

**STATE WATER RESOURCES CONTROL BOARD**  
**FISCAL YEAR 2004-05 ANNUAL FEES REPORT**  
**as required by the**  
**PORTER-COLOGNE WATER QUALITY CONTROL ACT**

The State Water Resources Control Board (State Water Board) is providing this report on the expenditure of annual fees to comply with Water Code Section 13260.3, which states “On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to Section 13260.” This report discusses the following core regulatory programs and activities:

- National Pollutant Discharge Elimination System (NPDES) Permit Program
- NPDES Storm Water Program
- Waste Discharge Requirements
  - Discharge of Wastewater to Land (Non-15)
  - Land Disposal (Sub-15)
- Confined Animal Facilities
- Surface Water Monitoring Program
- Groundwater Monitoring Program
- 401 Certification Program
- Agricultural Waiver Program

**INTRODUCTION**

The mission of the State Water Board is to “preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.” This mission is accomplished, in part, through the regulation of facilities that discharge wastewater into surface waters, ground waters and landfills of the state.

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 to be deposited in the Waste Discharge Permit Fund (WDPF). Water Code Section 13260 requires the State Water Board to annually adjust WDPF fees to conform to the revenue levels set forth in the Budget Act. If the State Water Board determines the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the State Water Board may further adjust annual fees to balance the over and under collection of revenue.

As Table 1 shows, total WDPF revenue for FY 2004-05 was approximately \$61 million, including \$57.4 million in fee revenue from the current fiscal year, \$2.5 million in fee revenue carried over from the previous fiscal year, and \$1 million in other revenue. Total expenditures were \$57.6 million. Revenue exceeded expenditures by \$3.4 million or 5.9 percent. Revenue exceeded the budget of \$58 million by 5.2 percent.

Table 1. WDPF Financial Summary

	<b>FY 2004-05</b>
<b>Budget</b>	<b>\$57,956,011</b>
<b>Revenue</b>	
Fee Revenue	\$57,444,618
Carry-over from FY 2003-04 <sup>1</sup>	\$2,533,685
Other Revenue	\$1,015,733
<b>Total Revenue</b>	<b>\$60,994,036</b>
<b>Expenditures</b>	
NPDES Permit	\$12,953,955
NPDES Storm Water	\$13,069,262
WDR – Discharge to Land	\$10,825,127
WDR – Land Disposal	\$4,634,330
Confined Animal Facilities	\$1,101,421
SWAMP	\$6,581,976
GAMA	\$1,939,748
401 Certification	\$3,332,409
Agricultural Waivers	\$3,168,672
<b>Total Expenditures</b>	<b>\$57,606,899</b>
<b>Net Revenue/(Expenditures)</b>	<b>\$3,387,137</b>

<sup>1</sup>Figure represents fee revenue collected in FY 03-04 for FY 04-05.

## NPDES PERMIT PROGRAM

Water pollution degrades surface waters, making them unsafe for drinking, fishing, swimming and other activities. NPDES permits are required for all point source pollution discharges of waste into California’s surface waters to prevent pollution and loss or impairment of beneficial uses of the waters, prevent damage to or loss of aquatic species and habitat, and prevent human health problems and waterborne diseases. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need a NPDES permit; however, industrial, municipal, and other facilities must obtain a permit if their discharges go directly to surface waters.

The NPDES Permit Program is mandated by the Federal Clean Water Act and administered by the state. The Clean Water Act requires the United States Environmental Protection Agency (US EPA) to set effluent limits on discharges to surface waters to ensure protection of the receiving water. The Clean Water Act requires all persons who want to discharge pollutants to first obtain a NPDES permit. Pollutant discharges without a NPDES permit are illegal.

The Clean Water Act allows the US EPA to delegate the NPDES Permit Program to state governments, enabling states to perform many of the permitting, administrative, and enforcement aspects of the program. The US EPA retains oversight responsibilities in states that have been authorized to implement Clean Water Act programs. Since its introduction in 1972, the NPDES Permit Program has significantly improved the nation's water quality.

## **NPDES STORM WATER PROGRAM**

Storm water discharges are runoff from land and impervious areas such as paved streets, parking lots and building rooftops during rainfall and snow melt-off. These discharges often contain pollutants in quantities that could adversely affect water quality. Discharges of pollutants to storm water conveyance systems are significant sources of pollution to surface waters. Federal law designates these discharges as point source discharges subject to a NPDES permit.

There are two types of storm water permits: individual and general permits. An individual permit is a NPDES permit specifically tailored to a single facility. Once a facility submits the appropriate application(s), the permitting authority develops a permit based on the information contained in the application (e.g., type of activity, nature of discharge, receiving water quality). A general permit is a NPDES permit that covers several facilities that have the same type of discharge. A general permit applies the same or similar conditions to all dischargers covered under the same permit. Using a general permit to cover numerous facilities reduces paperwork for permitting authorities and permittees, and ensures consistency of permit conditions for similar facilities.

Storm water activities are separated into three major categories: construction, industrial and municipal.

