

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – OFFICE OF RESEARCH PLANNING AND PERFORMANCE  
SEPTEMBER 24, 2013**

**ITEM 7**

**SUBJECT**

CONSIDERATION OF A PROPOSED RESOLUTION DIRECTING ACTIONS IN RESPONSE TO EFFORTS BY STAKEHOLDERS ON REDUCING COSTS OF COMPLIANCE WHILE MAINTAINING WATER QUALITY PROTECTION.

**DISCUSSION**

In October 2011, the State Water Board adopted [Resolution No. 2011-0052](#), directing staff to prepare a report assessing and aligning Water Board priorities, resources, and performance targets ([Resource Alignment Report](#)). In August 2012, the Board directed staff to commence work on a second phase of the Resource Alignment Report. Phase 2 of the Resource Alignment Report is described in a staff [workplan for assessing costs of compliance](#) for dischargers subject to Water Board oversight in the NPDES wastewater, stormwater, irrigated lands, and waste discharge requirement programs. The overall workplan goals are to identify and implement opportunities to reduce the costs of compliance in these programs where feasible and to maximize the utility/benefit arising from discharger compliance actions, including benefits to the regulated community and to the environment at large.

The cost of compliance workplan lays out a set of tasks to be carried out jointly by both the Water Board Phase 2 workgroup and cooperating stakeholders. A stakeholder kick-off meeting was held in October 2012 and four stakeholder workgroups have since been formed. Following is a list of the stakeholder groups and coordinators.

<b>Stakeholder Group</b>	<b>Stakeholder Coordinator(s)</b>
NPDES wastewater	Bobbi Larson, California Association of Sanitation Agencies Jackie Kepke, Tri-TAC Debbie Webster, Central Valley Clean Water Association
NPDES stormwater	Geoff Brosseau, California Stormwater Quality Association
Irrigated lands	Danny Merkley, California Farm Bureau Federation
Waste discharge to land (WDR)	Bob Gore, The Gualco Group Emily Rooney, Agricultural Council of California

The coordinators of each stakeholder group provided progress updates on their activities at the January 22, April 9, and June 18, 2013 State Water Board Meetings. The updates from the stakeholder coordinators demonstrated that the groups were operating on different timelines. The proposed Resolution directs specific staff actions in response to the stakeholder groups' efforts to date.

As of June 18, 2013, the NPDES stormwater and irrigated lands stakeholder groups continued to collect cost data and stakeholder input, and continued to work on their recommendations. The WDR stakeholder group presented on June 18, 2013 a written report with limited cost data

and preliminary recommendations that had not received input from the Water Board workgroup. The proposed Resolution directs the Water Board workgroup to continue working with these three stakeholder groups on their reports and recommendations.

The NPDES wastewater group prepared a preliminary draft report in February 2013 and, with input from the Water Board workgroup, finalized and presented to the Board on June 18, 2013, short-term and long-term recommendations that they believed would reduce costs of compliance while maintaining water quality protection. The wastewater group's recommendations and follow-up actions by the Water Boards, as reflected in the proposed Resolution, are summarized below.

Recommendation: Reduce the frequency of Sanitary Sewer Overflow (SSO) reporting requirements when no spills occur from monthly to quarterly for a cost savings of approximately \$100,000 per year.

Action: This recommendation has been addressed as one of the SSO reporting amendments in Order 2013-0058-EXEC issued on July 26, 2013 by the State Water Board's Executive Director.

Recommendation: Eliminate duplicative/overlapping SSO requirements for dischargers subject to both the State Water Board's General Order for Sanitary Sewer Systems, Order 2006-003, and permits and WDRs addressing similar sewer system requirements issued by the Regional Water Boards. The cost savings estimated by the stakeholder group ranged from \$4,000 per facility per permit cycle to \$2,500 per spill.

Action: State Water Board staff will evaluate and report to the State Water Board with a recommendation concerning the appropriateness of additional SSO requirements established by Regional Water Boards.

Recommendation: When renewing or revising NPDES permits, consider removing overlapping monitoring requirements, reducing monitoring frequency for parameters consistently in compliance, encouraging surrogate sampling, and eliminating unnecessary reports. The stakeholder group believed the potential cost savings would be significant.

