

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2002 - 0150

ADOPTING EMERGENCY REGULATION REVISIONS TO THE FEE SCHEDULES
CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTION 2200
OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. The 2002 State Budget Act replaces approximately \$15 million of General Fund support to the SWRCB's budget with an increased level of fee revenue.
2. Water Code Section 13260 requires each person for whom waste discharge requirements are issued to pay an annual fee to the SWRCB.
3. Water Code Section 13260 requires the SWRCB to adopt a schedule of fees by emergency regulation.
4. The fee schedule for waste discharge requirements pursuant to Water Code Section 13260 is contained in Title 23, Division 3, Chapter 9, Article 1, Section 2200 of the California Code of Regulations.
5. Chapter 1124, Statutes of 2002 (AB 3000,) increases the maximum annual fee that the SWRCB can impose from \$10,000 to \$20,000.
6. All fee levels must be increased to implement the fee revenue increase included in the State Budget Act.
7. SWRCB staff prepared recommended changes to the fee schedule contained in current regulation to implement the State Budget Act requirements.
8. The SWRCB heard comments on the staff proposal at a public workshop conducted on September 18, 2002.
9. The SWRCB finds that the late enactment of the budget creates a hardship in the current year for the local governments subject to the new fee assessed pursuant to Section 2200, subsection (a)(2)(A) for co-permittees on areawide municipal storm water permits.
10. The SWRCB finds that the proposal to base fees for certain discharges on the permitted flow creates an undue hardship on fish hatcheries and other aquaculture activities.

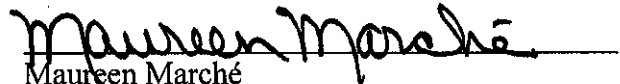
THEREFORE BE IT RESOLVED THAT:

SWRCB:

1. Adopts emergency regulations approving the revisions to Title 23, Division 3, Chapter 9, Article 1, Section 2200 of the California Code of Regulations as recommended by staff to implement the provisions of the 2002 State Budget Act and pursuant to the provisions of Water Code Section 13260(f)(2) (Attachment).
2. Approves a two-step phase in of new fees to be assessed co-permittees on areawide municipal storm water permits. The fee for FY 2002-03 is 50% of the fee as shown in subsection (2)(A) of the regulations. The fee for FY 2003-04 will be the full amount prescribed by subsection (2)(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 October 3, 2002.


Maureen Marché
Clerk to the Board

CALIFORNIA CODE OF REGULATIONS
TITLE 23. Division 3. Chapter 9. Waste Discharge Reports and Requirements
Article 1. Fees

Section 2200. Annual Fee Schedules

(a) Each person for whom waste discharge requirements have been prescribed pursuant to section 13263 of the Water Code shall submit, to the State Board, an annual fee in accordance with the following schedules, except as provided in subdivision (b). The fee shall be submitted for each waste discharge requirement order issued to that person.

(1) Annual fees for persons issued waste discharge requirement orders for discharges to land under the Waste Discharge Requirements¹ and Land Disposal² Programs shall be based on the discharge's fee rating according to the following schedule, except as provided in subdivisions (1)(B) and (1)(C).

ANNUAL FEE SCHEDULE FOR DISCHARGES TO LAND			
Threat to Water Quality (TTWQ)	Complexity (CPLX)	Regulatory Programs	
		Waste Discharge Requirements¹	Land Disposal²
I	A	\$20,000	\$20,000
I	B	\$12,375	\$16,875
I	C	\$6,750	\$13,500
II	A	\$4,500	\$11,250
II	B	\$2,700	\$9,000
II	C	\$2,025	\$6,750
III	A	\$1,690	\$4,500
III	B	\$900	\$3,375
III	C	\$400	\$1,500

¹ Waste Discharge Requirements (WDRs) are those discharges of waste to land that are regulated through waste discharge requirements issued pursuant to Water Code Section 13263 and that do not implement the requirements of Title 27 of the California Code of Regulations (CCR). Examples include, but are not limited to, wastewater treatment plants, erosion control projects, and septic tank systems.

² Land Disposal WDRs are those discharges of waste to land that are regulated through waste discharge requirements issued pursuant to Water Code Section 13263 and that implement the requirements of CCR Title 27. Examples include, but are not limited to, landfills -- both active and closed -- and operations.

(1)(A) The fee rating is based on the discharge's threat to water quality (TTWQ) and complexity (CPLX), defined as follows:

THREAT TO WATER QUALITY

Category "1" – Those discharges of waste that could cause the long-term loss of a designated beneficial use of the receiving water. Examples of long-term loss of a beneficial use include the loss of drinking water supply, the closure of an area used for water contact recreation, or the posting of an area used for spawning or growth of aquatic resources, including shellfish and migratory fish.

Category "2" – Those discharges of waste that could impair the designated beneficial uses of the receiving water, cause short-term violations of water quality objectives, cause secondary drinking water standards to be violated, or cause a nuisance.

Category "3" – Those discharges of waste that could degrade water quality without violating water quality objectives, or could cause a minor impairment of designated beneficial uses as compared with Category 1 and Category 2.

COMPLEXITY

Category "A" – Any discharge of toxic wastes; any small volume discharge containing toxic waste or having numerous discharge points or ground water monitoring; any Class I waste management unit.

Category "B" – Any discharger not included above that has physical, chemical, or biological treatment systems (except for septic systems with subsurface disposal), or any Class II or Class III waste management units.