- **Construction Activities.** Storm water runoff from construction activities can have a significant impact on water quality. As storm water flows over a construction site, it picks up pollutants like sediment, debris, and chemicals. Polluted storm water runoff can harm or kill fish and other wildlife. Sedimentation can destroy aquatic habitat and high volumes of runoff can cause stream bank erosion. The NPDES Storm Water Program requires operators of construction sites one acre or larger (including smaller sites that are part of a larger common plan of development) to obtain authorization to discharge storm water under a NPDES construction storm water permit.
- **Industrial Activities.** Runoff from activities that take place at industrial facilities, such as material handling and storage, often discharge industrial pollutants to nearby storm

sewer systems and water bodies. This may adversely impact water quality. To limit pollutants in storm water discharges from industrial facilities, the NPDES Storm Water Program regulates these activities. Operators of industrial facilities included in one of the 11 categories of "storm water discharges associated with industrial activity" that discharge storm water to a municipal separate storm sewer system or directly to waters of the United States require authorization under a NPDES industrial storm water permit.<sup>1</sup> If an industrial facility has a Standard Industrial Classification code or meets the narrative description listed in the 11 categories, the facility operator must determine if the facility is eligible for coverage under a general or an individual NPDES industrial storm water permit. In some cases, a facility operator may be eligible for a conditional/temporary exclusion from permitting requirements.

- **Municipal Activities.** Under the NPDES Storm Water Program, operators of large, medium and regulated small municipal separate storm sewer systems (MS4s) require authorization to discharge pollutants under a NPDES permit. Medium and large MS4 operators are required to submit comprehensive permit applications and are issued individual permits while small MS4 operators are covered under a general permit.

## WASTE DISCHARGE REQUIREMENTS

The Water Code requires the State Water Board to establish policies to protect the state's ground waters through the development of Water Quality Control Plans (Basin Plans) and the issuance of waste discharge requirements (WDRs). The purpose of Basin Plans and WDRs is to ensure, to the greatest extent possible, that discharges to the state's waters do not adversely affect the quality and beneficial uses of such waters.

WDRs are issued under state authority to regulate discharges to waters of the state (surface water and groundwater). WDRs are issued to dischargers who discharge waste to land. The disposal method may be either agricultural or non-agricultural irrigation, ponds, landfills, monofills, or leachfields.

### Discharge of Wastewater to Land

The Discharge of Wastewater to Land Program regulates discharges that include percolation through disposal ponds, discharges through leach fields, and irrigation of landscapes and farmland. Regulatory requirements for wastewater discharges to land are contained in California Code of Regulations (CCR) Title 23. To comply with the effluent limitations in WDRs, wastewater usually must be treated before being discharged. These discharges, unless waived under Water Code Section 13269, must meet waste discharge requirements.

### Land Disposal

The Land Disposal Program regulates waste discharge to land for treatment, storage and disposal in waste management units. Waste management units include waste piles, surface impoundments, and landfills. Regulatory requirements for hazardous waste discharges are

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<sup>1</sup>40 CFR 122.26 (b)(14)(i)-(xi)

contained in CCR Title 23, Chapter 15. Regulatory requirements for non-hazardous waste discharges are contained in CCR Title 27.

## **CONFINED ANIMAL FACILITIES**

Confined animal facilities (CAFs) are agricultural operations where animals are kept and raised in confined situations. CAFs generally congregate animals, feed, manure, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures. Animal waste and wastewater can enter water bodies from spills or breaks of waste storage structures (due to accidents or excessive rain), and non-agricultural application of manure to cropland. CAFs that meet the regulatory definition of a concentrated animal feeding operation have the potential of being regulated under either the NPDES or WDR permitting programs.

## **SURFACE WATER MONITORING**

Water Code Section 13192 required the State Water Board to assess the state and regional water boards' surface monitoring programs and submit a proposal for a comprehensive surface water monitoring program. The resulting report proposed creating the Surface Water Ambient Monitoring Program (SWAMP), a statewide monitoring effort designed to assess the conditions of surface waters throughout the state of California.

Administered by the State Water Board, the SWAMP Program was developed to 1) integrate the existing water quality monitoring activities of the state and regional water boards, and 2) coordinate with monitoring programs of other agencies, dischargers, and citizen groups. Under the SWAMP Program, the State Water Board is responsible for statewide monitoring efforts and oversees regional water board monitoring activities, while the regional water boards establish monitoring priorities for the water bodies in their jurisdictions for site-specific monitoring. To ensure statewide consistency, the SWAMP Program also specifies the protocols and methods to be used for sampling, data analysis, and data reporting. Monitoring for the SWAMP Program is conducted through the Department of Fish and Game and US Geological Survey master contracts and regional water board monitoring contracts.

WDPF funding for the SWAMP Program comes from an 18.5 percent surcharge assessed to holders of NPDES and storm water permits. The surcharge is assessed to the base fee prior to the assessment of any other surcharges. In FY 04-05, the SWAMP Program collected over 130,000 water quality samples from 430 locations throughout the regional water boards' 37 watersheds. State Water Board staff used 2001-2003 SWAMP data to evaluate water bodies for potential listing under section 303(d) of the Clean Water Act and prepared fact sheets for 272 potential listings.<sup>2</sup> Approximately 15 percent of the proposed 2004-2006 303(d) listings are based on SWAMP data.