Action: A task force comprised of State and Regional Board staff, working together with the NPDES Roundtable and stakeholders, will document existing practices and report to the State Water Board regarding any additional recommendations to ensure a transparent, consistent and efficient process for renewal and revision of individual NPDES permits. The report will include, but is not limited to, practices that : (a) identify duplicative or unnecessary monitoring and reporting requirements in existing permits; (b) encourage use of surrogate or representative sampling where appropriate; and (c) clearly document in the permit Fact Sheet the need for and the purpose, value and use of any special studies and reports.

Recommendation: Provide consistent guidelines for the use of existing regulatory tools that would allow relaxed effluent limitations without compromising water quality or beneficial use protection. These tools included water effect ratios, translator studies, mixing zones, and dilution credits. The stakeholder group's report discussed specific examples in which municipalities spent hundreds of thousands of dollars in failed attempts to use these tools.

Action: State Water Board staff will request assistance from the U.S. Environmental Protection Agency, Region 9, to convene a joint public workshop, training event or other suitable forum to facilitate a common understanding on the use of existing regulatory tools, such as water effect ratio studies and mixing zone/dilution credit studies, in use attainability analyses and site specific objective and effluent limit development. State Water Board staff shall report to the Board any findings and recommendations from the joint event that would improve the understanding and use of such tools.

Recommendation: Establish a process to evaluate, in advance of adoption, the costs of compliance for pending and future regulatory actions that have cost impacts on permittees.

Action: As a pilot or test run of the approach, State Water Board staff will work with stakeholders to include cost considerations that take into account factors similar to those proposed in the NPDES wastewater group's "Initial Economic Checklist" in development of the Biological Objectives Policy.

Recommendation: Move towards a phased implementation approach for statewide water quality objectives and Total Maximum Daily Loads (TMDLs).

Action: State and Regional Board staff, working together with the TMDL Roundtable and stakeholders, will explore the concept of utilizing a phased approach to TMDLs.

## **POLICY ISSUE**

None at this time. The proposed actions do not set any specific policy. However, the outcomes from these activities may lead to future policy considerations.

## **FISCAL IMPACT**

Some reduction in costs of compliance to the NPDES wastewater permittees. None at this time to the Water Boards. However, the outcomes of proposed actions may lead to future fiscal considerations.

## **REGIONAL BOARD IMPACT**

No impact at this time. However, the outcomes of proposed actions may affect regional board programs in the future.

## **STAFF RECOMMENDATION**

The State Water Board should adopt the proposed Resolution.

State Water Board action on this item will assist the Water Boards in reaching Goal 6 of the Strategic Plan Update 2008-2012 to enhance consistency across the Water Boards, on an ongoing basis to ensure our processes are effective, efficient, and predictable, and to promote fair and equitable application of laws, regulations, policies, and procedures.

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## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

### DIRECTING ACTIONS IN RESPONSE TO EFFORTS BY STAKEHOLDERS ON REDUCING COSTS OF COMPLIANCE WHILE MAINTAINING WATER QUALITY PROTECTION

#### WHEREAS:

1. On September 19, 2011, the State Water Board adopted [Resolution No. 2011-0042](#), approving a revised fee schedule for the Water Boards' core regulatory programs for Fiscal Year 2011-2012 and directing staff to prepare a workplan for a report that assesses and aligns priorities with specific targets, details the resources necessary to fulfill statutory obligations, and includes any opportunities for cost savings.
2. On October 18, 2011, the State Water Board adopted [Resolution No. 2011-0052](#), approving a [workplan](#) outlining two phases of effort. Phase 1 required Water Board staff to assess and align priorities, resources and performance targets. Phase 2 involved an evaluation of the costs associated with regulatory program activities and identification/quantification of any cost saving that may be gained through efficiencies in certain program areas.
3. On April 17, 2012, staff presented to the State Water Board a [Resource Alignment Report](#) prepared in accordance with Phase 1 of the workplan approved in Resolution No. 2011-0052. The State Water Board directed staff to prepare a workplan for Phase 2 and future efforts to follow up on the information and actions described in the Resource Alignment Report.
4. On August 21, 2012, staff presented to the State Water Board a proposed [Phase 2 workplan](#) focused on assessing opportunities for reducing the costs of compliance for dischargers subject to Water Board oversight under the National Pollutant Discharge Elimination System (NPDES) Wastewater and Stormwater programs, Waste Discharge Requirement (WDR) programs, and the Irrigated Lands Regulatory Program. The Phase 2 workplan described tasks to be completed jointly by stakeholders and staffs of the Water Boards to identify opportunities for reducing costs of compliance where feasible. The State Water Board directed staff to proceed with implementation of the Phase 2 workplan.
5. In accordance with the Phase 2 workplan, staff held a kick-off meeting on October 24, 2012, after which stakeholder groups were formed for the four program areas to be addressed. All stakeholders were encouraged to participate in the group discussions via WebEx conference calls. The groups' meeting notes and other documents were posted to the project website at [http://www.waterboards.ca.gov/water\\_issues/programs/rap/](http://www.waterboards.ca.gov/water_issues/programs/rap/).
6. In accordance with the Phase 2 workplan, staff established a Water Board workgroup, consisting of State and Regional Water Board staffs, to work with the four stakeholder groups and ensure State and Regional input and perspectives are incorporated into the evaluation of cost reduction measures.

