

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF ADMINISTRATIVE SERVICES
SEPTEMBER 19, 2023**

ITEM 9

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING EMERGENCY REGULATIONS REVISING THE CORE WATER QUALITY REGULATORY FEE SCHEDULES CONTAINED IN TITLE 23, DIVISION 3, CHAPTER 9, ARTICLE 1, SECTIONS 2200, 2200.1, 2200.6 AND 2200.7 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. Staff review all WDPF programs' fees on an annual basis and hold several stakeholder meetings throughout the year that coincide with the various iterations of the Governor's Budget.

Waste Discharge Permit Fund Budget Cost Drivers

Attachment 1: WDPF Program Budget Detail shows the FY 2023-24 fee setting budget, the FY 2023-24 projected revenue based on the existing fee schedule and the projected revenue adjusted for a 5 percent fund reserve. As column G indicates, the WDPF will need to generate an additional estimated \$9.2 million in revenue to meet FY 2023-24 budgetary expenditures and ensure there is a prudent fund reserve. This increase is mainly attributable to an increase in state operational costs, an increase in pro rata, and budget change proposal adjustments. For these reasons, staff is proposing to increase fees for all programs except for Land Disposal and NPDES Stormwater as these programs are projected to generate sufficient revenue.

Proposed Fee Schedule Changes

Waste Discharge Requirement (WDR)

The WDR program budget for FY 2023-24 is \$47.2 million and projected revenue is \$43.5 million. The WDR program needs to generate an additional \$3.7 million in revenue to meet the FY 2023-24 budget which translates to an average fee increase of 8.5 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2023-24.

- **Pretreatment Surcharge** – Staff is proposing to add language to section 2200(a) and (b)(8) of the fee schedule regarding the existing surcharge of \$10,000 for public wastewater treatment facilities with approved pretreatment programs by clarifying the surcharge shall only be applied once per approved pretreatment program. Staff anticipates minimal impact to dischargers as almost all affected permittees are being assessed this surcharge. However, program staff are reviewing the records to determine if any new permittees will be impacted and if so, will reach out to them directly prior to invoices being issued.

Land Disposal – Tipping and No Tipping

The Land Disposal program budget for FY 2023-24 is \$15.3 million. No fee increase is being proposed as the program is projected to generate sufficient revenue.

Water Quality Certification (WQC)

The WQC program budget for FY 2023-24 is \$17.8 million and projected revenue is \$16.3 million. The WQC program needs to generate an additional \$1.5 million in revenue to meet the FY 2023-24 budget which translates to an average fee increase of 9.2 percent to all fee categories except Category (H) as it is generating sufficient revenue to support program expenditures. All applicable surcharges will remain unchanged for FY 2023-24.

NPDES Stormwater

The NPDES Stormwater program budget for FY 2023-24 is \$41.9 million. No overall program fee increase is being proposed as the program is projected to generate sufficient revenue, however, staff is proposing the following change to the NPDES Stormwater Industrial program fee schedule that may result in a fee change to some dischargers:

- **Industrial Tiered Fee Schedule** – To better reflect the difference in facility size and exposed acres, staff is proposing to change the methodology from a flat fee to a tiered structure based on the total number of acres of industrial activities and materials exposed to storm water as follows:

Acres	Annual Fee
>0 to <1	\$1,651
1 to <5	\$1,673
5 or more	\$1,818

- **Change of Information (COI)** – Staff also is proposing to add clarifying language to the NPDES Stormwater Construction fee schedule, section 2200(b)(4)(A), specifying the per acre fee shall be submitted with a COI for any increase in acreage.

NPDES Wastewater

The NPDES Wastewater program budget for FY 2023-24 is \$46.0 million and projected revenue is \$42.1 million. The NPDES Wastewater program needs to generate an additional \$3.9 million in revenue to meet the FY 2023-24 budget which translates to an

average fee increase of 9.2 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2023-24.

Confined Animal Facilities (CAF)

The CAF program budget for FY 2023-24 is \$6.7 million and projected revenue is \$6.3 million. The CAF program needs to generate an additional \$390,000 in revenue to meet the FY 2023-24 budget which translates to an average fee increase of 6.2 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2023-24.

Agricultural (Ag) Lands

The Ag Lands program budget for FY 2023-24 is \$9.7 million and projected revenue is \$9.2 million. The Ag Lands program needs to generate an additional \$531,000 in revenue to meet the FY 2023-24 budget which translates to an average fee increase of 5.8 percent to all fee categories.

Cannabis Cultivation

The Cannabis Cultivation program budget for FY 2023-24 is \$3.15 million and projected revenue is \$3.0 million. The Cannabis Cultivation program needs to generate an additional \$149,000 in revenue to meet the FY 2023-24 budget which translates to an average fee increase of 5.0 percent to all fee categories. All applicable surcharges will remain unchanged for FY 2023-24.

Invoicing Schedule Language

Staff is proposing to add language to section 2200.1 to allow the Water Boards to generate invoices based on the prior year's fee schedule prior to the State Water Board's adoption of the annual fee schedule for the current year as appropriate to maintain an adequate operating balance in the Waste Discharge Permit Fund, in which case the State Water Board shall incorporate any subsequent adjustments to those fees for the current year by issuing credit or debit memoranda for the subsequent year or by issuing refunds or supplemental invoices. The State Water Board may also generate semiannual invoices, with the first semiannual invoice set at an amount equal to one half of the prior year's fee schedule and the second semiannual invoice set at an amount equal to the remainder of the current year's annual fee schedule. This alternative invoicing process is not necessary for FY 2023-24, but may be required in future years to ensure the WDPF is sufficiently funded prior to the receipt of revenue from invoices issued after the current year's fee schedule is adopted, which historically occurs in September with the first program's invoices being issued in late October or early November.

POLICY ISSUE

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

FISCAL IMPACT

The FY 2023-24 Budget Act includes expenditure authority for the Waste Discharge Permit Fund of \$187.8 million. The proposed fee schedule changes will ensure the projected revenue for the WDPF meets the FY 2023-24 budget expenditures.

REGIONAL BOARD IMPACT

The proposed fee schedule changes would allow the State Water Board to assess 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.