambient monitoring and irrigated land fee changes as outlined above.

POLICY ISSUE

Should the State Water Board approve a resolution to adopt emergency regulations to change the current annual fee schedules as proposed by staff?

FISCAL IMPACT

- 1) **Fee Rates:** The Budget Act includes expenditure authority for the Waste Discharge Permit Fund of \$80.34 million while the current fee schedules would only generate a projected \$63.1 million in revenue, leaving a negative fund balance of \$12.22 million. The proposed changes would generate an additional \$18.44 million. The ending fund balance for FY 2008-09 would be \$6.2 million, keeping the fund solvent.
- 2) **Irrigated Land:** The proposed changes to irrigated lands would charge dischargers in Tier III and irrigation districts a fee more aligned with staff costs and add a small discretionary fee that regional boards could charge to late filers. Anticipated revenue increases are \$22,300.

REGIONAL BOARD IMPACT

Yes, fee increases would allow program staffing and activities to remain at current budget levels.

STAFF RECOMMENDATION

That the State Water Board approves the resolution to adopt emergency regulations to change the current annual fee schedules as proposed by staff.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

ADOPT EMERGENCY REGULATIONS REVISING THE
CORE REGULATORY WATER QUALITY FEE SCHEDULES CONTAINED IN
TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, 2200.4, 2200.5 AND
2200.6 OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. Water Code Section 13260(d) requires each person for whom waste discharge requirements are issued to pay an annual fee to the State Water Board.
2. Water Code Section 13260(f) requires the State Water Board to adopt a schedule of fees by emergency regulation.
3. Water Code Section 13260(f) requires fees to be adjusted annually to conform to the revenue levels set forth in the Budget Act for these activities.
4. State Water Board staff prepared recommended changes to the annual fee schedule contained in current regulation to implement the State Budget Act requirements.

THEREFORE BE IT RESOLVED THAT:

The State Water Board adopts emergency regulations approving the revisions to Title 23, Division 3, Chapter 9, Article 1, Sections 2200, 2200.4, 2200.5 and 2200.6 of the California Code of Regulations, to implement the provisions of the 2008 State Budget Act and pursuant to the provisions of Water Code Section 13260(f) ([annual fee schedule](#)).

CERTIFICATION

The undersigned Clerk 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 October 7, 2008.

Jeanine Townsend
Clerk to the Board