# DRAFT

7. On January 22, April 9, and June 18, 2013, staff and the stakeholder coordinators presented progress updates to the State Water Board. The updates demonstrated that the four stakeholder groups were operating on different timelines for completing the Phase 2 workplan tasks.
8. The NPDES stormwater stakeholder group convened on December 6, 2012 and January 15, 2013 with 171 participants on its roster. As of June 18, 2013, the NPDES stormwater group continues to collect cost data and to work on their recommendations. Additionally, the group has identified challenges to bringing statewide recommendations to fruition in local permits, and is meeting with State Water Board staff to identify recommendations for addressing these challenges.
9. The irrigated lands stakeholder group convened on February 20, 2013 with 59 participants on its roster. As of June 18, 2013, the irrigated lands group continues to collect cost data and stakeholder input. The group expects to forward its recommendations after additional implementation of the Central Valley and Central Coast Regional Water Boards' irrigated lands regulatory programs.
10. The WDR stakeholder group convened on November 28, 2012 with 81 participants on its roster. The group conducted a survey in May 2012 to request additional details from members. On June 18, 2013, the group coordinators presented a written [report](#) with recommendations to the State Water Board, while acknowledging the need for additional data and input from stakeholders. The report is now undergoing review pursuant to the Phase 2 workplan.
11. The NPDES wastewater stakeholder group convened on December 6, 2012, with 75 participants on its roster. On February 4, 2013, the group provided its preliminary draft report and proposals to the Water Board workgroup for input. On May 23, 2013, Water Board staff coordinated an informal meeting of the stakeholder group coordinators and representatives from some environmental organizations to discuss the preliminary proposals. On June 18, 2013, the stakeholder group coordinators presented an updated [report](#) with recommendations to the State Water Board.
12. The NPDES wastewater stakeholder group presented short-term and long-term proposals that they believed would reduce costs of compliance while allowing agencies to focus resources in areas that would have the most direct benefit toward improving water quality. These proposals included:
  - (a) Reduce the frequency of Sanitary Sewer Overflow (SSO) reporting requirements when no spills occur from monthly to quarterly for a cost savings of approximately \$100,000 per year.
  - (b) Eliminate duplicative/overlapping SSO requirements for dischargers subject to both the [State Water Board's General Order for Sanitary Sewer Systems, Order 2006-0003-DWQ](#), and permits and WDRs addressing similar sewer system requirements issued by the Regional Water Boards. The cost savings estimated by the group ranged from \$4,000 per facility per permit cycle to \$2,500 per spill.

