

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 16, 2015**

ITEM 2

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE CORE REGULATORY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, 2200.6 AND 2200.7, AND ADDING SECTIONS 2200.8 AND 2200.9 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.

Financial Condition of the Waste Discharge Permit Fund

[Attachment 1](#) shows a 10-year analysis of the fund condition of the WDPF. The FY 2014-15 beginning balance is \$8.3 million. Total revenue is approximately \$121.6 million and total expenditures are approximately \$117.1 million, resulting in a \$4.5 million gain with a balance of \$12.8 million and a fund reserve of approximately 10.6 percent.

The FY 2015-16 beginning balance is approximately \$13.5 million. Under the current fee schedule, total revenue is anticipated to be approximately \$127.1 million and total expenditures are anticipated to be \$121.2 million, resulting in a gain of \$5.9 million and an ending balance of approximately \$19.4 million with a fund reserve of approximately 15.8 percent.

Program Expenditures

[Attachment 2](#) shows the FY 2015-16 projected revenue based on the existing fee schedule, the budget for FY 2015-16, the projected fee revenue adjustments and the cost drivers. This chart also shows the effects of the resource reallocation on each program and any revenue reductions by program for maintaining a five percent fund reserve. The cost drivers include staff cost adjustments, resource reallocation (see section below) and budget change proposal (BCP) adjustments.

As a result of revenue exceeding expenditures, staff is proposing to keep the fees at the FY 2014-15 levels, which will allow the WDPF to meet budgetary expenditures and maintain a prudent fund reserve. In addition, for programs in which revenue is projected to exceed expenditures in FY 2015-16 or in which revenue exceeded expenditures in FY 2014-15 and is projected to exceed expenditures in FY 2015-16, staff is proposing a one-time fee reduction, to be applied prior to any applicable surcharges.

Resource Reallocation

For the past three years, the State Water Board has been evaluating the alignment of resources to determine the link between fees collected and expenditures. As priorities changed and programs evolved, the expenditure of funds in the WDPF did not necessarily align with historical BCP position allocations. Staff is proposing to transition from assessing fees based on historical allocations (Historical Budget) to assessing fees based on the actual staff work that is projected to be performed (Adjusted Budget). An immediate transition to the Adjusted Budget method would result in some programs receiving fee increases of somewhere between 20 to 40 percent. Therefore, staff is proposing a gradual transition to the Adjusted Budget method that will allow for adjustments to program budget allocations but will not result in fee increases for FY 2015-16. Staff will be evaluating future reallocations annually based on program priorities and revenue estimates.

Proposed Fee Schedule Changes

Recycled Water

Staff is proposing to assess an annual fee to persons that serve as an Administrator under a General Order authorizing the use of recycled water in accordance with the threat and complexity ratings in Section 2200(a).

Marijuana (Cannabis) Cultivation

Staff is proposing to change the fee schedule for marijuana (cannabis) cultivation from an assessment based on acreage to an assessment based on threat to water quality. The proposed fee schedule is more appropriate and equitable for the type of discharge than the existing assessment method.

NPDES Community Water Systems

Staff is proposing to change the existing fee schedule to include a separate fee for water systems that own or operate multiple drinking water systems. This change will correct an inequity in the existing fee schedule that assessed the same application and annual fee for multiple systems owned or operated by the same water purveyor when there is minimal additional workload.

New Fees

Confined Animal Facility (CAF) Dairy Waiver

Staff is proposing to assess a new annual fee to dairy facilities currently enrolled under a waiver of waste discharge requirements (WDRs). The amount of the proposed fees is the same as the amount of the fees paid by dairies that have been issued WDRs because the amount of State Water Board and Regional Water Quality Control Board staff oversight for dairies is approximately the same, regardless of whether the dairy has been issued WDRs or a waiver of WDRs.

WDR Oil and Gas Activities

Staff is proposing to assess a surcharge for facilities with dischargers regulated by waste discharge requirements for production of wastewater disposal associated with oil and gas activities.

Stakeholder Process Update

At the request of stakeholders for more transparency and information during the fee development process, staff endeavored to improve interaction with stakeholders throughout FY 2014-15 and to build a foundation for future interaction. Staff held stakeholder meetings in February and June, after each iteration of the Governor's Budget, and in August to provide the best estimates for the proposed FY 2015-16 fees. Staff also held meetings in the North Coast Region, the San Francisco Bay Region, the Central Valley Region and the Los Angeles Region. Staff will continue to make improvements in the stakeholder process for future fiscal years.

POLICY ISSUE

Should the State Water Board adopt a resolution amending the annual fee schedules as proposed by staff?

FISCAL IMPACT

The FY 2015-16 Budget Act includes expenditure authority for the Waste Discharge Permit Fund of \$120.6 million. The proposed fee schedule changes will use one-time fee reductions to generate sufficient revenue to ensure the WDPF meets the FY 2015-16 budget expenditure authority and maintains a prudent fund reserve.

REGIONAL BOARD IMPACT

The proposed fee schedule changes would allow the State Water Board to initiate the gradual transition of assessing fees that reflect projected regional board priorities.

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.

State Water Board action on this item will assist the Water Boards in reaching Goals 1-4 of the Strategic Plan Update: 2008-2012 to:

- Goal 1: Support beneficial uses
- Goal 2: Improve and protect groundwater equality
- Goal 3: Increase sustainable local water supplies
- Goal 4: Address water quality protection and restoration

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2015-

ADOPTING EMERGENCY REGULATIONS REVISING THE CORE REGULATORY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, 2200.6 AND 2200.7 AND ADDING SECTIONS 2200.8 AND 2200.9 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 State 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, 2200.6 and 2200.7 and adding Sections 2200.8 and 2200.9 of the California Code of Regulations to implement the provisions of the 2015 State Budget Act 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 September 16, 2015.

Jeanine Townsend
Clerk to the Board