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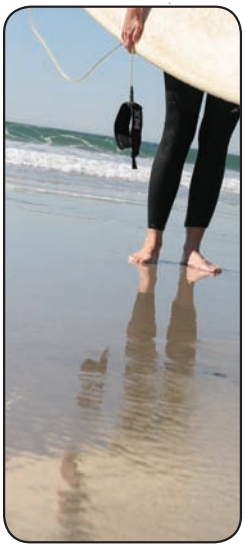
Water Board Programs



An understanding of the Water Boards' programs can assist you to increase your participation with the Water Boards. Although formal decisions about Water Board programs, permits, enforcement, etc. always rest with the Regional or State Boards, various programs have guidance for public involvement built in to them. The following information will give you an idea of the diversity of programs handled by the Water Boards and elements of public participation found in each.

Water Quality Planning, Standards, and Policy

BASIN PLANS

Also known as Water Quality Plans, these plans contain the water quality objectives, policies, regulations, and programs of implementation for the protection of surface and ground waters within each of the nine regional board boundaries. The plans describe the beneficial uses that each water body supports, including drinking, swimming, fishing, protection of aquatic life and agricultural irrigation. The Plans are the basis for Regional Board regulatory actions. The Plans are reviewed on a three-year cycle, during which new science, new water quality problems, and new or changed laws or regulatory approaches are considered. Based on regional priorities, the Basin Plans are amended to reflect specific changes and local concerns.

TOTAL MAXIMUM DAILY LOADS

Section 303(d) of the federal Clean Water Act requires that the states make a list of waters that are not meeting water quality standards. For waters on this list (and where the US EPA administrator deems they are appropriate) the states are to develop total maximum daily loads or TMDLs, as they are called. A TMDL must account for all sources of the pollutants that caused the water to be listed. Federal regulations require that the TMDL, at a minimum, account for contributions from both point and nonpoint sources. There also can be multiple TMDLs on a particular water body addressing various constituents of concern. TMDLs are developed either by the Regional Water Boards or by U.S. EPA. The TMDL development process includes multiple opportunities for members of the public to provide comment and participate in the process.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This law, known as CEQA, requires State and local agencies to disclose and consider the environmental implications of their decisions and to eliminate or reduce the significant impacts whenever feasible to do so. The agencies are required to conduct an environmental analysis to determine if project impacts could have a significant effect on the environment. Typically, the agency having principal authority over a project is the entity responsible for conducting the environmental analysis. Such agencies are known as lead agencies. Whether the Water Board is a lead agency depends on the nature of the project. The Water Boards are almost always the Lead Agency for Basin Plan Amendments (including TMDLs), statewide water quality plans and policies, and many other issues that are initiated by the Boards, State or Regional. Many actions taken by the Water Boards are subject to CEQA. The adoption of water quality control plans and policies are part of a "certified regulatory program" under CEQA. Public participation is an essential part of the CEQA process, although CEQA does not require formal hearings at any stage of the environmental review process and public comments may be restricted to written communication. However, each agency is required to have provisions for public involvement in order to receive and evaluate public reactions to environmental issues related to the agency's activities.

STATEWIDE WATER QUALITY CONTROL PLANS

Where water quality issues cross Regional Water Board boundaries or have significant statewide application, the State Water Board may develop and adopt water quality control plans. Four such plans have thus far been developed.

- Water Quality Control Plan for Enclosed Bays and Estuaries (Part 1, Sediment Quality)
- California Ocean Plan
- California Thermal Plan
- San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan

POLICIES FOR WATER QUALITY CONTROL

The State Water Board also develops policies regarding water quality issues that have statewide significance. Existing policies include:

- Anti-Degradation Policy
- Recycled Water Policy
- Water Quality Enforcement Policy
- Sources of Drinking Water Policy
- Supplemental Environmental Project Policy
- Use of Coastal and Estuarine Waters for Power Plant Cooling Policy

Similar to the Board's work regarding statewide plans, the development and adoption process for statewide policies involves public review and adoption by the State Board and sometimes US EPA. See www.waterboards.ca.gov/plans_policies/

Pollution Prevention and Restoration

REGULATION OF MUNICIPAL AND INDUSTRIAL WASTE DISCHARGES

Since 1972, the federal CWA has regulated the discharge of pollutants to navigable waters through issuance of permits under the National Pollutant Discharge Elimination System (NPDES). Waste Discharge Requirements (WDRs) for discharges to surface waters (rivers, streams, and lakes) serve as permits under the CWA. Although the State Water Board has issued a few NPDES permits, the vast majority of NPDES permits are issued by the Regional Water Boards.