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<sup>2</sup>Section 303(d) of the Clean Water Act requires states to identify waters that do not meet applicable water quality standards after the application of certain technology-based controls.

## **GROUNDWATER MONITORING**

Groundwater is one of California's most valuable natural resources. Nearly half of California's population relies on groundwater for its drinking water supplies. Groundwater is the source of about 30 percent of the water for urban and agricultural use in average years and can increase to about 40 percent when surface supplies are reduced in drought years. The Legislature and the public have become increasingly concerned about groundwater quality and public supply well closures due to the detection of chemicals, such as the gasoline additive MTBE, solvents from industrial sources, and more recently perchlorate.

To address these concerns, Water Code Section 10780 et al. was added in 2001 to require the State Water Board to integrate existing monitoring programs and design new program elements, as necessary, for the purpose of establishing a comprehensive monitoring program capable of assessing each groundwater basin. To meet this mandate, the State Water Board created the Groundwater Ambient Monitoring and Assessment (GAMA) Program.

The primary objective of the GAMA Program is to comprehensively assess statewide groundwater quality and gain an understanding about contamination risk to specific groundwater resources. Ambient groundwater monitoring collects physical, chemical, or biological information and data in order to evaluate the status of groundwater resources and trends of improvement or deterioration in groundwater quality, which can focus attention on priority areas where groundwater quality protection or restoration efforts are necessary.

WDPF funding for the GAMA Program comes from a nine percent surcharge assessed to holders of WDR permits and CAFs operating under either a WDR or NPDES permit. The surcharge is assessed to the base fee prior to the assessment of any other surcharges.

## **401 CERTIFICATION PROGRAM**

Section 404 of the Clean Water Act establishes a program to regulate discharges of dredge and fill material into waters of the United States, including wetlands. Activities in waters of the United States that are regulated under this program include fills for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and conversion of wetlands to uplands for farming and forestry.

A permit review process controls regulated activities. An individual permit is usually required for potentially significant impacts; however, for most discharges that will have only minimal adverse effects, the Army Corps of Engineers often grants up-front general permits. These may be issued on a national, regional, or statewide basis for particular categories of activities (for example, minor road crossings, utility line backfill, and bedding) as a means to expedite the permitting process.

Under Section 401 of the Clean Water Act, states and tribes can review and approve, condition, or deny all federal permits or licenses that might result in a discharge to state or tribal waters,

including wetlands. The major federal licenses and permits subject to Section 401 are Section 402 and 404 permits (in nondelegated States), Federal Energy Regulatory Commission (FERC) hydropower licenses, and Rivers and Harbors Act Section 9 and 10 permits. States and tribes may choose to waive their Section 401 certification authority. States and tribes make their decisions to deny, certify, or condition permits or licenses primarily by ensuring the activity will comply with state water quality standards. In addition, states and tribes look at whether the activity will violate effluent limitations, new source performance standards, toxic pollutants, and other water resource requirements of state/tribal law or regulation.

## **AGRICULTURAL WAIVER PROGRAM**

The Agricultural Waiver Program regulates discharges from agricultural lands, which includes irrigation return flow, flows from tile drains, and storm water runoff. These discharges can affect water quality by transporting pollutants, including pesticides, sediments and nutrients from cultivated fields into surface water. Many surface water bodies are impaired because of pollutants from agricultural sources. Groundwater bodies have also suffered pesticide, nitrate and salt contamination.

Historically, most regional water boards regulated these discharges under waivers authorized by Water Code Section 13269, which allows the regional water boards to waive the requirement for waste discharge requirements if it is in the public interest. Although waivers are always conditional, the historic waivers had few conditions. In general, they required that discharges not cause violations of water quality objectives, but did not require water quality monitoring.

In 1999, Water Code Section 13269 was amended to require the regional water boards to review and renew their waivers or replace them with waste discharge requirements. Waivers not reissued automatically expired on January 1, 2003. To comply with this new law, regions 3, 4, 5, and 9 adopted new conditional waivers for agricultural discharges. The other regional water boards have allowed their waivers for agricultural discharges to expire.

In 2003, Water Code Section 13269 was amended to authorize the State Water Board to assess fees for conditional waivers. On June 16, 2005, the State Water Board adopted a three-tier, acreage-based fee schedule for FY 2005-06 to offset the cost of developing and enforcing conditional agricultural waivers. The fee schedule is designed to collect \$1.9 million in annual fee revenue as authorized under the 2004-05 Budget Act. The State Water Board sent approved coalitions and groups enrollment applications to identify the tier under which they plan to enroll and mailed invoices in early December.

### **Requests for Information**

Questions concerning the information provided in this report or requests for additional information should be addressed to Miles Burnett, Chief, Fee Branch, Division of Administrative Services, State Water Resources Control Board, Sacramento, California 95812.