Category "C" – Any discharge for which waste discharge requirements have been prescribed pursuant to Section 13263 of the Water Code not included as a Category "A" or Category "B" as described above. Included would be discharges having no waste treatment systems or that must comply with best management practices, discharges having passive treatment and disposal systems, or dischargers having waste storage systems with land disposal.

(1)(B) The annual fees for persons whose discharges are regulated by a general waste discharge requirement issued by the State Board or a Regional Board shall be based on the TTWQ and CPLX of the discharge. All discharges that are subject to a given permit shall pay the same fee.

(1)(C) "Dredge and Fill Operations Fees" for fill or dredge operations shall be assessed, as follows:

Fill:	One acre or less, flat fee of \$2,250
	More than one acre, \$2,250 per acre or part thereof (not to exceed statutory maximum)
Dredge:	Less than 10,000 cubic yards, flat fee of \$1,125
	10,000 to 20,000 cubic yards, flat fee of \$4,500
	More than 20,000 cubic yards, \$4,500 plus \$1,125 for each additional 5,000 cubic yards or part thereof (not to exceed the statutory maximum)

(2) Annual fees for persons issued permits for discharges to surface waters pursuant to the National Pollutant Discharge Elimination System (NPDES)³ Program shall be based on the discharge's fee rating according to the following schedules.

(2)(A) Each public entity that owns and/or operates a storm water conveyance system, or part of such a system, that is subject to a NPDES permit for storm water discharges from a municipal separate storm sewer system (MS4) shall pay an annual fee according to the following schedule. The fee shall be based on the population of the public entity according to the most recently published Census. For public entities other than cities or counties, the population figure shall be the number of people using the entity's facilities on a daily basis. Flood control districts and school districts serving students between kindergarten and twelfth grade shall not pay an annual fee if the city or county within the jurisdiction of the district pays an annual fee.⁴

ANNUAL FEE SCHEDULE FOR AREAWIDE MUNICIPAL STORM WATER SEWER SYSTEM PERMITS AND CO-PERMITTEES	
Population equal to or greater than 250,000	\$ 20,000
Population between 200,000 and 249,999	\$ 17,500
Population between 150,000 and 199,999	\$ 15,000
Population between 100,000 and 149,999	\$ 12,500
Population between 75,000 and 99,999	\$ 10,000
Population between 50,000 and 74,999	\$ 7,500
Population between 25,000 and 49,999	\$ 5,000
Population between 10,000 and 24,999	\$ 3,000
Population between 1,000 and 9,999	\$ 2,000
Less than 1,000 population	\$ 1,000

(2)(B) Storm water discharges associated with industrial activities, including construction projects, that are regulated by a general NPDES storm water permit, including those issued by Regional Boards, shall pay an annual fee of \$700. An amount equal to the fee prescribed shall be submitted with the discharger's Notice of Intent (NOI) to be regulated under a general NPDES permit and shall serve as the first annual fee. For the purposes of this section, an NOI is considered to be a report of waste discharge.

³ National Pollution Discharge Elimination System (NPDES) permits are issued to point source discharges of pollutants to surface waters and are issued pursuant to Water Code Chapter 5.5, which implements the federal Clean Waters Act. Examples include, but are not limited to, public wastewater treatment facilities, industries, power plants, and ground water cleanups discharging to surface waters.

⁴ For Fiscal Year 2002-03 only, the fee shall be 50 percent of the fee described in this subsection.

(2)(C) All other NPDES permitted discharges shall pay a fee according to the following fee schedule, except as provided in (2)(F). The fee shall be based on the effluent flow specified in the discharge permit. If there is no effluent flow specified, the fee shall be based on the designed flow of the facility.

ANNUAL FEE SCHEDULE FOR PERMITTED FLOW	
Permitted Flow (mgd)⁴	Fee
Less than .0001	\$ 1,000
.0001 - .49	\$ 2,900
.50 - .99	\$ 4,800
1.0 – 1.99	\$ 6,700
2.0 – 2.99	\$10,500
3.0 – 3.99	\$14,300
4.0 – 4.99	\$18,100
5.0 - Above	\$20,000

⁴Millions of Gallons per Day.

(2)(D) The annual fee for persons whose discharges are regulated by a general NPDES permit issued by the State Board or a Regional Board (excluding storm water permits) shall be based on the effluent flow specified in the permit, except as provided in (2)(F). If there is no effluent flow specified in the permit, the fee shall be based on the designed flow of the facility. If there is no design flow specified in the permit, the minimum fee on the Annual Fee Schedule for Permitted Flow shall be assessed. All discharges that are subject to a given permit shall pay the same fee.

(2)(E) Public wastewater treatment facilities with approved pretreatment programs shall be subject to a surcharge of \$7,600.

(2)(F) Discharges associated with aquaculture activities that are regulated by an individual or general NPDES permit, including those issued by Regional Boards, shall pay an annual fee of \$1,000. An aquaculture activity as defined in Chapter 40, Section 122.25(b) of the Code of Federal Regulations is a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals. The definition for this purpose includes fish hatcheries.

(b) Dischargers who own or operate confined animal feedlots, including dairies, shall not be assessed an annual fee for waste discharge requirements regulating those operations. They shall pay a filing fee of \$2,000, which shall be submitted with each report of waste discharge or NOI. If waste discharge requirements are waived pursuant to section 13269 of the Water Code, all or a portion of the filing fee will be refunded in accordance with section 2200.4.

NOTE: Authority cited: Section 185 and 1058, Water Code. Reference: Section 13260, Water Code.