An individual permit is tailored for a specific discharge, while a general permit is developed and issued to cover multiple facilities within a specific category. The process begins when a discharger submits an application to the appropriate Regional Water Board. Among other things, the application must describe the wastes to be discharged, the setting for the discharge, the water bodies to be impacted, and the method of treatment or containment. If a permit is needed and the application is complete, staff prepares a draft and sends out a notice for a 30-day public comment period.

The Regional Water Board holds a public hearing after the 30-day public notification. The State or Regional Water Board may adopt the permit as proposed or with modification, or not adopt it at all. US EPA has 30 days to object to the draft permit, and the objection must be satisfied before the permit becomes effective.

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STORM WATER REGULATION

Urban runoff can cause pollution as well as physical impacts to water bodies and their surrounding landscape. The Water Boards regulate point source discharges of storm water using its federal CWA authority. The programs cover municipal, industrial, and construction aspects of the pollution. Water Board staff review reports and plans, inspect facilities, and take appropriate enforcement. The taking of enforcement action is typically proceeded by public notice and hearing which provides for opportunities for the public to participate and make their views heard.

401 WATER QUALITY CERTIFICATION

Under the CWA section 401, every applicant for a federal permit or license for any activity which may result in a discharge to a surface water of the United States must obtain state certification that the proposed activity will comply with state water quality standards. Most Certifications are issued in connection with U.S. Army Corps of Engineer (Corps) CWA section 404 permits for dredge and fill discharges. The Water Board also reviews applications from projects seeking a license or relicense from the Federal Energy Regulatory Commission, such as hydroelectric dams, power plants, and other facilities. The certification for these projects is coordinated with the state water rights permit process.

WETLANDS PROTECTION, DREDGE AND FILL REGULATION

Section 404 of the CWA establishes a program to regulate the discharge of dredged or fill materials into the nation's waters. The program protects all waters, but has special responsibility for wetlands, riparian areas, and headwaters because these water bodies have high resource value, are vulnerable to filling, and are not systematically protected by other programs. The CWA requires applicants for a federal license or permit that may result in any discharge into US waters to obtain a certification stating that the discharge will comply with the state's water quality plan. The Regional Boards have primary responsibility in this arena.

WASTE DISCHARGE TO LAND REGULATION

The Water Board regulates all discharges of waste to land if those discharges have the potential to affect water quality of either surface or groundwater. Adoption of WDRs to regulate discharges to land requires a public hearing with opportunities for public participation and comment.

IRRIGATED AGRICULTURAL LANDS DISCHARGE REGULATION

Discharges from agricultural lands include irrigation return flow, flows from tile drains and storm water runoff. These discharges can affect water quality by transporting pollutants, including pesticides, sediment, nutrients, salts, pathogens and heavy metals, from cultivated fields into surface waters as well as groundwater. Such efforts utilize monitoring and reporting programs, enforcement, and the development of partnerships with stakeholders to control these discharges. The Regional Boards generally utilize conditional waivers to regulate agricultural discharges and employ public hearings in the process, with opportunities for public participation and comment.

LAND DISPOSAL REGULATION

The Water Boards also regulate the discharge of waste to land at nearly 900 disposal facilities statewide. These facilities, which have waste that must be contained, are primarily landfills, industrials waste piles and ponds, and some mines. These discharges are long-term operations where releases of waste can pollute surface and groundwater. Regional Board staff performs inspections and review self-monitoring reports from owners/operators to determine compliance.

They also take appropriate informal and formal enforcement action. The Regional Boards issue WDRs for such facilities. Adoption of WDRs and NPDES permits requires a public hearing with opportunities for public participation and comment.

CONFINED ANIMAL FACILITIES

The Water Boards also work to ensure that discharges of waste from confined animal facilities (CAFs) do not cause violations of water quality objectives. CAFs are defined as "any place where cattle, calves, sheep, swine, horses, mules, goats, fowl, or other domestic animals are corralled, penned, tethered, or otherwise enclosed or held and where feeding is by means other than grazing". The primary CAFs are dairy animals and the primary water quality concern is impacts to groundwater from salts and nutrients. The Regional Boards can issue WDRs or NPDES permits. Adoption of WDRs and NPDES Permits requires a public hearing with opportunities for public participation and comment.

WILDLANDS AND WILDERNESS LANDS

The Boards work closely with state and federal forestry officials to regulate activities on federal and nonfederal wildlands and wilderness areas that can significantly impair water quality. These activities are primarily nonpoint sources and include timber harvesting, logging, grazing/rangeland management and recreation. The most common and significant pollutant discharged from such activities is sediment, but increased water temperature, fecal bacteria, and pesticides can also be significant. Catastrophic wildfire is also a serious source of pollutants, primarily sediment and nutrients. The Regional Boards can adopt WDRs and NPDES permits, which require a public hearing with opportunities for public participation and comment. In addition, in collaboration with the Water Boards, the US Department of Agriculture and US Forest Services, is developing a new Water Quality Handbook to address control of nonpoint source pollution generated by various activities on National Forest System lands in California. Stakeholder meetings and workshops are a centerpiece of this effort.