# DRAFT

- (c) When renewing or revising NPDES permits, consider removing overlapping monitoring requirements, reducing monitoring frequency for parameters consistently in compliance, encouraging surrogate sampling, and eliminating unnecessary reports. The group believed the potential cost savings would be significant.
  - (d) Provide consistent guidelines for the use of existing regulatory tools that would allow relaxed effluent limitations without compromising water quality or beneficial use protection. These tools included water effect ratios, translator studies, mixing zones, and dilution credits. The group's report discussed specific examples in which municipalities spent hundreds of thousands of dollars in failed attempts to use these tools.
  - (e) Establish a process to evaluate, in advance of adoption, the costs of compliance for pending and future regulatory actions that have cost impacts on permittees.
  - (f) Move towards a phased implementation approach for statewide water quality objectives and Total Maximum Daily Loads (TMDLs).
13. The State Water Board recognizes stakeholder contributions toward identifying methods to reduce the costs of compliance while maintaining water quality protection. The State Water Board acknowledges the NPDES wastewater stakeholder group for completing its report and submitting specific recommendations, and encourages the NPDES stormwater, irrigated lands and WDR stakeholder groups to continue their efforts, working with the Water Board Phase 2 workgroup, to develop specific proposals in their respective focus areas.
14. The State Water Board is committed to seeking the most efficient and cost-effective ways to achieve public health and environmental outcomes, continually assessing and improving regulatory processes, advancing concepts that would maximize the utility of actions and achieve multiple benefits, acknowledging and rewarding innovation and partnership, and ensuring fair and equitable application of laws, regulations, policies and procedures.

## THEREFORE BE IT RESOLVED THAT:

The State Water Board commits to continued stakeholder engagement in identifying and implementing measures to reduce costs of compliance while maintaining water quality protection and improving regulatory program outcomes. In response to stakeholder efforts to date, the State Water Board directs that the following actions be undertaken:

1. The Water Board Phase 2 workgroup shall continue to work with the NPDES stormwater and irrigated lands stakeholder groups as they continue to gather data and develop their recommendations.
2. The Water Board Phase 2 workgroup shall review the WDR stakeholder group's report, provide feedback, explore alternatives, and assist the group coordinators with finalizing their report and recommendations for presentation to the State Water Board.

# DRAFT

3. State Water Board staff, having implemented the recommendation to streamline sanitary sewer spill reporting requirements in the revised Monitoring and Reporting Plan for the General Order for Sanitary Sewer Systems, [Order 2013-0058-EXEC](#), shall evaluate and report to the Board by November 19, 2013, with a recommendation concerning the appropriateness of additional requirements established by the Regional Water Boards applicable to sanitary sewer systems enrolled under the State Water Board's General Order for Sanitary Sewer Systems, Order 2006-003-DWQ. For additional requirements established by a Regional Water Board that are deemed appropriate, the Regional Water Board shall implement a reduction in frequency of sanitary sewer spill reporting requirements when no spills have occurred, and other cost of compliance reduction factors implemented by Order 2013-0058-EXEC, as appropriate.
4. State and Regional Water Board staffs, working together with the "NPDES Roundtable" and stakeholders, shall document existing practices and report to the State Water Board by March 18, 2014, regarding any additional steps recommended to ensure a transparent, consistent and efficient process for issuance and reissuance of individual NPDES permits. The report shall include, but is not limited to, practices that: (a) identify duplicative or unnecessary monitoring and reporting requirements in existing permits; (b) encourage use of surrogate or representative sampling where appropriate; and (c) clearly document in the permit Fact Sheet the need for and the purpose, value and use of any special studies and reports.
5. State Water Board staff shall request assistance from the U.S. Environmental Protection Agency Region 9 to convene in 2014 joint public workshops, training events or other suitable forum to facilitate a common understanding on the use of existing regulatory tools, such as water effect ratio studies and mixing zone/dilution credit studies, in use attainability analyses and site specific objective and effluent limit development, distinguishing what must be done through amendment of a water quality control plan from what may be done through an NPDES permit requirement. State Water Board staff shall report to the Board any findings and recommendations from the joint events that would improve the understanding and use of such tools.
6. State Water Board staff shall work with stakeholders to include cost considerations that take into account factors similar to those proposed in the NPDES wastewater group's "Initial Economic Checklist" in development of the Biological Objectives Policy. This is intended to serve as a pilot or test run of the approach and does not create new obligations or requirements for the development of any other Water Board policy or permit.
7. State and Regional Water Board staffs, working together with the "TMDL Roundtable" and stakeholders, shall evaluate and identify "best practices" for incorporating provisions in TMDLs to provide for phased implementation and periodic TMDL review consistent with the State Water Board's *TMDL Guidance – A Process For Addressing Impaired Waters in California* (July 2005) or, if necessary, improvements to that guidance.

# **D R A F T**

8. State Water Board staff shall report on progress toward completion of these activities every six months at a meeting of the State Water Board.

## **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 24, 2013.

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Jeanine Townsend  
Clerk to the Board