

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF ADMINISTRATIVE SERVICES  
SEPTEMBER 21, 2006**

**ITEM 5**

**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, 2200.1, 2200.2, 2200.3, 2200.6 AND 2201 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 automatically adjust the annual fees each fiscal year to conform to the revenue levels set forth in the Budget Act. The State Water Board's current annual fee schedules were adopted on May 19, 2005, and June 16, 2005.

Proposed Changes for FY 2006-07

The following changes are being proposed for FY 2006-07:

- 1) **Industrial Storm Water Electronic Filing Discount:** This proposed change would provide a \$100 credit for fiscal years 2006-07, 2007-08, and 2008-09 to storm water industrial dischargers who file a complete annual report electronically prior to the beginning of the fiscal year to encourage electronic filing. The Division of Water Quality plans to require electronic filing three years after adoption of a new industrial general permit.
- 2) **Revocation of the CDQAP Discount:** This proposed change would revoke the 50 percent Certified Dairy Quality Assurance Program (CDQAP) discount for a period of three years for any confined animal facility that is issued a notice of violation for an off-property discharge by a regional board.

The rationale for providing the discount to facilities certified under a quality assurance program is that such dairies will be operated in conformance with Water Board statutes and regulations and will therefore require less staff time for inspection and enforcement. The discount, in turn, provides a powerful incentive for dairies to go through the CDQAP certification process.

The Central Valley Regional Water Quality Control Board, however, has had a small but significant number of discharges to surface water from CDQAP-certified facilities, most

of which received Notices of Violation and follow-up enforcement through the Northern Dairy Task Force (County District Attorneys). These enforcement actions are as time-consuming for staff as enforcement actions against non-certified dairies. The percentage of CDQAP dairies requiring such enforcement action compared to the total number of CDQAP dairies is very similar to the percentage of non-certified dairies requiring enforcement action compared to the total number of non-certified dairies. This suggests that certification is not reducing the frequency of discharges.

Also, several of the CDQAP-certified dairies have had more than one discharge, and yet certification for these dairies has not been revoked. Some dairies that had repeated discharges prior to certification still received certification.

Central Valley Board staff has discussed this situation with CDQAP program representatives and requested that the training curriculum be modified so that the management practices that seem to be causing the violations be discussed in the CDQAP coursework and checked by CDQAP staff during the pre-certification inspection. CDQAP staff said that decertification procedures would be reviewed as well. Although these are positive steps, rescinding the discount for three years in the event of a discharge meriting a Notice of Violation will send a strong message to CDQAP dairies that certification alone does not prevent discharges, and that the valuable discount in annual fees only applies if the dairy is operated in a way that is protective of water quality.

- 3) **Dredge and Fill:** The following proposed changes would make several minor substantive changes to dredge and fill operations:
- a. Create a new fee category for sand mining. This proposed change would bring State Water Board fees in line with the San Francisco Bay Regional Water Quality Control Board's fee practice by making sand mining subject to the WDR Non-15 fee schedule at a threat/complexity rating of 3C (\$800). This change would apply to approximately one to two dischargers per year in the Bay Area only. These dischargers would not experience a fee change since the San Francisco Board is already charging this fee.
  - b. Broaden and refine the eligibility criteria for "Restoration Projects" to a) include non-government funded or sponsored projects, and b) exclude projects that include a non-restorative component.
  - c. Create a new fee category for amended orders. This change would formalize existing practices by charging for amendments of WDRs or water quality certifications that involve an increased discharge amount, further technical analysis, or other major changes while not charging for minor project changes. This change would apply to approximately 15 to 30 dischargers per year.
  - d. Amend a footnote to add a new provision for fees for certifications permitted under a non-404 federal permit (e.g., Rivers and Harbors Act §10). This change would impact approximately 5 to 20 dischargers per year, depending on the degree to which the regional boards certify such discharges.
  - e. Several minor, technical or clarifying changes.

- 4) **SSO Fee Schedule:** This proposed change would add language specifying that the threat and complexity designations assigned under the statewide general order for sanitary sewer systems are based on the population served by the sanitary sewer system (less than 50,000 = 3C; 50,000 or more = 2C).
- 5) **Cleanup:** This proposed change would delete outdated language (last year's credit language) and make various non-substantive changes to improve organization, flow, and readability.

## **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) **Industrial Storm Water Electronic Filing Discount:** This proposed change is expected to cost about \$1.1 million over three years.
  - FY 06-07: \$22,000 (220 dischargers filed electronically)
  - FY 07-08: \$400,000 (assumes 50% file electronically)
  - FY 08-09: \$720,000 (assumes 90% file electronically)
- 2) **Revocation of the CDQAP Discount:** This proposed change is expected to generate approximately \$8,000 per year in additional revenue.
- 3) **Dredge and Fill:** The proposed change described in (d) is expected to generate \$4,000 to \$16,000 per year in additional revenue. The other proposed changes are not expected to impact revenue since they would either formalize existing practices or do not directly deal with revenue.
- 4) **SSO Fee Schedule:** No fiscal impact.
- 5) **Cleanup:** No fiscal impact.

## **REGIONAL BOARD IMPACT**

Yes, Central Valley Regional Water Quality Control Board.

## **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 RESOURCES CONTROL BOARD  
RESOLUTION NO. 2006 -**

CONSIDERATION OF A RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING  
THE FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1,  
SECTIONS 2200, 2200.1, 2200.2, 2200.3, 2200.6 AND 2201 OF THE CALIFORNIA  
CODE OF REGULATIONS

**WHEREAS:**

1. State Water Board staff prepared recommended changes to the waste discharge fee schedule contained in current regulations.
2. 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.
3. Water Code Section 13260(f) requires the State Water Board to adopt a schedule of fees by emergency regulation.
4. 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.
5. State Water Board staff prepared recommended changes to the fee schedule [\(Attachment A\)](#) 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, 2200.1, 2200.2, 2200.3, 2200.6, and 2201 of the California Code of Regulations, as recommended by staff, to implement the provisions of the 2006 State Budget Act and pursuant to the provisions of Water Code Section 13260(f) [\(Attachment A\)](#).

**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 21, 2006.

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Clerk to the Board