Pollution Remediation

UNDERGROUND STORAGE TANK SITES

Polluted and contaminated soil and groundwater at current and former underground storage tank sites (UST) and facilities can threaten water quality and pose a risk to human health. The Water Boards provide oversight of soil and groundwater cleanups at approximately 6,000 active and former UST sites. Such cleanups range from soil-only impacts to large plumes of petroleum fuels that can travel over a quarter mile. Although the primary focus of the program is restoration of groundwater quality, the UST program deals with soil, sediment, and air where vapor releases may affect public health. Regional Board staff provides a variety of functions including preparation and submission of cleanup orders, cease and desist orders and administrative civil liability orders for consideration and adoption by the Regional Board. They also coordinate with staff of local oversight agencies.

DEPARTMENT OF DEFENSE SITE CLEANUP OVERSIGHT

The Water Boards provide oversight of soil and groundwater cleanups at active and former military facilities statewide to protect water quality and human and ecological health. Approximately 200 active sites currently require environmental cleanup. The Boards also facilitate property transfers from the Department of Defense (DOD) to local reuse agencies for beneficial re-use at closed and closing military facilities. The environmental cleanups involved range from a few

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UST cleanups to complex Superfund cleanups. A complex cleanup process can involve multiple State Board programs such as Underground Storage Tanks, Land Disposal, Storm water, and NPDES. This process includes public outreach and education through participation in public meetings, such as those held by Restoration Advisory Boards.

CONTAMINATED SITE CLEANUP & BROWNFIELD OVERSIGHT

The Water Boards provide oversight of soil and groundwater cleanup at sites. The types of sites involved include spills, current and former industrial facilities, and commercial facilities such as dry cleaners where releases of contaminants have occurred. Water Board staff facilitate cleanup at brownfield sites for beneficial re-use or redevelopment to economically benefit communities where the sites are located. The State and Regional Boards oversee the investigation and cleanup of approximately 6,000 open sites with soil and groundwater pollution in the Site Cleanup Program and Brownfield program. Generally, dischargers perform cleanup on a voluntary basis. New sites are discovered as a result of recent spills, property transactions, or nearby environmental investigations. Public outreach and education is achieved through use of site-specific fact sheets and public outreach prior to informational meetings. In addition, public hearings are held prior to adoption of enforcement orders, giving the public an additional opportunity to comment.

Water Quality Monitoring & Assessment

The Water Boards engage in many water quality monitoring activities that involve various organizations, agencies and dischargers. It should be noted that oftentimes it is the dischargers who pay for the collection and analysis of the data. Monitoring activities are directed at both ground water and surface water. Monitoring of these waters is necessary to assess vital components of California water quality, including discharger compliance, pollutants in the waste stream, discharge impacts to receiving waters, and ambient water status and trends. Where needed, staff can impose monitoring and assessment requirements through permits and investigative orders.

SURFACE WATER AMBIENT MONITORING PROGRAM

This program, known as SWAMP, is a statewide monitoring effort that provides the scientifically sound data required to manage the state's water resources. The purpose of the program, also known as the "Clean Water Team", is to monitor and assess water quality to determine where we are meeting water quality standards and protecting beneficial uses. Data from SWAMP is used to compile the state's list of impaired water bodies, required by Section 305 (b) and 303 (d) of the federal CWA.

Another aspect of the SWAMP program is citizen monitoring conducted by community volunteers interested in watershed protection. Citizen monitoring activities include collecting water quality data, evaluating fish habitat, counting birds, or making visual observations of stream health. Community and resource managers use monitoring information to better protect California's waters. The State and Regional Boards are actively involved in citizen monitoring. The Boards provide technical assistance, training, data management consultation, outreach and education to citizen monitoring organizations. The Boards can also connect you to other interested volunteers and local technical experts. The program conducts monitoring directly and through collaborative partnerships and provides numerous information products, designed to support water resource management in California.

BEACHES

The Water Boards administer a program to protect public health from pathogen contamination in coastal waters. The program requires sampling and reporting of coastal county health agencies. If a sewage spill occurs or bacterial indicators show that the water quality standards have been violated, then the beach is closed or posted until the water quality is back within compliance. The Boards maintain the statewide database to collect and share beach water quality information and compiles the data into an annual report.

OCEAN

The Water Board is responsible for the development and updating of statewide water quality control plans, policies and standards involving marine waters. These include the California Ocean Plan, the California Thermal Plan, and the Water Quality Control Plan for Enclosed Bays and Estuaries. The program is also responsible for providing scientific support to the Water Boards, and inter-agency coordination regarding marine pollution and resource management issues.

Water Use Efficiency

The use of recycled water, desalinated water, and the push for water conservation have water quality impacts that have to be considered, and sometimes, regulated, by the Water Boards. For example, recycled water can impact the quality of groundwater due to salts or nitrates. Generally, these impacts are regulated by issuing WDRs and/or NPDES permits. Also, State Water Board approval is required for recycled water projects that entail a change in point of discharge, place of use, or purpose of use of treated wastewater. Finally, the State Water Board has authority to ensure that water is used reasonably and not wasted. All of these functions may require public hearings to allow the Boards to take into consideration the viewpoints of all interested members of the public.

Water Rights

In California, water rights law is administered by the State Board. Although California's waters cannot be owned by individuals, the law allows individuals, groups, businesses, or governmental agencies to obtain the right to use reasonable amounts of water for specific purposes. This is accomplished, in part, through permits, licenses, and registrations issued from the State Board. This water must be used for a beneficial purpose such as domestic use, municipal and industrial use, or agricultural use. In its review of water rights applications, the State Board works to ensure that existing water right holders are protected from injury, that unreasonable effects to fish, wildlife and other instream uses are avoided, that the State's waters are put to the best possible use and that the public interest is served. Permits issued by the State Board specify the amounts and conditions under which the water can be taken and used. The Regional Boards are not directly involved in Water Rights activities, but may be consulted where appropriate.

The State Board manages the water rights program with three goals in mind: managing water resources in an orderly manner; preventing waste and unreasonable use of water; and protecting the environment. In terms of public participation, there are four opportunities associated with water right application processing: (1) a member of the public can file a protest against a water right, (2) the member can submit comments during the CEQA process, (3) if there is a hearing on the application, a member of the public can make a policy statement and may be able to participate in the hearing (protestants have a right to participate, others do not, but may be allowed to at the discretion of the hearing officer), and (4) they can file a petition for reconsideration.

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Water right permits and licenses are a matter of public record. You can check to see if someone you know has a water right permit by using the eWRIMS database System. You can also find whether a water right exists for a piece of property if you know the location of the point of diversion (the geographic location at which water is taken from the water source). You can also visually inspect maps available on our GIS system at waterrightsmaps.waterboards.ca.gov/ewrims/gisapp.aspx using your Internet Browser.

Enforcement

The Water Boards are responsible for enforcement when the laws and regulations protecting our waterways are violated. Enforcement is a critical piece of the Water Boards' regulatory program. The principal goal of the enforcement function is to encourage compliance with applicable laws and regulations. Effective enforcement brings violators into compliance, deters future violations, prevents pollution from occurring, promotes prompt cleanup and corrects existing pollution problems, moreover, effective enforcement protects downstream water users and the environment. The enforcement function is handled by Water Board staff, including the State Board's Office of Enforcement. The Water Boards also work with federal, state and local law enforcement, as well as other environmental agencies to ensure a coordinated approach to protecting human health and the environment. The Boards' compliance activities include routing compliance inspections, review of required water quality monitoring reports, and recording violations in the California Integrated Water quality System (CIWQS) database. www.waterboards.ca.gov/water_issues/programs/ciwqs/

Any member of the public may report violations of water quality and water rights laws and regulations through the online environmental complaint system, by email, telephone and mail. More information on this can be found in Appendix #5.

SUPPLEMENTAL ENVIRONMENTAL PROJECTS

The Water Boards may allow a discharger to satisfy part of the monetary assessment imposed in an administrative civil liability (ACL) order by completing or funding one or more Supplemental Environmental Projects (SEPs.) These are projects that enhance the beneficial uses of the waters of the State, that provide a benefit to the public at large and that are not otherwise required of the discharger. SEPs are an adjunct to the Water Boards' enforcement program.

Financial Assistance

The State Water Board provides loans and grants for constructing municipal sewage and water recycling facilities, remediation for underground storage tank releases, watershed protection projects, and for nonpoint source pollution control projects. The State Board also has several financial programs to help local agencies and individuals prevent or clean up pollution of the state's water. Funding for the loans and grant programs primarily comes from bonds passed by voters and monies provided by the federal government. Such bond funding includes funding for the Clean Beaches Initiative Grant Program and the Areas of Special Biological Significance Grant Program. Staff activities related to the financial assistance function vary somewhat depending on the objectives of the particular funding program. In general, they include development of guidelines, development of priority lists, providing assistance to applicants, reviewing applications, coordinating with other funding, making disbursements, collecting payments, and coordinating with US EPA. The State Board's process for making decisions regarding grant and loan monies includes opportunities for the public to voice support, opposition or concern. Informational workshops may be held prior to the rendering of decisions.